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FEDERAL TRADE COMMISSION

16 CFR Part 424

Retail Food Store Advertising and Marketing Practices Rule

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Final rule.

SUMMARY: The FTC has completed its regulatory review of its Retail Food Store Advertising and Marketing Practices Rule (''Unavailability Rule'' or ''Rule''). After reviewing public comments regarding the Rule's overall costs, benefits, and regulatory and economic impact, the Commission retains the Rule. The Commission, however, takes this opportunity to issue guidance concerning the Rule's coverage. The Commission also corrects a typographical error, and ceases to publish dissents to the Rule's previous amendment.

DATES: This action is effective on December 10, 2014.

ADDRESSES: This document is available on the Internet at the Commission's Web site, *www.ftc.gov.* Relevant portions of this proceeding, including the public comments received in response to the Advance Notice of Proposed Rulemaking, are available at: *http://www.ftc.gov/policy/public-comments/initiative-387* and the related News Release is available at: *http://www.ftc.gov/opa/2011/08/retailfood.shtm.*

FOR FURTHER INFORMATION CONTACT: Jock Chung, (202) 326–2984, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Unavailability Rule prohibits retail food stores [1] from advertising prices for food, grocery products, or other merchandise unless those stores have the advertised products in stock and readily available at, or below, the advertised prices. The Commission issued the Rule in 1971 to prevent unavailability and overpricing of advertised items.[2] The Rule was based upon extensive research finding that retail food stores frequently did not make food readily available at advertised prices.

In 1989, the Commission amended the Rule.[3] These amendments provide an exception where ''the advertisement clearly and adequately discloses that supplies of the advertised products are limited or the advertised products are available only at some outlets.'' Furthermore, these amendments provide four defenses: Retail food stores do not violate the Rule if they (a) order advertised products early enough and in sufficient quantities to meet ''reasonably anticipated demand,'' (b) issue rainchecks for the advertised products, (c) offer comparable products at comparable prices to the advertised products, or (d) offer other compensation at least equal to the advertised value. These amendments eliminated the costs of excessive overstocking, which were passed on to consumers and greatly exceeded any benefits to consumers,[4] while minimizing consumer losses associated with wasted trips to retail food stores.[5]

II. Regulatory Review

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, as well as their regulatory and economic impact. This information assists the Commission in identifying rules and guides that warrant modification or rescission.

Pursuant to this process, on August 18, 2011, the Commission sought comment on whether there is a continuing need for the Unavailability Rule.[6] The Commission also invited comments suggesting modifications to the Rule.[7] Additionally the Commission sought specific comments and evidence concerning whether it should broaden the Rule to include stores not currently covered by the Rule, such as drugstores, department stores, or electronics retailers.[8]

III. Regulatory Review Comments

The Commission received comments from two organizations and fifty individuals.[9] The Food Marketing Institute (''FMI'') identifies itself as a national trade association with 1,500 members, consisting of food retailers and wholesalers, in the United States and other countries.[10] FMI states that its members operate 26,000 retail food stores and 14,000 pharmacies, make three-quarters of all retail food store sales in the United States, and have combined annual sales of $680 billion.[11] The Heritage Foundation (''HF'') describes itself as a nonprofit corporation with a mission ''to formulate and promote conservative public policies . . .''

Forty-eight individuals explicitly or implicitly supported the Rule by relating personal benefits from retail food store rainchecks.[12] For example,

[1] Retail food stores are stores that advertise food prices and sell more than incidental or minimal amounts of food. *Federal Trade Commission: Part 424—Retail Food Store Advertising and Marketing Practices,* 36 FR 8777 at 8781 (May 13, 1971) (''Rule Promulgation'').

[2] *Id.*

[3] *Federal Trade Commission: Amendment to Trade Regulation Rule Concerning Retail Food Store Advertising and Marketing Practices: Final Amendments to Trade Regulation Rule,* 54 FR 35456 (Aug. 28, 1989) (''Rule Amendment'').

[4] Excessive overstocking caused retail food stores to carry excess inventory, including perishables, and to incur monitoring, recordkeeping, legal and survey costs, and indirect costs to document Rule compliance. *Id.* at 35460–35461. The record indicated that the costs imposed by the original rule exceeded benefits by ratios from over 2½ to one to nearly eight to one. *Id.* at 35461.

[5] *Id.* at 35459.

[6] *Federal Trade Commission: Retail Food Store Advertising and Marketing Practices Rule: Advance Notice of Proposed Rulemaking; Request For Public Comment,* 76 FR 51308 (Aug. 18, 2011) (''Request for Public Comment'').

[7] *Id.*

[8] *Id.*

[9] All comments are available at: *http://www.ftc.gov/policy/public-comments/initiative-387.* This document cites to these comments by indicating the surname or short form for the commenter, *e.g.,* ''FMI'' for the Food Marketing Institute, and, for comments of more than one page, the page of the comment unless the citation refers to the entire comment. Cites to ''John K'' reference the comment signed in that way.

[10] FMI at 1.

[11] *Id.*

[12] Hawthorne, DeWitt, Cosser, Dexter, Lewis, Marshall, Thompson, Ash, Herman, Hellmueller, Wright, Ickes, Gregory, Harris, Heiser, Nealy, Haass,

Continued

one commenter stated that he accumulated 50 rainchecks in a 6-month period due to stockouts.[13]

Two individual commenters joined the organizational commenters in questioning whether the Commission should retain the Rule.[14] FMI commented that the Rule is unnecessary because competition forces retail food stores to avoid stockouts and to compensate customers even without the Rule.[15] Nonetheless, FMI stated that the Rule imposes no significant costs on retail food stores. FMI also cautioned that if the Commission retains the Rule, it should keep the 1989 amendments to avoid the costs eliminated by those amendments.

HF recommended repealing the Rule, arguing increased competition should protect consumers.[16] In support of this argument, it asserted that the number of grocery stores in America has grown substantially since the Rule was amended in 1989, noting that today there are 92,300 grocery stores nationwide and that large chains run thousands of stores each. It did not provide data on the number of stores in 1989. HF also stated that the number of farmers' markets increased between 1994 and 2011. Finally HF commented that state regulation is adequate to protect consumers where competitive pressure is insufficient.

Fitzsimmons recommended repealing the Rule generally while expanding it in ''food deserts.'' [17] For areas other than food deserts, he argued market competition is sufficient to protect consumers. Fitzsimmons also recommended that the Commission expand the Rule to cover non-traditional retail food stores in food deserts, where competition is insufficient to protect consumers.

Finally, Lunsford recommended repealing the Rule because market competition and state regulatory agencies adequately protect consumers.[18]

IV. Retention of the Unavailability Rule

The Commission retains the rule in its existing form. To determine whether the Rule should be amended, repealed, or retained, the Commission has evaluated a number of factors, including the relative costs and benefits of the Rule and its effect on competition and consumer choice. The Commission has determined that the Rule imposes no significant costs on retail food stores, and it benefits consumers as there is evidence that market or state regulatory forces would not adequately protect consumers without the Rule. Given this record, the Commission has no basis to repeal or amend the Rule at this time.

None of the comments identified any specific costs or burdens associated with complying with the Rule. To the contrary, FMI—which represents grocery companies and thus would have the clearest understanding of any burdens the Rule might impose—commented that it ''does not believe the Rule imposes significant costs on retailers.'' [19] Furthermore, even the comments that opposed retention favored the consumer-friendly practices required by the Rule, including restrictions on overpricing and unavailability.[20] These comments simply opined that, even if the Rule were eliminated, market forces would result in the same arrangements the Rule requires. If this is true, the Rule cannot impose any significant cost.

Conversely, the record lacks factual support to conclude that market forces alone would be sufficient to protect consumers without the Rule.[21] Although comments state that the number of grocery stores in America has increased, they do not provide any market analysis of the level of competition in this industry.[22] The market may have many participants nationwide, but there is no indication that competition exists sufficient to preserve the benefits of the Rule for all, or even most, local markets throughout the country.

Two commenters that questioned the general need for the Rule asserted that there are geographic areas of lower food marketplace competition, and demographic groups with limited food shopping options.[23] Thus, even if, as asserted, the national-level food marketplace were sufficiently competitive, the Rule would still be necessary to protect groups with limited food shopping options.

Further, there is evidence that even with the Rule, some stores do not respond to the current level of competition by avoiding stockouts and providing rainchecks or other compensation. Eleven commenters complained of difficulties obtaining rainchecks, or of inadequate rainchecks that, for example, expired before sale items were restocked.[24] Thus, the weight of the evidence shows that market forces are not sufficient to ensure that retail food stores make useful rainchecks conveniently available.

HF and Lunsford commented that state consumer protection agencies provide sufficient recourse when retailers deceptively advertise the availability of sale items.[25] They did not, however, submit evidence about actions taken by state agencies. Notably, no state or local regulatory agencies submitted comments. The record, therefore, does not support the argument that state regulations supplant the continued need for the Rule.[26]

Because the Rule does not impose significant costs, the practices it requires benefit consumers, [27] and there is evidence that those practices would not continue in the absence of the Rule,

Skaggs, Pritchard, Goodman, Frame, Cummings, DelSole, Wheat, Marino, John K, Rasley, Bacher, Samuel, Purcell, Dickey, Crofoot, Sinex, Aikins, Anonymous/Mad in Miami, Thorson, Angelo, Bates, Burleson, Boyd, Black, Marcuse, Steenhoven, Gettz, Millison, Nardo, Rose, and Doyal.

[13] Angelo.

[14] FMI, HF, Lunsford, Fitzsimmons.

[15] FMI commented that it did not believe that there is a continuing need for the rule because competitive pressures induce retailers to respond to the needs of their customers, and ''[t]here is no incentive for grocery retailers to engage in the types of activity the Unavailability Rule was intended to address.'' FMI at 2–4.

[16] HF asserted that ''market competition clearly can police against any grocery businesses that advertise products that they do not have for sale at the advertised price.'' HF at 3.

[17] Fitzsimmons recommended that the Rule define food deserts as low-income areas where the nearest grocery store is more than a mile away. Fitzsimmons at 3.

[18] Lunsford argued that ''market competition should deter most business from deceptive practices.''

[19] FMI at 5.

[20] FMI stated that stockouts hurt retailers because they increase costs while also decreasing customer satisfaction. *Id.* at 3–4. HF stated that ''[n]o-one would condone the commercial conduct prohibited by the Unavailability Rule.'' HF at 2. Lunsford indicated that unavailability and overpricing are not ''honest business.'' Fitzsimmons proposed retaining and expanding the Rule for certain geographic areas to prevent ''predatory business practices.'' Fitzsimmons at 2–3. This support contrasts with the evidence that compliance with the Commission's original Rule was costly and wasteful. *See Rule Amendment,* 54 FR 35460–35462 (noting, for example, that retail food stores stocked excessive inventory and incurred monitoring and recordkeeping costs to comply with the original Rule).

[21] In *American Financial Services Ass'n* v. *FTC,* 767 F.2d 957, 987–988 (D.C. Cir. 1985), the court found that it was not unreasonable for the Commission, in promulgating the Credit Practices Rule, to discount ''abstract or . . . theoretical arguments . . . which have little or no factual support in the record.''

[22] HF and Fitzsimmons comment that there are 92,300 grocery stores in America, but do not provide evidence that this number is above a threshold for a sufficiently competitive marketplace. HF at 2, Fitzsimmons at 1.

[23] HF at 3, Fitzsimmons at 2–3.

[24] Dexter, Harris, Heiser, Haas, Pritchard, Cummings, Wheat, John K, Dickey, Crofoot, Burleson.

[25] HF at 4 & n.14, Lunsford.

[26] The four state laws cited by HF do not establish that most states directly regulate retail food stare advertising. Indeed, one of those laws broadly prohibits unfair and deceptive practices but does not address specifically the advertising of sale items. Wash. Rev. Code § 19.86.020.

[27] Forty-eight consumer commenters supported continuing to require rainchecks.

the Commission retains the Rule in its present form.

V. Coverage of the Unavailability Rule

The Commission asked whether it should broaden the Rule's coverage beyond retail food stores.[28] In response, thirty two comments [29] favored extending coverage to include, for example, retail stores generally,[30] Black Friday retailers,[31] and electronics retailers.[32] One comment favored expanding the Rule to include nontraditional food stores located in food deserts.[33] None, however, provided evidence about the effects of amending the Rule's coverage, or evidence that the Rule's present coverage is inadequate. Therefore, the Commission is not proposing to extend the coverage of the Rule.

However, the Commission notes that the Rule is not limited to ''traditional'' retail food stores. For example, supercenters, warehouse clubs, dollar stores, and drug stores increasingly offer food or grocery products and advertise discounts for these items. Such stores constitute a significant portion of the retail food marketplace. According to the U.S. Department of Agriculture, the proportion of American food sales for home consumption by nontraditional food retailers rose from 13.7 percent in 2000 to 21.5 percent in 2011.[34] The Rule covers these types of stores.

VI. Other Suggested Rule Changes

In its request for public comments, the Commission invited suggested Rule changes. In response, comments suggested amending the Rule to:

(1) Prohibit: (a) failure to conspicuously display advertised items, *e.g.,* positioning products so that sale priced items are difficult to identify or locate, and (b) overpricing, *e.g.,* scanning merchandise at full price rather than at the sale price; [35]

(2) require retail food stores to provide rainchecks promptly upon demand; [36] and

(3) require retail food stores to compensate consumers for consequential losses caused by unavailability.[37]

As set forth below, the first and second suggestions are unnecessary because they are already encompassed by the Rule, and the Commission declines to propose the third because the record lacks evidence to support such a change.

A. Display of Advertised Items and Overpricing

The Rule already prohibits failure to conspicuously display advertised items and overpricing. Consequently, no amendment is necessary to address concerns about these issues.[38]

The Commission has entered two cease and desist orders against retail food stores solely for overpricing,[39] and three for overpricing and unavailability.[40] These orders demonstrate that merely stocking advertised items was not sufficient to comply with the original Rule.

The Commission amended the Rule in 1989 to eliminate explicit display and pricing requirements.[41] At that time, however, the Commission stated ''the simple requirement that advertised items be 'readily available to customers' implicitly includes a requirement that items be stocked in such a way that a reasonable consumer would not be precluded from obtaining them.'' [42] The Commission further stated that the prohibition against overpricing ''is implicit in the requirement that products advertised for sale at a stated price be available.'' [43] Consequently, the Rule already requires proper display and prohibits overpricing.[44]

B. Rainchecks

The raincheck defense, 16 CFR 424.2(b), provides that a store complies with the Rule if it offers consumers a ''raincheck'' when the advertised product is out of stock. Commenters requested two amendments to address barriers they have encountered in the market. First, they asked the FTC to require stores to provide rainchecks during a consumer's initial visit to a store.[45] Second, they requested an amendment to prohibit rainchecks that expire before the store restocks the advertised merchandise.[46] Because the Rule already prohibits these practices, there is no need for amendments.

The raincheck defense only provides protection if the store ''offers'' a raincheck at the time a consumer attempts to purchase the sale item.[47] By definition, a raincheck is a guarantee to sell an item in the future at its current advertised price.[48] If, at the time of the violation,[49] a store promises to offer a raincheck in the future, it has merely promised to make the requisite offer at a future date. It has failed to offer a

[28] *Request for Public Comment,* 76 FR at 51309.

[29] *See* Dexter, Lewis, Marshall, Thompson, Ash, Hellmueller, Wright, Ickes, Gregory, Harris, Heiser, Nealy, Skaggs, Pritchard, Frame, Cummings, DelSole, John K, Bacher, Samuel, Purcell, Crofoot, Sinex, Anonymous/Mad in Miami, Thorson, Bates, Burleson, Boyd, Steenhoven, Gettz, Rose, and Doyal. Several comments suggested amending the Rule to cover specific retailers. *See* Wright (Walgreens), Ickes (CVS, Rite-Aid, Target), Gregory (Target), Heiser (Target, Wal-Mart), Haas (Walgreens), Frame (CVS), Bates (Wal-Mart, Fred Myer), Gettz (Walgreens, CVS, Rite-Aid), and Rose (Walgreens, Wal-Mart, Target). The Commission declines to amend the Rule to name specific retailers because, among other things, their business models could change, taking them out of the ambit of the Rule.

[30] *See* Thompson, Ickes, and Harris.

[31] *See* Ash.

[32] *See* Wright, Heiser.

[33] Fitzsimmons.

[34] ''Since the late 1990s, nontraditional retailers have steadily increased their relative share of food-at-home sales, compared with traditional retailers. Nontraditional stores' share of food-at-home sales increased from 13.7 percent in 2000 to 21.5 percent in 2011 (traditional foodstores and nonstore food sales—such as mail order, home delivery, and direct sales by farms, processors, and wholesalers—account for the remaining shares). Most of the growth in food sales is due to supercenters and warehouse club stores, whose sales more than doubled over the period. More recently, dollar stores—such as Dollar General and Family Dollar—and drugstores—such as Rite Aid, CVS, and Walgreens—have increased sales by expanding retail food offerings.'' U.S. Dept. of Agriculture, Econ. Res. Serv., Retail Trends, February 5, 2014, available at *http://www.ers.usda.gov/topics/food-markets-prices/retailing-wholesaling/retail-trends.aspx.*

[35] Ash, Ickes, Sinex at 1, Black.

[36] Dexter, Heiser, Haass, Cummings, Pritchard, Dickey, Crofoot, Burleson.

[37] Cummings, Boyd, Thorson, Ickes.

[38] Ash, Ickes, Sinex at 1, Black.

[39] *Fred Meyer, Inc.,* 87 F.T.C. 112, 115 (1976); *Safeway Stores, Inc.,* 91 F.T.C. 975 (1978).

[40] *Fisher Foods, Inc.,* 90 F.T.C. 473 (1977); *The Kroger Co.,* 90 F.T.C. 459 (1977); and *Shop-Rite Foods, Inc.,* 90 F.T.C. 500 (1977).

[41] Paragraph 424.1(b)(1)(i) of the original Rule required that where advertised items are not readily available to customers, *i.e.,* displayed for consumers, retail food stores provide ''clear and adequate notice that . . . items are in stock and may be obtained upon request.'' *Rule Promulgation,* 36 FR at 8781. Paragraph 424.1(b)(2) of the original Rule prohibited any failure ''to make the advertised items conspicuously and readily available for sale at or below the advertised prices.'' *Id.*

[42] *Federal Trade Commission: Retail Food Store Advertising and Marketing Practices: Notice of Proposed Rulemaking,* 50 FR 43224 at 43226 (Oct. 24, 1985) (''Notice of Proposed Rulemaking'').

[43] Paragraph 424.1 of the amended Rule. *Id.* at 43225.

[44] Moreover, advertising one price and charging a higher price is an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act. *See, e.g., Budget Rent-A-Car System, Inc.,* FTC Docket C–4212 (Jan. 2, 2008).

[45] Heiser, Pritchard, Dickey, Crofoot, and Burleson stated that stores had made them wait excessive periods during a visit to receive a raincheck. Dexter, Heiser, Haass, and Cummings stated that stores had refused to provide rainchecks prior to the final date of sales.

[46] Dexter, Harris, Wheat. John K recommended that the Commission amend the Rule to require rainchecks with no expiration date. The Commission does not have evidence on the costs or benefits of such an amendment, and therefore declines to propose it at this time.

[47] 16 CFR 424.2(b)

[48] *Rain Check Definition,* Oxford Dictionaries, *http://www.oxforddictionaries.com/us/definition/american_english/rain-check* (last visited Nov. 12, 2014).

[49] The violation occurs when a store advertises a sale price for an item but does not have it in stock and readily available for consumers during the advertised sale period. 16 CFR 424.1.

raincheck at all, and the defense is not available to it.[50]

Similarly, a store that offers a ''raincheck'' that expires before the store restocks the advertised item cannot use the defense. The raincheck must provide ''compensation equal to that of the advertised savings.'' [51] A raincheck that expires before consumers can use it has no value, much less value equal to the advertised savings. Therefore, it is not a ''raincheck'' at all.

These clear requirements are consistent with the purpose of the ''raincheck'' defense.[52] The defense protects consumers' ability to purchase items at advertised sale prices without ''needless transportation cost[s].'' [53] Using a raincheck, a consumer can purchase an item at the sale price during the consumer's next trip to the store, thereby avoiding extra travel time or expenses. Failing to offer rainchecks at the time it cannot make advertised products readily available to consumers, such as when a store refuses to provide rainchecks until a sale ends, would require consumers to make additional trips and pay extra travel costs, thereby undermining the purpose of the Rule.[54]

C. Consequential Costs From Unavailability

Four comments noted that consumers may not realize all savings even when offered rainchecks or comparable merchandise under the defenses in paragraphs 424.2(b), (c), or (d) of the Rule.[55] For example, promotions such as ''Register Rewards'' or coupon doubling may expire before consumers can use rainchecks, or manufacturers' coupons may not apply to similar products offered under the defense in 16 CFR 424.2(c). Therefore, these comments proposed amending the Rule to require retail food stores to compensate consumers for consequential costs caused by unavailability.[56]

The record, however, does not contain evidence regarding the nature or extent of any such consequential losses. Nor does it contain evidence to support a factual determination regarding the potential costs or benefits of amending the Rule to require compensation for consequential costs from unavailability. Consequently, the Commission does not propose amending the Rule at this time to require compensation for consequential losses.

VII. Conclusion

For the reasons described above, the Commission has determined to retain the current Retail Food Store Advertising and Marketing Practices Rule, issue a Rule amendment correcting a typographical error,[57] and cease publishing dissents to the Rule's previous amendment.[58]

List of Subjects in 16 CFR Part 424

Advertising, Foods, Trade practices.

For the reasons set forth in the preamble, the Federal Trade Commission amends 16 CFR part 424, as follows:

PART 424—RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

■ 1. The authority citation for part 424 is revised to read as follows:

Authority: 15 U.S.C. 41–58.

§ 424.1 [Amended]

■ 2. Amend § 424.1 by removing the words ''In connection with the sale of offering for sale'' and adding, in their place, the words ''In connection with the sale or offering for sale''.

§ 424.2 [Amended]

■ 3. Remove the two statements that follow the text of § 424.2(d).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–27798 Filed 11–24–14; 8:45 am]

BILLING CODE 6750–01–P

[50] 16 CFR 424.1.

[51] *Rule Amendment,* 54 FR at 35463.

[52] To the extent that there is any ambiguity about the meaning of ''raincheck,'' it is proper to interpret the term consistently with the purpose of the Rule. *See Public Citizen* v. *U.S. Dept. of Justice,* 491 U.S. 440, 455 (1989).

[53] *Notice of Proposed Rulemaking,* 50 FR at 43230. *See also Id.* at 43225 (''the Rule could produce benefits by saving shoppers an extra trip back to the same store or to another store to purchase the advertised item (the 'trip gain').''); *Rule Amendment,* 54 FR at 35459 (the Rule benefits consumers ''through the avoidance of trip losses ('the trip gain'), which are losses that result from the expense of wasted trips to retail outlets for advertised items that are unavailable.''); *Id.* at 35463 (''Savings that have been realized by consumers [from the Rule] are principally the result of reduction in the number of unsuccessful trips made to purchase items that are not in stock.'').

[54] Cosser, Dexter, Lewis, Wright, Ickes, Heiser, Cummings, John K, Rasley.

[55] Cummings, Boyd, Thorson, Ickes.

[56] Thorson proposed amending the Rule to require retail food stores to ''duplicate conditions at the time of the sale . . .'' Thorson at 1.

[57] Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. The Commission has determined that there is good cause for making this technical correction final without prior opportunity for comment, because this is merely a technical change to correct a typographical error and is not a substantive change.

[58] This will harmonize the Rule with the Commission's normal practice, which is not to publish dissents in the Code of Federal Regulations. The dissents will remain available to the public at 54 FR 35468.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 157, and 380

[Docket No. RM12–11–002; Order No. 790–A]

Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; order on rehearing and clarification.

SUMMARY: On rehearing, the Federal Energy Regulatory Commission (Commission) reaffirms its basic determinations in Order No. 790 and modifies and clarifies certain aspects of the Final Rule. Order No. 790 amended the Commission's regulations to clarify that auxiliary installations added to existing or proposed interstate transmission facilities under the Commission's regulations must be located within the authorized right-of-way or site for existing facilities or the right-of-way or site to be used for facilities proposed in a pending application for case-specific certificate authority or in a prior notice filing under the Commission's blanket certificate regulations, and use only the same temporary work space that was or will be used to construct the existing or proposed facilities. Order No. 790 also codified the common industry practice of notifying landowners prior to coming onto their property to undertake projects, or certain replacements, or certain maintenance activities.

DATES: This rule is effective January 26, 2015.

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Final Rule—Order on Rehearing and Clarification

1. On November 22, 2013, the Federal Energy Regulatory Commission (Commission) issued a Final Rule in Order No. 790 that amended its regulations, effective February 3, 2014, to: (1) Clarify that auxiliary installations added to existing or proposed interstate transmission facilities under section 2.55 of the Commission's regulations [1] must (a) be located within the authorized right-of-way or site for existing facilities or the right-of-way or site to be used for facilities proposed in a pending application for case-specific certificate authority or in a prior notice filing under the Commission's Part 157 blanket certificate regulations, and (b) use only the same temporary work space that was or will be used to construct existing or proposed facilities; and (2) codify the common industry practice of notifying landowners prior to coming onto their property to undertake section 2.55 projects, certain Part 157, Subpart F replacements, or certain section 380.15 maintenance activities.[2]

2. The Commission received two requests for rehearing and clarification of the Final Rule, one filed by the Interstate Natural Gas Association of America (INGAA) and the other filed jointly by National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (referred to collectively as ''National Fuel''). As discussed below, this order denies the requests for rehearing and grants and denies the requests for clarification.

I. Background

3. Section 7(c)(1)(A) of the Natural Gas Act (NGA) requires a natural gas company to have certificate authorization for the ''construction or extension of any facilities.'' [3] To ''avoid the filing and consideration of unnecessary applications for certificates,'' [4] *i.e.,* to save the time and expense that would otherwise be expended by companies and the Commission in undertaking a full, formal NGA section 7 certificate proceeding for every modification to a jurisdictional pipeline system, section 2.55 establishes that for the purposes of section 7(c), ''the word *facilities* as used therein shall be interpreted to exclude'' auxiliary and replacement facilities.[5] Thus, while an auxiliary or replacement facility that qualifies for purposes of section 2.55 remains subject to the Commission's NGA jurisdiction, it does not require an individual, facility-specific section 7(c) certificate authorization.

4. Facilities that qualify under section 2.55(a) must be ''merely auxiliary or appurtenant to an authorized or proposed pipeline transmission system'' and installed ''only for the purpose of obtaining more efficient or more economical operation of the authorized or proposed transmission facilities,'' such as ''[v]alves; drips; pig launchers/receivers; yard and station piping; cathodic protection equipment; gas cleaning, cooling and dehydration equipment; residual refining equipment; water pumping, treatment and cooling equipment; electrical and communication equipment; and buildings.'' [6] A company must provide the Commission with at least 30 days prior notice if it plans to rely on section 2.55 to construct auxiliary facilities in conjunction with: (1) A project for which case-specific certificate authority has already been received but which is not yet in service; (2) a proposed project for which a case-specific certificate application is pending; or (3) facilities that will be constructed subject to the prior notice provisions of the Part 157, Subpart F blanket certificate regulations.

5. Section 2.55(b) permits companies to replace facilities that are or will soon be physically deteriorated or obsolete, so long as doing so will not result in a reduction or abandonment of service and the replacement facilities will have a substantially equivalent designed

[1] 18 CFR 2.55 (2014).

[2] *Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations,* Order No. 790, 78 FR 72794–801 (Dec. 4, 2013), FERC Stats. & Regs. ¶ 31,351 (2013) (cross-referenced at 145 FERC ¶ 61,154 (2013)).

[3] 15 U.S.C. 717f(c)(1)(A) (2012).

[4] *Filing of Applications for Certificates of Public Convenience and Necessity, Notice of Proposed Rulemaking,* NOPR, 13 FR 6253, at 6254 (October 23, 1948).

[5] 18 CFR 2.55 (2014).

[6] *Id.* 2.55(a)(1). But for the inclusion of pig launchers/receivers in 1999, this list has remained unaltered since section 2.55 was put in place in 1949. Note that if a pipeline company wants to install any facilities specifically named in section 2.55(a)(1), but will not be installing them only for the purpose of obtaining more efficient or more economical operation of existing or proposed interstate transmission facilities, then the company cannot rely on section 2.55(a). *See Algonquin Gas Transmission Company,* 57 FERC ¶ 61,052 (1991); *West Texas Gas, Inc.,* 62 FERC ¶ 61,039 (1993); and *Natural Gas Pipeline Company of America,* 114 FERC ¶ 61,061, at n.4 (2006).

delivery capacity.[7] All replacement facilities constructed under section 2.55(b) must be located within the existing facilities' previously authorized right-of-way or on the same site as the facilities being replaced and must be constructed using the same temporary work spaces used to construct the existing facilities.[8] Section 2.55(b) replacement projects can go forward without case-specific or blanket certificate authorization. However, companies must provide the Commission with 30 days prior notice before undertaking more expensive replacement projects.[9]

6. On April 2, 2012, INGAA filed a petition requesting that the Commission clarify that installations of auxiliary facilities under section 2.55(a) are not restricted to the rights-of-way and temporary work spaces used to construct the existing facilities that will be augmented by the auxiliary facilities.[10] INGAA stated that it was seeking such clarification because Commission staff has stated in discussions with pipeline representatives and in industry meetings that companies undertaking section 2.55(a) auxiliary installations to augment existing facilities that are already in service must stay within the right-of-way or site for the existing facilities and restrict construction activities to previously used work spaces. INGAA disagreed with these constraints, arguing that section 2.55(a) activities had not been limited in this way in the past, and that Commission staff's position amounted to rulemaking without the opportunity for notice and comment, contrary to the requirements of the Administrative Procedure Act (APA).[11] Pursuant to section 385.207(a)(4) of the Commission's Rules of Practice and Procedure, INGAA requested that the Commission confirm INGAA's view that the siting and work space constraints stated by staff do not apply to section 2.55(a) auxiliary installations.

7. On December 20, 2012, the Commission issued a NOPR proposing to revise section 2.55(a) to clarify that, as with section 2.55(b), all projects must take place within a company's authorized right-of-way or facility site and use only previously approved work spaces. In addition, the NOPR proposed to add a 10-day landowner notification requirement for section 2.55 auxiliary and replacement facilities and for section 380.15 maintenance activities.[12]

8. On November 22, 2013, the Commission issued the Final Rule to revise its regulations to clarify that all section 2.55(a) auxiliary installations added to existing or proposed interstate transmission facilities must be located within the authorized right-of-way or site for the existing or proposed facilities and use only the same temporary work space used to construct the existing or proposed facilities. In addition, the Final Rule adopted regulations to provide a landowner with notice at least five days prior to commencing an auxiliary or replacement project under section 2.55 or a maintenance activity under section 380.15 that causes a ground disturbance on the landowner's property.

9. On December 23, 2013, INGAA and National Fuel each filed a request for rehearing of the Final Rule's determination that all auxiliary installations added to existing or proposed interstate transmission facilities must be located within the authorized right-of-way or site for the existing or proposed facilities and use only the same temporary work space used to construct the existing or proposed facilities.

10. In regard to the Final Rule's landowner notification requirements, INGAA and National Fuel request that the Commission clarify that: (1) The landowner notification requirements may be waived with the landowner's consent; (2) the provision that enables companies to waive the landowner notification requirements for ''activities required to respond to an emergency'' includes activities done for safety, U.S. Department of Transportation (DOT) compliance, or environmental or unplanned maintenance reasons; (3) the landowner notification requirement does not apply when a pipeline company is required on short notice to mark its facilities on a landowner's property because the landowner or a third party will be digging near the pipeline company's facilities; and (4) the landowner notification does not apply to landowners whose property is crossed en route to a proposed ground-disturbing maintenance activity, or to areas located entirely within the fence line of an existing, above-ground facility site.

II. Discussion

A. Section 2.55(a) Auxiliary Facilities

11. The Final Rule revised the Commission's regulations to clarify that all section 2.55(a) auxiliary installations added to existing or proposed interstate transmission facilities must be located within the authorized right-of-way or site for the existing or proposed facilities and use only the same temporary work space used to construct the existing or proposed facilities.

1. Commission's Jurisdiction

12. INGAA persists in its contention that section 2.55(a) facilities are beyond the Commission's jurisdiction. This is a fundamental misreading of this regulatory provision's intent and application.

13. In 1949, Order No. 148, by ''amendment of general rules and regulations governing the filing of applications for certificates of public convenience and necessity under section 7(c),'' [13] added section 2.55 to our regulations to permit the construction and operation of auxiliary, replacement, and delivery point facilities without the need to obtain individual certificates for such facilities.[14] INGAA maintains that ''[i]n Order No. 148, the Commission distinguished between jurisdictional facilities necessary for the transportation of natural gas in interstate commerce and non-jurisdictional installations.'' [15] The Commission did not. What the Commission did, as explained in the NOPR prior to Order No. 148, was ''to permit natural-gas companies subject to the jurisdiction of the Commission'' to add a restricted set of facilities to, and replace parts of, an existing system ''without *further* authorization from the Commission . . . to avoid the filing and

[7] 18 CFR 2.55(b) (2014).

[8] *Id.* 2.55(b)(ii).

[9] The requirement that a company give at least 30 days prior notice to the Commission before commencing a replacement project applies if the project will exceed the current cost limit for projects automatically authorized under the Part 157 blanket certificate regulations. However, unlike the blanket certificate regulations, section 2.55 places no cost limits on auxiliary installations or replacement projects that qualify under that section.

[10] On May 2, 2012, MidAmerican Energy Pipeline Group (which includes Kern River Gas Transmission Company and Northern Natural Gas Company) filed a motion to intervene and comments in support of INGAA's petition.

[11] 5 U.S.C. 553 (2012).

[12] *Revisions to Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations,* NOPR, 78 FR 679, at 683 (Jan. 4, 2013), FERC Stats. & Regs. ¶ 32,696 (2012) (cross-referenced at 141 FERC ¶ 61,228 (2012)). While section 380.15 covers siting, construction, and maintenance, our existing regulations already have notification requirements in place applicable to siting and construction; consequently, the additional prior notice requirement described in the new section 380.15(c) will apply exclusively to maintenance activities.

[13] *Filing of Applications for Certificates of Public Convenience and Necessity,* 14 FR 681 (February 16, 1949).

[14] Section 2.55(c), which describes new delivery points, was subsequently removed by Order No. 148–A, 49 FPC 1046 (1973). Delivery points are now included among the facilities that may be constructed and operated pursuant to blanket certificate authority. *See* 18 CFR 157.211 (2014).

[15] INGAA's Request for Rehearing at 22.

consideration of unnecessary applications for certificates.'' [16] (*Emphasis added.*) Order No. 148 accomplished this by deeming that ''[f]or the purposes of section 7(c),'' *i.e.,* with respect to the section of the NGA which requires that natural gas companies obtain prior certificate authorization to construct or acquire jurisdictional facilities, ''the word 'facilities' as used therein shall be interpreted to exclude'' auxiliary, replacement, and delivery point facilities.[17] In other words, to reduce the burden on the industry and to aid our own administrative efficiency, the Commission allowed natural gas companies already holding section 7 certificate authorization for existing natural gas facilities to make limited modifications to those facilities without the need to first obtain separate, additional, case-specific certificate authorization for each modification. In the Final Rule, we compared section 2.55 to our later actions to enable companies to act without first submitting an individual certificate application, stating:

> Section 2.55 is both a precursor and complement to our Part 157 blanket certificate program. By providing non-case-specific certificate authorization for limited classes of facilities, the section 2.55 and blanket certificate regulations permit companies to satisfy the requirements of section 7(c) without having to apply for individual case-specific certificates for each and every modification to their systems.[18]

14. Thus, Order No. 148 did not and could not remove jurisdictional facilities from our jurisdiction, but carved out a class of facilities in section 2.55 that could be added onto, or could replace, parts of a larger certificated system without the need for further review because the auxiliary or replacement facilities will be within the same rights-of-way and use the same work spaces that were reviewed by the Commission prior to construction of the existing facilities at that location. In describing the facilities authorized under section 2.55, Order No. 148 did not make any jurisdictional distinction among section 2.55(a) auxiliary installations, section 2.55(b) replacements, and section 2.55(c) delivery points, indicating all section 2.55 facilities share the same jurisdictional status. INGAA acknowledges that 2.55 replacement facilities are subject to our jurisdiction, stating:

> The facilities in question, both those being replaced and those doing the replacing once they are in service, are jurisdictional under NGA Section 7. The new replacement facilities once in service assume the certificated position previously occupied by the facilities being replaced. . . . The new facilities, just like the facilities that they replaced, are required to provide the pipeline's previously certificated jurisdictional service. In addition, as replacements of existing facilities, Section 2.55(b) projects by definition and by their very nature involve an existing right of way.[19]

15. Section 2.55(a) auxiliary installations, which are limited to facilities that improve the operation of a jurisdictional system, have the same jurisdictional status as the undisputedly jurisdictional replacements. As stated in the Final Rule:

> All section 2.55 facilities are integrated into a larger interstate transmission system and serve no function other than to enable that system to perform its jurisdictional functions more efficiently or economically; just as the larger system is jurisdictional, the component parts of that system, including auxiliary facilities installed pursuant to section 2.55, are jurisdictional as well.[20]

Accordingly, the facilities identified in section 2.55 are permitted to be put in place pursuant to the certificate authorization of the pipeline system that they modify, and are consequently as jurisdictional as, and subject to the same constraints imposed upon, the system that they modify, including siting and workspace constraints.

16. INGAA argues that because Order No. 603 amended section 2.55(b) to explicitly state that replacements must use the same right-of-way and workspaces as the facilities being replaced, but did not amend section 2.55(a) to state the same with respect to auxiliary facilities, the Commission's intent was to impose these restrictions on replacements alone. INGAA is incorrect in suggesting that it was not until Order No. 603 that the Commission viewed section 2.55 as limiting all construction activities under that section to existing, previously studied and approved rights-of-way. The Commission stated in Order No. 603 that ''[c]urrent Policy requires that replacement facilities must be placed in the existing ROW''; ''we are not allowing additional ROW width under Section 2.55''; and ''we will continue to follow Commission policy and limit the pipeline's use of property to construct facilities under Section 2.55 to the existing ROW.'' [21]

17. The discussion in Order No. 603 made clear that the Commission has always viewed all activities under section 2.55 as being limited to existing rights-of-way and facility sites. The Commission focused on section 2.55(b) in Order No. 603 because it was aware that some companies incorrectly viewed that section as providing authorization for them to undertake replacement projects using new, not previously studied rights-of-way, and thereby in theory, swap out large portions of their systems under section 2.55(b) with no limit as to project size and potential impacts.[22] At the time, the Commission had no intimations of companies similarly relying on section 2.55(a) to place auxiliary installations in greenfield areas. Furthermore, the Commission still assumed that there was no need for companies to go outside existing rights-of-way to install section 2.55(a) facilities that are ''merely auxiliary or appurtenant'' to and ''only for the purpose'' of enhancing the operation of a pipeline's other authorized facilities. It has been only relatively recently that Commission staff's discussions with industry representatives and INGAA's petition have made it clear that an explicit statement of siting limitations is also needed in section 2.55(a) to clarify that auxiliary installations also must stay within previously authorized boundaries.

18. Specifically, over the last several years, concerns about potential noncompliance with siting restrictions for auxiliary installations under section 2.55 have been conveyed by industry representatives and landowners to Commission staff. Although the concerns presented have not resulted in an enforcement action, staff has explained the spatial limitations on construction activities under section

[16] 13 FR 6253–54 (October 23, 1948).

[17] 14 FR 681.

[18] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 16.

[19] INGAA's Request for Rehearing at 39.

[20] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 13 (*footnote omitted*).

[21] *Revision of Existing Regulations Under Part 157 and Related Sections of the commission's Regulations Under the Natural Gas Act,* Order No. 603, 64 FR 26572 at 26575; FERC Stats. & Regs. ¶ 31,073 at 30,784–85 (1999).

[22] As discussed in the Final Rule, Order No. 603 was prompted by a company's inappropriate reliance on section 2.55(b) to abandon 91 miles of pipeline and install new, larger-diameter pipeline, portions of which were placed outside the right-of-way of the abandoned pipeline. *See* Order No. 603, FERC Stats. & Regs. ¶ 31,073, at 30,783–84 (1999), and Order No. 790, FERC Stats. & Regs. ¶ 31,351, at P 17 (2013) (citing *Arkla Energy Resources Company,* 67 FERC ¶ 61,173 (1994) (*Arkla*), *order on reh'g, NorAm Gas Transmission Company,* 70 FERC ¶ 61,030 (1995) (*NorAm*)). Arkla was in the process of changing its name to NorAm at the time the Commission issued its order finding that Arkla's replacement project did not qualify to go forward under section 2.55(b). Thus, Arkla sought rehearing under its new name, NorAm.

2.55(a) in response to inquiries by industry representatives and landowners and in presentations and conversations at public forums. In part, it was these statements by staff that motivated INGAA to submit its petition.

19. In addressing space limitations on auxiliary installations under section 2.55(a) in this rulemaking proceeding, we have responded as we did in Order No. 603 when we became aware that companies were improperly relying on section 2.55(b) to construct replacement facilities in new rights-of-way. In this proceeding, we confirmed the position we expressed in Order No. 603 that construction activities under section 2.55 are restricted to projects confined to the footprint of existing facilities or the right-of-way of other facilities proposed in a case-specific certificate application or under the prior notice provisions of the blanket certificate regulations, and revised our regulations to codify this clarification. Again, the fact that we did not take the opportunity in Order No. 603 to insert explanatory language in section 2.55(a) shows only that the focus of the Commission's concern in 1999 was to address the identified issue of replacement facilities being installed outside existing rights-of-way, and was not, as INGAA contends, indicative of a deliberate intent by the Commission to apply spatial limitations to replacement projects but not to auxiliary projects.

20. INGAA relies on *National Fuel Gas Supply Corporation* v. *FERC,* 468 F.3d 831 (D.C. Cir. 2006) (*National Fuel*) to support its argument. In *National Fuel,* the D.C. Circuit remanded back to the Commission a final rule that extended the Commission's Standards of Conduct regulations, which already applied to pipeline companies' relationships with their marketing affiliates, to also apply to a pipeline company's relationships with their non-marketing affiliates (*e.g.,* affiliated producers, gatherers, and processors). The court found no record evidence of a real problem, and explained that if the Commission chose on remand to rely solely on a theoretical threat, it would need to explain how the potential danger of improper communications between pipelines and entities other than their marketing affiliates justified the regulatory restrictions on their interactions and why the normal complaint process under NGA section 5 would not suffice.[23]

21. Our action here is not analogous to *National Fuel,* where the Commission sought to extend regulatory restrictions to new entities without documentation of abuse. Here, we are not expanding our regulatory reach based on potential industry activities; instead, we are simply clarifying the existing bounds of the regulatory authority provided by section 2.55(a). Further, whereas the section 5 complaint process can adequately address the economic consequences of unfair competitive practices after the fact, irreparable and unnecessary environmental damage can result from companies' relying on section 2.55 of the regulations to construct new facilities in areas that the Commission has not had an opportunity to environmentally review.

22. INGAA maintains that Order No. 603 describes auxiliary facilities as exempt from the Commission's jurisdiction. In support of its position, INGAA points to *CNG Transmission Corp.,*[24] in which the Commission stated that Order No. 603 ''amends Section 2.55(a) to specifically identify pig launchers as non-jurisdictional auxiliary equipment.''

23. Order No. 603 admittedly refers to auxiliary facilities in a manner that might be misconstrued as deeming auxiliary facilities to be nonjurisdictional. However, Order No. 603's discussion of auxiliary facilities opens with the statement that ''Section 2.55 defines facilities that are excluded from the requirements of section 7(c) of the NGA and may, therefore, be constructed without *additional* certificate authority.''[25] No additional certificate authority is needed because section 2.55 can be relied upon to construct qualifying auxiliary and replacement facilities under the umbrella of the company's certificate authority for the facilities being augmented or replaced. Thus, the 'exemption' provided by section 2.55 is not an exemption from NGA jurisdiction, but an exemption from the need to apply for additional case-specific certificate authorization or rely on blanket authorization under NGA section 7 for qualifying activities. The Commission's failure to carefully choose its words in contexts where the jurisdictional status of pig launchers and other auxiliary facilities was not being challenged does not change the fact that all of the facilities addressed by section 2.55 are jurisdictional facilities.

24. INGAA accepts that replacement facilities ''assume the certificated position previously occupied by the facilities being replaced,'' but does not believe auxiliary facilities are subject to any certificate authority, and consequently characterizes section 2.55(a) and section 2.55(b) as representing ''intrinsically different concepts.''[26] We find no intrinsic difference. The facilities described under section 2.55 serve to enhance the operation or update the facilities of an existing system. Section 2.55(a) auxiliary facilities must serve the purpose of making a system function more efficiently or economically, and section 2.55(b) replacements serve to improve reliability and safety. Thus, conceptually, section 2.55 auxiliary facilities and replacement facilities both serve the same purpose: They constitute relatively modest modifications to a system that do not alter the physical parameters of or services provided by the system.

25. INGAA maintains that in stating that section 2.55(a) auxiliary facilities are jurisdictional, the ''Commission erred by not considering reasonable alternatives to its chosen policy and by not giving a reasoned explanation for its rejection of such alternatives.''[27] INGAA is correct that when embarking on a new regulatory initiative, we consider various alternatives before we act, and then provide a reasoned explanation for our choice of action. Here, however, in responding to INGAA's petition requesting confirmation of its claim that auxiliary facilities are nonjurisdictional, we were not faced with a choice among policy alternatives; instead, we acted to correct a misunderstanding of the status of section 2.55 facilities by confirming that all such facilities are subject to the Commission's jurisdiction under section 7 of the NGA. Thus, our response did not contemplate potential policy choices, but clarified the existing policy embodied in section 2.55 that provides for the installation of auxiliary and replacement facilities described in that section under the certificate authority that authorized the facilities being enhanced or replaced. This rulemaking proceeding may have served to remind some companies of the existing spatial limitations on the placement of auxiliary and replacement facilities under section 2.55, but has not added any new additional regulatory restrictions on where facilities may be constructed under section 2.55.[28]

[23] *National Fuel,* 468 F.3d at 845.

[24] 87 FERC ¶ 61,324, at 62,259, n.7, *reh'g denied,* 89 FERC ¶ 61,047 (1999).

[25] Order No. 603, FERC Stats. & Regs. ¶ 31,073 at 30,781 (*emphasis added*).

[26] INGAA's Request for Rehearing at 39.

[27] *Id.* at 13–14.

[28] We have made policy changes to landowner notification requirements in this proceeding; however, these notification changes were made after considering alternatives and providing an explanation for the changes.

2. Section 2.55 Siting and Construction Limitations

26. On rehearing, INGAA reiterates its argument that Commission staff has been aware companies have been relying on section 2.55 to install auxiliary facilities outside existing rights-of-way in some instances, and that this claimed awareness on staff's part supports INGAA's position that our Final Rule's regulatory revisions to clarify the right-of-way and workplace constraints on auxiliary installations constitutes a ''change [to] what had been the plain and universal understanding of that provision for approximately 60 years.'' [29] In support, INGAA cites two instances in which Commission staff issued a letter order that appears to acquiesce to a company's plans to rely on section 2.55 to install auxiliary facilities outside an established right-of-way.[30] INGAA also claims that based on the cited letter orders issued under delegated authority, members of the Commission's staff were aware, when the Commission issued Order Nos. 603 and 603–A in 1999, that pipelines were making auxiliary installations outside existing rights-of-way and workspaces.[31]

27. In the situation underlying the first staff letter, a company sought case-specific certificate authorization to add a slug catcher (a facility to remove liquids from a gas stream) to an existing pipeline system.[32] Staff determined no additional certificate authority was needed because the proposed slug catcher ''is an auxiliary installation that would increase the efficiency and enhance the flexibility of operation with no apparent change in the capacity of the existing Terrebonne System.'' [33] We reiterate our observation from the Final Rule that although the application for certificate authorization indicated that a portion of the proposed slug catcher would be located outside the existing right-of-way, there is ''no indication that the location of the new facilities was taken into account in the one-page, two-paragraph staff letter,'' and staff's failure to recognize that some of the proposed facilities would be outside of the existing right-of-way appears to have been ''an oversight that led to a wrong result, since locating any of the planned new auxiliary facilities outside the existing right-of-way should have disqualified the project for purposes of section 2.55(a).'' [34]

28. The second instance concerns staff's response to a proposal to install cathodic protection equipment. In a December 1997 letter, staff responded to a company's description of a new project to add cathodic protection to an existing pipeline by reminding the company that because part of the project would be in a new right-of-way, the company could not rely on section 2.55(a), but would have to file a case-specific section 7 certificate application.[35] In an April 1998 letter, staff responded to the same company's description of what appears to be the same project, and finds it may proceed under section 2.55(a).[36] As discussed in the Final Rule, these letters are not necessarily in conflict, because the company may have altered its proposed project in response to the first letter so as to comply with the right-of-way restriction. If not, then as we stated in the NOPR and Final Rule, the April 1998 letter did not reflect Commission policy correctly.[37]

29. INGAA finds our review of these letter orders to be ''cursory and unconvincing,'' and insists ''that the existence of these delegated orders entirely undermines the Commission's foundation for its Final Rule,'' [38] which INGAA characterizes as a disingenuous claim that the Commission has not been aware that companies have been relying on section 2.55 to install auxiliary facilities outside existing rights-of-way. This characterization is incorrect and is also inconsistent with INGAA's stated motive for submitting its petition, which was that members of the Commission's staff were taking the position in discussions with industry representatives that section 2.55(a) only applies to auxiliary facilities installed in existing rights-of-way using previously approved work spaces.[39] Further, while INGAA's petition emphasized that some companies have relied in good faith on the misunderstanding that section 2.55(a) allows auxiliary facilities to be installed in new areas, INGAA's petition did not identify and we are not aware of any specific instances where companies have disregarded the guidance offered by Commission staff.

30. In any event, our review of the two cited letter orders was sufficient to establish that if staff concluded in those situations that the companies could rely on section 2.55(a) to build auxiliary facilities outside the existing rights-of-way, then those particular staff interpretations were in error. While staff makes every effort to accurately reflect the Commission's practice, procedures, policy, and regulatory requirements, staff's statements of opinion and regulatory interpretations, as INGAA and the industry it represents are well aware, are not binding on the Commission. Further, neither of the two unpublished letter orders cited by INGAA explicitly articulates a policy of allowing section 2.55(a) facilities outside an established project boundary or has any other precedential value, and INGAA provides no other evidence to support what it claims is the ''plain and universal understanding of [section 2.55(a)].'' [40] We are unaware of any other staff opinions or issuances under delegated authority, much less any determinations by the Commission itself, that provide support for INGAA's assertions that our Final Rule announced a sharp departure from prior Commission policy and imposed, rather than clarified, the spatial constraints on section 2.55(a) facilities.

31. In clarifying the spatial constraint for section 2.55 facilities, we commented in the Final Rule that absent such a constraint, companies could traverse and disturb unexamined areas. Specifically, we explained that our goal is to ensure that the authorization provided by section 2.55 does not inadvertently work to deprive the Commission of the opportunity to conduct an environmental review and impose appropriate mitigation measures in any situation where a company's construction activities may have adverse environmental impacts. Thus, the regulations provide that even when all planned auxiliary facilities can be located entirely within an existing right-of-way, if a company plans to construct the auxiliary facilities in conjunction with other construction activities proposed in a case-specific certificate application or under the blanket certificate regulations' prior notice provisions, the company may not

[29] INGAA's Request for Rehearing at 4.

[30] INGAA's Request for Rehearing at 32.

[31] *Id.* at 11 and 43.

[32] *Trunkline Gas Company,* Docket No. CP84–394–000, letter order signed by the Director of the Commission's Office of Pipeline Regulation, dated May 25, 1984; FERC eLibrary Accession No. 19840601–0118.

[33] *Id.*

[34] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 36.

[35] Letter signed by the Director of the Commission's Office of Pipeline Regulations, dated December 16, 1997; FERC eLibrary Accession No. 19971223–0120.

[36] Letter signed by the Director of the Commission's Office of Pipeline Regulation, dated April 3, 1998; FERC eLibrary Accession No. 19980408–0242.

[37] NOPR, FERC Stats. & Regs. ¶ 32,696 at P 11, n.18 and Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 35.

[38] INGAA's Request for Rehearing at 32. INGAA also claims that based on the cited letter orders issued under delegated authority, members of the Commission's staff were aware, when the Commission issued Order Nos. 603 and 603–A in 1999, that companies were making auxiliary installations outside existing rights-of-way and workspaces. *Id.* at 11 and 43.

[39] INGAA's April 2, 2012 Petition at 1.

[40] INGAA's Request for Rehearing at 4.

undertake the section 2.55 construction until the auxiliary facilities have been identified and considered by the Commission in its environmental review in the proceeding on the other proposed facilities and the other facilities have been authorized.[41]

32. INGAA replies that independent of the Commission's requirements, companies must comply with environmental laws imposed by other federal and state authorities, and argues that in the past these other environmental laws have provided satisfactory environmental oversight of companies' auxiliary installation projects outside existing rights-of-way.[42] INGAA asserts, therefore, that there is no reason for the Commission to conduct NEPA reviews before companies undertake auxiliary installations involving construction activities that will disturb areas not previously studied by the Commission.

33. We have NEPA responsibilities with respect to construction activities that companies undertake based on Commission-granted authorization, and we cannot waive these responsibilities solely because other agencies may have complementary or overlapping NEPA responsibilities of their own. INGAA objects to what it describes as the Commission's effort to limit the location of ''auxiliary installations through arguments based on a different pipeline activity, the replacement of facilities,'' and asserts that replacement and auxiliary ''activities are materially different and historically have been treated differently by the Commission.'' [43] However, while section 2.55(b) replacement projects are generally of a larger scale than section 2.55(a) auxiliary installations and thus are more likely to involve significant ground disturbance, many activities that can qualify for construction under section 2.55(a), for example, installation of pig launchers/receivers and cathodic protection equipment, can also involve significant ground disturbance, as well as visual, noise, and other impacts. Thus, if a company will need to use new right-of-way or other areas that have not been authorized by the Commission to construct auxiliary facilities, the company cannot proceed with the construction under section 2.55. Rather, the company must proceed under the Part 157 blanket certificate regulations or, if the project will not qualify under the blanket certificate regulations, then file an application for case-specific certificate authorization. By way of comparison, whereas section 2.55 does not include environmental conditions because it does not provide any authorization for construction activities outside areas that have been or will be subject to the Commission's environmental review, the blanket certificate regulations, which do contemplate such activities, include environmental conditions in section 157.206(b) requiring pipeline companies to comply, prior to commencing construction, with numerous environmental laws enforced by other agencies to ensure that sensitive environmental areas will not be adversely impacted by activities, including activities under the automatic provisions, that will involve ground disturbance or changes to operational air and noise emissions.[44] Section 2.55(a) does not include such specific requirements because we did not contemplate that auxiliary facilities would be located outside of areas that either have been or will be subject to the Commission's environmental study and any appropriate environmental mitigation measures.

34. Section 2.55 and blanket certificate authority embody two different types of certificate authorization. The certificate authority for auxiliary installations under section 2.55(a), which does not include any specific environmental conditions, derives from either (1) the certificate for the existing facilities to be augmented, and thus the auxiliary facilities can only use areas previously authorized by the Commission for the construction of the existing facilities, or (2) the certificate authority being sought by the company for other new facilities, in which case both the new facilities and the planned auxiliary facilities will be subject to an environmental review by the Commission. While blanket certificate authority can be relied upon to obtain new right-of-way and to use previously undisturbed areas, any blanket certificate construction that would involve ground disturbance or changes to operational air and noise emissions will be subject, as discussed above, to section 157.206(b)'s environmental conditions. In addition, we note that a company's prior notice blanket certificate activities, even those that will be confined entirely to an existing right-of-way previously studied and authorized by the Commission, can be protested by staff based on environmental concerns, thus subjecting the proposal to additional review.[45]

35. In practice, we have highlighted the difference in section 2.55 and blanket certificate activities by rejecting companies' reliance on section 2.55(a) to install facilities that do not meet the siting or function requirements, thereby requiring the companies to rely on blanket authorization or case-specific certification for such facilities.[46]

36. In seeking to bolster their position, commenters on the NOPR posited extreme situations, arguing for example, that since the Commission included ''buildings'' as an example of a 2.55(a) facility, and a new corporate headquarters cannot be constructed entirely within an existing pipeline right-of-way, the Commission could not have intended 2.55(a) facilities to be confined to existing rights-of-way. The Commission responded to this in the Final Rule by noting that a corporate headquarters is not a natural gas facility; thus, such construction does not require any certificate authorization under the NGA.[47] On rehearing, INGAA turns its focus to communication towers, arguing that since they, like office buildings, may be located remotely from the pipeline; we should find that they, too,

[41] 18 CFR 2.55(a)(2)(ii) and (iii) (2014). *See* Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 50.

[42] INGAA's Request for Rehearing at 34.

[43] *Id.* at 8.

[44] Sections 157.206(b)(2)(i)–(xii) require that companies planning to undertake construction activities under Part 157 blanket certificate authority obtain, prior to commencing construction, any necessary permits or approvals from and comply with conditions imposed by the agencies charged with specific NEPA responsibilities under the Clean Water Act, Clean Air Act, National Historic Preservation Act, Archeological and Historic Preservation Act, Coastal Zone Management Act, Endangered Species Act, Wild and Scenic Rivers Act, National Wilderness Act, National Parks and Recreation Act, the Magnuson-Stevens Fishery Conservation and Management Act, and executive orders requiring evaluation of the potential effects of actions on floodplains and wetlands.

[45] *See, e.g., Northwest Pipeline Corporation,* 68 FERC ¶ 61,336, at 62,345–46 (1994) (Commission staff protested a construction proposal filed under the prior notice provisions, withdrawing the protest after its environmental concerns were addressed); *Williams Natural Gas Company,* 66 FERC ¶ 62,114 (1994) (following staff's protest to Williams' prior notice filing proposing to abandon 19 miles pipeline by removal, the Commission's Director of the Office of Pipeline and Producer Regulation authorized the activity subject to Williams' implementation of certain mitigation measures and environmental conditions); and *Natural Gas Pipeline Company of America,* 64 FERC ¶ 62,041 (1993) (Commission staff protested Natural's prior notice filing proposing to abandon delivery taps, delaying authorization of the abandonment until Natural received a permit from the U.S. Environmental Protection Agency which included conditions addressing the disposal of material potentially contaminated with polychlorinated biphenyls).

[46] *See, e.g., Algonquin Gas Transmission Company,* 57 FERC ¶ 61,052 (1991); *West Texas Gas, Inc.,* 62 FERC ¶ 61,039 (1993); and *Natural Gas Pipeline Company of America,* 114 FERC ¶ 61,061 (2006).

[47] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 22 and n.39.

are exempt from Commission jurisdiction. We do not agree.

37. A communication tower constructed by an interstate pipeline company for the purpose of supporting equipment used to monitor (and possibly control) the pipeline system's operation is a natural gas facility subject to our jurisdiction under the NGA. If the tower (or a building, or any facility or equipment which serves exclusively to make a pipeline's operations more efficient or economical) can be installed within an existing (or proposed) authorized area, the company can proceed under section 2.55(a). However, if it will be located outside an authorized area, then that facility must be constructed under either blanket or case-specific certificate authority. Although some of the types of facilities named in section 2.55(a) have evolved significantly since 1949, the function of the named facilities remains the same: They are incidental additions to an interstate transmission system, dependent upon and integrated into that larger system. Further, section 2.55(a) describes qualifying facilities as ''[i]nstallations . . . which are merely auxiliary or appurtenant to an authorized or proposed transmission pipeline system,'' indicating that section 2.55(a) is only intended to apply to facilities that will be attached to or adjacent to the components of the system they support. When a company is able to construct facilities meeting this description in an area that has been or will be reviewed for environmental purposes by the Commission, then the company may proceed with such construction under section 2.55(a). However, it may be the case in many instances that a company will want or need to locate some of the auxiliary facilities specifically listed in section 2.55(a)—in particular, communication, pig launching/receiving, and cathodic protection equipment—in locations requiring the use of additional rights-of-way, larger easements, or temporary work spaces that have not been included previously in an environmental review performed by the Commission. In those situations, the companies will need to proceed under an alternative form of authorization (*i.e.,* under a blanket or case-specific certificate).[48]

38. National Fuel asks whether ''improvements such as buildings, roads, and parking lots for central offices, field and other offices, warehouses, [and] equipment yards'' can qualify under section 2.55(a).[49] We clarify they can, provided they meet section 2.55's location and function requirements. We note the Final Rule revised the section 157.202 definition of ''eligible facility'' to specify that auxiliary installations that will not qualify under section 2.55(a) because they will not satisfy that section's location or work space constraints may qualify for authorization under a company's blanket certificate. Companies will need to seek case-specific authorization for auxiliary facilities that are also not eligible for blanket authorization (*e.g.,* facilities that would exceed the cost limits specified in section 157.208(d)).

39. Finally, we note that because section 2.55 facilities are constructed and operated under the certificate authorization for the facilities that they augment or replace, prior authorization under NGA section 7(b) is necessary before a pipeline company can abandon auxiliary and replacement facilities constructed under section 2.55. INGAA complains that we neglected to address the ''burden of seeking such abandonment authority.''[50] The requirement for prior authorization under section 7(b) to abandon certificated facilities is statutory and cannot be waived by the Commission. Further, while section 157.202(b)(3) of the blanket certificate regulations states that for purposes of those regulations '''Facility' does not include the items described in section 2.55,'' we explained in the Final Rule that section 157.202(b)(3) only prevents companies from relying on their Part 157 blanket certificates to undertake activities, *i.e.,* the construction and operation of qualifying auxiliary and replacement facilities, that qualify under section 2.55.[51] We clarify here that section 157.202(b)(3) of the blanket certificate regulations does not preclude a pipeline company from relying on its Part 157 blanket certificate and the abandonment authority provided by section 157.216 to abandon facilities constructed under section 2.55, provided the abandonment activity will meet the applicable environmental conditions and cost limits (*i.e.,* the facilities to be abandoned could be constructed under the blanket certificate regulations' current cost limits, regardless of what the original construction costs may have been). We expect that activities to abandon most auxiliary facilities and many replacement facilities constructed under section 2.55 can satisfy these conditions, and thus enable companies to go forward with abandonments under section 157.216 of the blanket certificate regulations.

3. INGAA's Response to the NOPR

40. INGAA objects to our treating its January 22, 2013 submission in response to the NOPR as a comment on the NOPR rather than as a request for rehearing of the underlying rejection of INGAA's position regarding the scope of authority provided by section 2.55(a).

41. As described in the Final Rule and above, the NOPR was issued in response to INGAA's petition requesting that we ''affirm'' that installations of auxiliary facilities under section 2.55(a) are not restricted to the rights-of-way and temporary work spaces used to construct the existing facilities that will be augmented by the auxiliary facilities. We declined to do so, explaining in the NOPR that the Commission has never viewed section 2.55(a) as providing any authorization for pipeline companies to construct auxiliary facilities outside areas subject to environmental review and authorization by the Commission. On January 22, 2013, INGAA file a pleading styled ''Request for Rehearing.'' However, while the Commission's Office of the Secretary issued a tolling order (*Order Granting Rehearing for Further Consideration*) on February 20, 2013, such an order is not dispositive of the procedural posture of the underlying pleading (*i.e.,* issuance of a tolling order in response to a submission styled as a request for rehearing does not constitute a finding by the Commission that rehearing indeed lies on the issues raised in the filing).

42. In this instance, as noted in the Final Rule, the Commission ultimately determined to treat the January 22, 2013 pleading as comments on the NOPR, explaining that the NOPR's clarification of the existing scope of the authority bestowed by section 2.55(a) did not ''effect any change [in our regulations]; rather, it articulated existing, long-standing constraints and obligations with respect to auxiliary installations. Because the NOPR does not constitute an instant Final Rule [as alleged by INGAA], we find no cause to consider requests for rehearing in response to the

[48] Our discussion here should provide adequate clarification for INGAA, which professes to be puzzled by our statement in the Final Rule that although ''types of facilities are specifically listed in section 2.55(a) [this] does not mean that companies can necessarily rely in all instances on section 2.55(a) to install them.'' Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 25.

[49] National Fuel's Request for Rehearing at 6.

[50] *See* INGAA's Request for Rehearing at 51.

[51] *See* Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 46.

NOPR.'' [52] The Commission's procedural choice to issue a NOPR in response to INGAA's petition and to treat its January 22, 2013 submission as comments rather than as a rehearing request did not deprive INGAA of any due process. Issuance of the NOPR provided INGAA the opportunity to present arguments that the Commission should amend section 2.55(a) to expand the scope of construction that can be done under that section. We also considered and responded to the concerns and arguments presented in INGAA's January 22, 2013 filing in the Final Rule. Further, our issuance of the NOPR provided the notice and comment forum which INGAA urged was required before more rigorous enforcement of the section 2.55(a) locational restrictions. As explained in the Final Rule, we do not intend to look back in order to determine whether installation of auxiliary facilities prior to the effective date of the Final Rule conform to section 2.55(a) siting limitations or pursue any enforcement action with respect to any installations prior to the effective date of the Final Rule that do not conform to section 2.55(a) siting limitations, unless it comes to our attention that remedial environmental measures need to be taken.[53]

4. Compliance With Executive Orders

43. INGAA repeats its claim that our action is inconsistent with Executive Orders directing agencies to avoid unduly burdensome regulations.[54] The impetus behind and function of section 2.55 is to reduce regulatory burdens by providing a means for companies to install facilities without the need to obtain blanket or case-specific certificate authorization and our clarification of its operation imposes no new burden. We acknowledged that some additional burden will be associated with new landowner notification requirements adopted by the Final Rule, but we found that the anticipated benefits justify this new regulation. Further, as discussed below, in response to comments on the landowner notification requirement adopted by the Final Rule, we significantly reduce the number of instances in which companies will be required to contact landowners before entering upon their properties. These revisions will substantially reduce the burden associated with providing prior notification. Finally, as previously observed, the Commission has directed staff to perform an internal assessment of the effectiveness of our regulations, as we are continually seeking to streamline our regulations in order to foster competitive markets, facilitate enhanced competition, and avoid imposing undue burdens on regulated entities or unnecessary costs on those entities or their customers.[55]

B. Landowner Notification

44. The Final Rule adopted regulations requiring companies to notify landowners prior to initiating auxiliary and replacement projects or maintenance activities to give landowners adequate notice (to the extent practicable) of a company entering onto their property in order to avoid potential conflict between landowners and gas companies. Specifically, the Final Rule added a new section 2.55(c) and revised existing section 380.15(c) to require a natural gas company to make a good faith effort to notify landowners at least five days in advance of commencing an auxiliary or replacement project or of any maintenance that will cause ground disturbance. The notice must include: (1) A brief description of the activity to be conducted or facilities to be added or replaced and the expected effects on landowners; (2) the name and phone number of a company representative who is knowledgeable about the project; and (3) a description of the Commission's Dispute Resolution Division Helpline and its phone number, as explained in section 1b.21(g) of the Commission's regulations.

1. Waiver of Five-Day Prior Notice

45. INGAA requests we clarify that so long as a company provides landowners with at least five days advance notice, landowners can waive all or part of the post-notice waiting period. INGAA states that allowance for the waiver would be similar to the landowner notice waiver provision under the blanket certificate regulations, which allows a company that has given a landowner notice of a project to proceed before the end of the required post-notice waiting period, provided the landowner gives written approval to do so.[56]

46. We agree that landowners, once notified, should be allowed to waive any portion of the post-notice waiting period by giving written approval. Accordingly, we will modify sections 2.55(c) and 380.15(c) to permit landowners to waive the post-notice waiting period.

2. Emergency Exemption to Notice Requirement

47. The Final Rule provided that ''[f]or activities required to respond to an emergency, the five-day prior notice period does not apply'' under sections 2.55 and 380.15,[57] reasoning that companies should not hesitate to undertake immediate action in an emergency situation. However, that any events that do not necessitate immediate access to system facilities would still be subject to a minimum five-day prior notice.[58]

48. INGAA and National Fuel request that we clarify the scope of the emergency exemption provided by sections 2.55(c) and 380.15(c) by revising those sections to be consistent with the language in section 157.203(d)(3) of the blanket certificate regulations.[59] Specifically, section 157.203(d)(3) states that the requirement for prior notification to landowners does not apply when a company needs to initiate construction activities under section 2.55 or maintenance activities under section 380.15 done for safety, DOT compliance, or environmental or unplanned maintenance reasons that are not foreseen and that require immediate attention by the company.[60] We will revise sections 2.55(c) and 380.15(c) as requested. However, the exemption from the requirement for prior notice to landowners is only intended to apply in unforeseen situations where a company needs to take immediate action to correct a sudden incompatibility with DOT safety requirements or to avoid imminent danger or harm to life, property, or the environment. Therefore, while many routine and scheduled activities are safety-related or necessary to maintain or come into compliance with DOT regulations, such routine, foreseeable, or scheduled activities are not emergencies, and are not exempt from the requirement for prior notice to landowners.

49. National Fuel asserts that if an emergency activity is exempt from the prior landowner notification requirements under section 2.55(c) or

[52] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at n.19.

[53] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 50.

[54] INGAA's Request for Rehearing at 41.

[55] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 44.

[56] INGAA's Request for Rehearing at 15 (citing 18 CFR 157.203(d)(1) (2014)). Section 157.203 of the Commission's regulations requires companies to give landowners notice at least 45 days prior to commencing construction under its automatic blanket certificate authority. A landowner may waive the 45-day prior notice requirement in writing so long as notice has been provided.

[57] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 63.

[58] *Id.*

[59] INGAA's Request for Rehearing at 16 and National Fuel's Request for Rehearing at 3.

[60] 18 CFR 157.203(d)(3) (2014).

section 380.15(c), there should be no need for a pipeline to rely on and comply with the provisions of Part 284, Subpart I, of the Commission's regulations.[61] We agree and clarify that when companies seek to act under section 2.55 or section 380.15(c), and need to act promptly to respond to an emergency, and are thus unable to provide landowners with at least five days advance notice, then the emergency nature of the action functions as a waiver of the prior notice requirement. Thus, provided that with the exception of prior notice, an emergency response action meets all other section 2.55 or section 380.15(c) requirements, a company may proceed under section 2.55 or section 380.15(c). However, any emergency response action that would not qualify under section 2.55 or section 380.15(c) (*e.g.,* construction which would take place outside previously approved areas), would require a company to proceed under other emergency authority, such as Part 284, Subpart I.

3. Affected Landowners

50. The Final Rule stated that prior notification be provided to ''affected landowners,'' described in sections 2.55(c) and 380.15(c), as property owners that will be ''directly affected (*i.e.,* crossed or used), by the proposed activity, including all rights-of-way, facility sites (including compressor stations, well sites, and all above-ground facilities), access roads, pipe and contractor yards, and temporary work space.'' [62] INGAA and National Fuel request that the Commission clarify that ''affected landowners'' only include landowners that will be subject to ground disturbance on their properties, and not landowners whose property is merely crossed and not otherwise disturbed.[63]

51. As proposed in the NOPR, section 2.55(c) and 380.15(c) would have required a company to give prior notification to all landowners whose property would be used or crossed. As proposed in the NOPR, sections 2.55(c) and 380.15(c) also would have required a company to give prior notification to owners of abutting properties and the owners of residences within 50 feet.[64] However, in response to comments on the NOPR, the Final Rule revised sections 2.55(c) and 380.15(c) to state that companies are only required to give prior notification to the owners of those properties that are crossed or used when companies perform ground-disturbing activities.[65] In response to INGAA's and National Fuel's comments, we find it is appropriate to further revise sections 2.55(c) and 380.15(c) to specify that companies must provide prior notice only to the owner of property used for a ground-disturbing activity, and not to landowners whose property is crossed en route to the site of that activity.[66]

52. INGAA and National Fuel also request that the Commission clarify that the five-day prior notice requirement does not apply when the ground-disturbing activity will occur entirely within the fence line of an existing above-ground facility site.[67] In situations where a company's facilities are located inside a fenced area on property that the company does not own but to which it has easement rights, we agree that a requirement of prior notice to the landowner is not necessary if all ground disturbance will be confined to within the fenced area, and we will revise sections 2.55(c)(1) and 380.15(c)(1) accordingly. When any ground disturbance caused by a company's activities to install or replace equipment under section 2.55 or by equipment associated with maintenance activities under section 380.15 is confined inside the company's fenced-in easement areas, *e.g.,* a compressor station or site used for pigging equipment, the activities do not present the same potentially hazardous situations or inconvenience to a landowner as ground-disturbing activities in an unfenced area, *e.g.,* the replacement of pipe under the landowner's driveway. However, even when companies' ground-disturbing activities will be within their fenced-in easement areas, as a matter of courtesy, we encourage companies to give prior notice to landowners to the extent practicable.

4. One-Call Obligations

53. INGAA requests we clarify that the requirement for prior notice to landowners adopted by the Final Rule for activities under sections 2.55 and 380.15 does not apply to ''One Call'' obligations.[68] INGAA states that such programs require companies to mark their facilities within 48 to 72 hours of receiving notification that a landowner or third party will be digging near natural gas facilities to prevent damage. Therefore, INGAA argues that a company cannot wait five days to comply with its ''One Call'' obligations.[69] We agree that the ''One Call'' obligations do not fall under the Final Rule's landowner notification requirements. This is because merely marking the location of buried natural gas facilities (typically with flags or spray paint) does not involve a ground disturbance. However, in the event a company's response to a ''One Call'' request results in ground-disturbing activity to locate, relocate, or isolate any of its facilities,[70] then the exemption provided in the prior notice provisions for emergency activities would apply.

5. Burden Resulting From the Landowner Notification Requirement

54. INGAA claims that we have not met our obligation to estimate the burden of the Final Rule's notification requirement in a way that is not arbitrary or capricious, and then weigh the benefit of the rule against that burden.[71] In this regard, National Fuel states that our use of an estimate based solely on the number of section 2.55(a) auxiliary installation activities performed each year (which, it points out, are construction activities) to derive a reasonable estimate of the number of ground-disturbing activities under section 2.55 and section 380.15 that would require landowner notification, is arbitrary and too low.[72]

55. To estimate the burden of the Final Rule's section 2.55 and section 380.15 landowner notification requirements, Commission staff surveyed nine jurisdictional companies, and based on that sample, estimated that all 165 jurisdictional companies perform approximately 7,605 auxiliary installation projects each year under section 2.55(a), including activities that do not involve ground disturbance.[73] While we recognize that the number of maintenance activities undertaken by a company may far exceed the number of its auxiliary installations, we believe

[61] National Fuel's Request for Rehearing at 4.

[62] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 56.

[63] INGAA's *Request for Rehearing* at 16–17 and National Fuel's Request for Rehearing at 4–5.

[64] NOPR, FERC Stats. & Regs. ¶ 32,696 at P 30.

[65] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 56.

[66] We note that this clarification does not exempt companies from complying with the terms of any existing easement agreements or any applicable state or local laws governing the use of or access to property not within a company's rights-of-way or facility sites.

[67] *Id.*

[68] The ''One Call'' program is a service used by public utilities and some private sector companies (*e.g.,* oil pipeline and cable television) to provide pre-construction information to contractors or other maintenance workers on the location of underground pipes, cables, and culverts. Similar utility-marking programs go by different names in different regions.

[69] INGAA's Request for Rehearing at 17.

[70] National Fuel notes that ''to determine and mark the precise location of its facilities . . . may require some excavation.'' National Fuel's Request for Rehearing at 3–4.

[71] INGAA's Request for Rehearing at 17–18.

[72] National Fuel's Request for Rehearing at 6.

[73] Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 77 and n.115.

ground-disturbing activities for maintenance purposes under section 380.15, like ground-disturbing activities to install auxiliary facilities under section 2.55(a) and replace facilities under section 2.55(b), are significantly fewer in number than the activities under those sections that do not involve ground disturbance. We also believe that ground-disturbing activities, including ground-disturbing maintenance, generally take advance planning.[74] Further, companies have long been subject to the requirement to give landowners notice of certain planned activities, and therefore presumably already have the information, personnel, and other resources necessary to enable them to satisfy those other, long-standing landowner notification requirements.

56. In view of these considerations, we believe our estimate in the Final Rule of the total number of all companies' annual auxiliary installations under section 2.55(a) that involve ground disturbance was reasonable, and that it also was reasonable to multiply that number by two to estimate the total annual number of activities—including all auxiliary installations under sections 2.55(a), replacement projects under section 2.55(b), and maintenance activities under section 380.15—that will involve ground disturbance and will therefore require prior notice to landowners. Further, we believe the reasonableness of our burden estimate in the Final Rule is also supported by the clarification in this order that ground-disturbing activities are exempt from the prior notice requirement in emergency situations and in situations where all ground disturbances will be confined entirely to areas within the fence line of an existing above-ground facility site.

57. National Fuel states that every year it performs ''thousands'' of ground-disturbing maintenance activities that will now require landowner notification.[75] National Fuel fears that activities such as maintaining existing access roads and existing erosion control structures will require it to satisfy unduly burdensome landowner notification requirements.[76] We recognize that some activities to maintain existing access roads (*e.g.,* scraping to remove old asphalt and resurfacing) or existing erosion control structures (*e.g.,* pushing back soil or rocks that were intended to prevent erosion) may not involve a significant amount of ground disturbance. However, such activities require the use of bulldozers, backhoes, dump trucks and other equipment that can present safety hazards and cause inconvenience to landowners. Therefore, we will not exempt ground-disturbing activities under section 380.15 to maintain existing facilities from the landowner notification requirement.

58. While INGAA and National Fuel insist that we have underestimated the burden that the landowner notification will cause the industry, this assertion assumes that most jurisdictional companies were not already notifying landowners when work is to be performed on their property, whether such notification is required or not.

59. Section 157.6(d)(1) of the regulations requires applicants for case-specific certificate authority for construction projects to notify all landowners that will be affected by the project. Section 157.203(d) of the blanket certificate regulations requires that companies give landowners notice of all projects subject to those regulations' prior notice provisions. Thus, companies likely have a database of landowners dating from the time many of their facilities were originally put in service. As discussed in the Final Rule, we believe most companies maintain and update these databases because, regardless of their size, they need to know (to enhance, replace, and maintain their facilities and to respond to emergencies) precisely where their rights-of-way lie, how to get to their facilities, and how to contact the owners of the properties on which their facilities are located.[77] As also discussed in the Final Rule, companies need to periodically update landowner information to be able to comply with DOT's Pipeline and Hazardous Materials Safety Administration's (PHMSA) biennial reporting requirement.[78] Therefore, to identify the landowners to notify, companies will not be starting from scratch, but instead should be able to rely on the landowner records previously compiled to satisfy the Commission's and PHMSA's notification requirements. Since PHMSA's notification requirement is ongoing, a company's efforts to update portions of its landowner database as needed to meet the section 2.55 and section 380.15 notice provisions can be expected to result in a corresponding reduction in the company's efforts necessary to comply with PHMSA's notification requirement.

60. Further, comments on the NOPR call attention to some companies' ongoing community relations programs, which like the required PHMSA report, serve to inform landowners of their plans for construction and maintenance activities in coming months.[79] While these notifications generally do not include specific details regarding the work that may take place on a landowner's property and only provide an approximate time period for when the work will be done, companies nevertheless have to identify landowners to send out these notifications. Companies should be able to use landowner lists developed in connection with community relations programs and in conjunction with compliance with PHMSA requirements as a basis for meeting the prior notice requirements of sections 2.55(c) and 380.15(c). In our burden estimate, we did not attempt to account for lists that companies may have on hand to send information to landowners as part of community relations or PHMSA compliance.

C. Consistency With the Commission's Regulations

61. INGAA requests that the Commission revise certain regulations to ensure regulatory consistency as a result of the Final Rule. INGAA notes that section 157.206(b)(1) of the Commission's regulations for blanket certificate projects includes a general reference to section 380.15[80] and proposes this be revised to specifically refer to sections 380.15(a) and (b). We agree and will revise section 157.206(b)(1) accordingly. This order and the Final Rule reduced the number of landowners to which the NOPR would have required that companies give prior notice for purposes of section 2.55 and section 380.15 activities by modifying the definition of ''affected landowners.'' ''Affected landowners'' now excludes owners of properties that will need to be crossed but not otherwise disturbed, as well as owners of abutting properties and owners of properties that contain residences within 50 feet of planned work areas where no ground-disturbing work will occur; in contrast the blanket certificate regulations' landowner notification

[74] NOPR, FERC Stats. & Regs. ¶ 32,696 at P 39.

[75] National Fuel's Request for Rehearing at 6.

[76] *Id.*

[77] *See* Order No. 790, FERC Stats. & Regs. ¶ 31,351 at P 79.

[78] *Id.*

[79] *See, e.g.,* Golden Triangle Storage, Inc.'s March 5, 2013 Comments on the NOPR at 4; INGAA's March 5, 2013 Comments on the NOPR at 13–14; MidAmerican Energy Pipeline Group's March 5, 2013 Comments on the NOPR at 4; National Fuel's March 5, 2013 Comments on the NOPR at 4; Southern Star Central Gas Pipeline, Inc.'s March 5, 2013 Comments on the NOPR at 6–7; and WBI Energy Transmission Inc.'s March 5, 2013 Comments on the NOPR at 7.

[80] INGAA's Request for Rehearing at 19–20.

requirement relies on the definition of affected landowners in section 157.6(d)(2) of the regulations, which includes these additional property owners. Further, section 157.203(d)(1) requires at least 45 days prior notice to landowners for automatic blanket projects,[81] while the new landowner notification requirement for section 2.55 and section 380.15 activities requires a minimum of only five days prior notice.[82]

62. INGAA also notes that the Final Rule replaced the NOPR's proposed term ''original'' in section 2.55(b)(1)(ii) with the term ''existing'' but did not make similar changes to Appendix A of Part 2. For consistency, INGAA requests that the Commission replace the term ''original'' with ''existing'' in Appendix A of Part 2.[83] We agree and will revise Appendix A of Part 2.

III. Information Collection Statement

63. The Paperwork Reduction Act (PRA)[84] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability.[85] The OMB's regulations implementing the PRA require approval of certain information collection requirements imposed by agency rules.[86]

64. The Commission submitted the Final Rule's information collection statement for landowner notification requirements under sections 2.55, 157.203(d)(3)(i), and 380.15 of the regulations to OMB for its review and approval, and OMB granted approval under OMB Control No. 1902–0128. While this rule clarifies certain aspects of the existing information collection requirements for landowner notification, it does not add to these requirements. Accordingly, a copy of this Final Rule will be sent to OMB for informational purposes only.

IV. Environmental Analysis

65. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[87] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[88] Generally, the regulatory actions taken in this rulemaking proceeding fall within the categorical exclusions in the Commission's regulations for actions that are clarifying, corrective, or procedural and for information gathering, analysis, and dissemination.[89] Accordingly, an environmental review is not necessary and has not been prepared in connection with this rulemaking.

V. Document Availability

66. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

67. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

68. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VI. Effective Date and Congressional Notification

69. These regulations are effective January 26, 2015. The Commission has determined that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects

18 CFR Part 2

Administrative practice and procedure, and Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, and Reporting and recordkeeping requirements.

18 CFR Part 380

Environmental impact statements, and Reporting and recordkeeping requirements.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 2, 157, and 380, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 2—GENERAL POLICY AND INTERPRETATIONS

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

Authority: 5 U.S.C. 601; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 792–828c, 2601–2645, 42 U.S.C. 4321–4370h, 7101–7352.

■ 2. Amend § 2.55 by revising paragraphs (c)(1) and (2) to read as follows:

§ 2.55 Definition of terms used in section 7(c).

* * * * *

(c) * * *

(1)(i) No activity described in paragraphs (a) and (b) of this section that involves ground disturbance is authorized unless a company makes a good faith effort to notify in writing each affected landowner, as noted in the most recent county/city tax records as receiving the tax notice, whose property will be used and subject to ground disturbance as a result of the proposed activity, at least five days prior to commencing any activity under this section. A landowner may waive the five-day prior notice requirement in writing, so long as the notice has been provided. No landowner notice under this section is required:

[81] The requirement in section 157.203(d)(1) for at least 45 days prior notice is separate from the requirement in section 157.205(d)(2) that projects exceeding the automatic cost limit be publically noticed by the Commission at least 60 days in advance, with the project sponsor to notify affected landowners the earlier of (1) three days from when the Commission assigns a docket number to the proposed project or (2) when the project sponsor initiates easement negotiations for the proposed project.

[82] As previously discussed, whereas section 2.55 and section 380.15 of the regulations do not include any specific environmental conditions because activities under those sections are limited to areas subject to environment review by the Commission, an activity cannot go forward under the blanket certificate regulations unless the company has satisfied all of the specific environmental conditions set forth in section 157.206 of the blanket certificate regulations.

[83] INGAA's Request for Rehearing at 20.

[84] 44 U.S.C. 3501–3520 (2012).

[85] OMB's regulations at 5 CFR 1320.3(c)(4)(i) (2014) require that ''[a]ny recordkeeping, reporting, or disclosure requirement contained in a rule of general applicability is deemed to involve ten or more persons.''

[86] 5 CFR 1320 (2014).

[87] *Regulations Implementing the National Environmental Policy Act* of 1969, Order No. 486, 52 FR 47897 (December 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[88] 18 CFR 380.4 (2014).

[89] 18 CFR 380.4(a)(1) and (5) (2014).

(A) If all ground disturbance will be confined entirely to areas within the fence line of an existing above-ground site of facilities operated by the company; or

(B) For activities done for safety, DOT compliance, or environmental or unplanned maintenance reasons that are not foreseen and that require immediate attention by the company.

(ii) The notification shall include at least:

(A) A brief description of the facilities to be constructed or replaced and the effect the activity may have on the landowner's property;

(B) The name and phone number of a company representative who is knowledgeable about the project; and

(C) A description of the Commission's Dispute Resolution Division Helpline, which an affected person may contact to seek an informal resolution of a dispute as explained in section 1b.21(g) of the Commission's regulations and the Dispute Resolution Division Helpline number.

(2) ''Affected landowners'' include owners of interests, as noted in the most recent county/city tax records as receiving tax notice, in properties (including properties subject to rights-of-way and easements for facility sites, compressor stations, well sites, and all above-ground facilities, and access roads, pipe and contractor yards, and temporary work space) that will be directly affected by (*i.e.,* used) and subject to ground disturbance as a result of activity under this section.

* * * * *

■ 3. Revise appendix A to part 2 to read as follows:

Appendix A to Part 2—Guidance for Determining the Acceptable Construction Area for Auxiliary and Replacement Facilities

These guidelines shall be followed to determine what area may be used to construct the auxiliary or replacement facility. Specifically, they address what areas, in addition to the permanent right-of-way, may be used.

An auxiliary or replacement facility must be within the existing right-of-way or facility site as specified by § 2.55(a)(1) or § 2.55(b)(1)(ii). Construction activities for the auxiliary or replacement facility can extend outside the current permanent right-of-way if they are within the temporary and permanent right-of-way and associated work spaces authorized for the construction of the existing installation.

If documentation is not available on the location and width of the temporary and permanent rights-of-way and associated work spaces that were used to construct the existing facility, the company may use the following guidance for the auxiliary installation or replacement, provided the appropriate easements have been obtained:

a. Construction should be limited to no more than a 75-foot-wide right-of-way including the existing permanent right-of-way for large diameter pipeline (pipe greater than 12 inches in diameter) to carry out routine construction. Pipeline 12 inches in diameter and smaller should use no more than a 50-foot-wide right-of-way.

b. The temporary right-of-way (working side) should be on the same side that was used in constructing the existing pipeline.

c. A reasonable amount of additional temporary work space on both sides of roads and interstate highways, railroads, and significant stream crossings and in side-slope areas is allowed. The size should be dependent upon site-specific conditions. Typical work spaces are:

Item	Typical extra area (width/length)
Two lane road (bored).	25–50 by 100 feet.
Four lane road (bored).	50 by 100 feet.
Major river (wet cut) ..	100 by 200 feet.
Intermediate stream (wet cut).	50 by 100 feet.
Single railroad track ..	25–50 by 100 feet.

d. The auxiliary or replacement facility must be located within the permanent right-of-way or, in the case of nonlinear facilities, the cleared building site. In the case of pipelines this is assumed to be 50 feet wide and centered over the pipeline unless otherwise legally specified.

However, use of the above guidelines for work space size is constrained by the physical evidence in the area. Areas obviously not cleared during the existing construction, as evidenced by stands of mature trees, structures, or other features that exceed the age of the facility being replaced, should not be used for construction of the auxiliary or replacement facility.

If these guidelines cannot be met, the company should consult with the Commission's staff to determine if the exemption afforded by § 2.55 may be used. If the exemption may not be used, construction authorization must be obtained pursuant to another regulation under the Natural Gas Act.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 4. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717z.

■ 5. Amend § 157.206 by revising paragraph (b)(1) to read as follows:

§ 157.206 Standard Conditions.

* * * * *

(b) * * *

(1) The certificate holder shall adopt the requirements set forth in § 380.15(a) and (b) of this chapter for all activities authorized by the blanket certificate and shall issue the relevant portions thereof to construction personnel, with instructions to use them.

* * * * *

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

■ 6. The authority citation for part 380 continues to read as follows:

Authority: 42 U.S.C. 4321–4370h, 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

■ 7. Amend § 380.15 by revising paragraphs (c)(1) and (2) to read as follows:

§ 380.15 Siting and maintenance requirements.

* * * * *

(c) * * *

(1)(i) No activity described in paragraphs (a) and (b) of this section that involves ground disturbance is authorized unless a company makes a good faith effort to notify in writing each affected landowner, as noted in the most recent county/city tax records as receiving the tax notice, whose property will be used and subject to ground disturbance as a result of the proposed activity, at least five days prior to commencing any activity under this section. A landowner may waive the five-day prior notice requirement in writing, so long as the notice has been provided. No landowner notice under this section is required:

(A) If all ground disturbance will be confined entirely to areas within the fence line of an existing above-ground site of facilities operated by the company; or

(B) For activities done for safety, DOT compliance, or environmental or unplanned maintenance reasons that are not foreseen and that require immediate attention by the company.

(ii) The notification shall include at least:

(A) A brief description of the facilities to be constructed or replaced and the effect the activity may have on the landowner's property;

(B) The name and phone number of a company representative who is knowledgeable about the project; and

(C) A description of the Commission's Dispute Resolution Division Helpline, which an affected person may contact to seek an informal resolution of a dispute as explained in section 1b.21(g) of the Commission's regulations and the Dispute Resolution Division Helpline number.

(2) ''Affected landowners'' include owners of interests, as noted in the most recent county/city tax records as receiving tax notice, in properties (including properties subject to rights-of-way and easements for facility sites, compressor stations, well sites, and all above-ground facilities, and access roads, pipe and contractor yards, and temporary work space) that will be directly affected by (*i.e.,* used) and subject to ground disturbance as a result of activity under this section.

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[FR Doc. 2014–27907 Filed 11–24–14; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM14–15–000; Order No. 802]

Physical Security Reliability Standard

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves Reliability Standard CIP–014–1 (Physical Security). The North American Electric Reliability Corporation, the Commission-certified Electric Reliability Organization, submitted Reliability Standard CIP–014–1 for Commission approval in response to a Commission order issued on March 7, 2014. The purpose of Reliability Standard CIP–014–1 is to enhance physical security measures for the most critical Bulk-Power System facilities and thereby lessen the overall vulnerability of the Bulk-Power System against physical attacks. In addition, the Commission directs NERC to develop one modification to Reliability Standard CIP–014–1 and submit an informational filing.

DATES: This rule is effective January 26, 2015.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Order No. 802

Final Rule

(Issued November 20, 2014)

1. Pursuant to section 215 of the Federal Power Act (FPA), the Commission approves Reliability Standard CIP–014–1 (Physical Security).[1] The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted Reliability Standard CIP–014–1 for Commission approval in response to a Commission order issued on March 7, 2014.[2] The purpose of Reliability Standard CIP–014–1 is to enhance physical security measures for the most critical Bulk-Power System facilities and thereby lessen the overall vulnerability of the Bulk-Power System facilities against physical attacks. In addition to approving Reliability Standard CIP–014–1, as discussed below, the Commission directs NERC to submit an informational filing and, pursuant to FPA section 215(d)(5), directs NERC to develop a modification to Reliability Standard CIP–014–1.[3]

I. Background

A. Section 215 and Mandatory Reliability Standards

2. Section 215 of the FPA requires the Commission to certify an ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Once approved, the Reliability Standards may be enforced in the United States by the ERO, subject to Commission oversight, or by the Commission independently.[4]

B. March 7 Order

3. In the March 7 Order, the Commission determined that physical attacks on the Bulk-Power System could adversely impact the reliable operation of the Bulk-Power System, resulting in instability, uncontrolled separation, or cascading failures. Moreover, the Commission observed that the then current Reliability Standards did not specifically require entities to take steps to reasonably protect against physical security attacks on the Bulk-Power System. Accordingly, to carry out section 215 of the FPA and to provide for the reliable operation of the Bulk-Power System, the Commission directed NERC, pursuant to FPA section 215(d)(5), to develop and file for approval proposed Reliability Standards that address threats and vulnerabilities to the physical security of critical facilities on the Bulk-Power System.

4. The March 7 Order indicated that the Reliability Standards should require owners or operators of the Bulk-Power System to take at least three steps to address the risks that physical security attacks pose to the reliable operation of the Bulk-Power System. Specifically, the March 7 Order directed that the Reliability Standards should require: (1) Owners or operators of the Bulk-Power System to perform a risk assessment of their systems to identify their ''critical facilities''; (2) owners or operators of the identified critical facilities to evaluate the potential threats and vulnerabilities to those identified facilities; and (3) those owners or operators of critical facilities to develop and implement a security plan designed to protect against attacks to those identified critical facilities based on the assessment of the potential threats and vulnerabilities to their physical security.

5. The March 7 Order stated that the risk assessment used by an owner or operator to identify critical facilities should be verified by an entity other than the owner or operator, such as by NERC, the relevant Regional Entity, a reliability coordinator, or another entity.[5] In addition, the March 7 Order indicated that the Reliability Standards should include a procedure for the verifying entity, as well as the Commission, to add or remove facilities from an owner's or operator's list of critical facilities.[6] The March 7 Order further stated that the determination of threats and vulnerabilities and the security plan should be reviewed by NERC, the relevant Regional Entity, the reliability coordinator, or another entity with appropriate expertise.

6. The March 7 Order stated that, because the three steps of compliance with the contemplated Reliability Standards could contain sensitive or confidential information that, if released to the public, could jeopardize the reliable operation of the Bulk-Power System, NERC should include in the Reliability Standards a procedure that will ensure confidential treatment of sensitive or confidential information but still allow for the Commission, NERC and the Regional Entities to review and inspect any information that is needed

[1] 16 U.S.C. 824o.

[2] *Reliability Standards for Physical Security Measures,* 146 FERC ¶ 61,166 (2014) (March 7 Order).

[3] 16 U.S.C. 824o(d)(5).

[4] *Id.* 824o(e).

[5] March 7 Order, 146 FERC ¶ 61,166 at P 11.

[6] *Id.*

to ensure compliance with the Reliability Standards.[7]

7. The Commission directed NERC to submit the proposed Reliability Standards to the Commission for approval within 90 days of issuance of the March 7 Order (*i.e.,* June 5, 2014).

C. NERC Petition

8. On May 23, 2014, NERC petitioned the Commission to approve Reliability Standard CIP–014–1 and its associated violation risk factors and violation severity levels, implementation plan, and effective date.[8] NERC maintains that the Reliability Standard is just, reasonable, not unduly discriminatory, or preferential, and in the public interest. In addition, NERC asserts that the proposed Reliability Standard complies with the Commission's directives in the March 7 Order.

9. NERC explains that Reliability Standard CIP–014–1 ''serves the vital reliability goal of enhancing physical security measures for the most critical Bulk-Power System facilities and lessening the overall vulnerability of the Bulk-Power System to physical attacks.'' [9] NERC maintains that the ''appropriate focus of the proposed Reliability Standard is Transmission stations and Transmission substations, which are uniquely essential elements of the Bulk-Power System.'' [10] The Reliability Standard is applicable to transmission owners that satisfy the Applicability Sections 4.1.1.1, 4.1.1.2, 4.1.1.3, or 4.1.1.4, and to transmission operators. NERC states that the transmission facilities covered by Applicability Sections 4.1.1.1 through 4.1.1.4 match the ''Medium Impact'' transmission facilities listed in Attachment 1 (Impact Rating Criteria), specifically, the ''Medium Impact'' facilities described in Sections 2.4, 2.5, 2.6, and 2.7, of Reliability Standard CIP–002–5.1,[11] According to NERC, the ''standard drafting team determined that using the criteria for 'Medium Impact' Transmission Facilities set forth in Reliability Standard CIP–002–5.1 is an appropriate applicability threshold as the Commission has acknowledged that it is a technically sound basis for identifying Transmission Facilities, which, if compromised, would present an elevated risk to the Bulk-Power System.'' [12]

10. Reliability Standard CIP–014–1 has six requirements. Requirement R1 requires applicable transmission owners to perform risk assessments on a periodic basis to identify their transmission stations and transmission substations that, if rendered inoperable or damaged, could result in widespread instability, uncontrolled separation, or cascading within an Interconnection. Requirement R1 also requires transmission owners to identify the primary control center that operationally controls each of the identified transmission stations or transmission substations.

11. Requirement R2 requires that each applicable transmission owner have an unaffiliated third party with appropriate experience verify the risk assessment performed under Requirement R1. Requirement R2 states that the transmission owner must either modify its identification of facilities consistent with the verifier's recommendation or document the technical basis for not doing so. In addition, Requirement R2 requires each transmission owner to implement procedures for protecting sensitive or confidential information made available to third-party verifiers or developed under the Reliability Standard from public disclosure.

12. Requirement R3 requires the transmission owner to notify a transmission operator that operationally controls a primary control center identified under Requirement R1 of such identification to ensure that the transmission operator has notice of the identification so that it may timely fulfill its obligations under Requirements R4 and R5 to protect the primary control center.

13. Requirement R4 requires each applicable transmission owner and transmission operator to conduct an evaluation of the potential threats and vulnerabilities of a physical attack on each of its respective transmission stations, transmission substations, and primary control centers identified as critical in Requirement R1.

14. Requirement R5 requires each transmission owner and transmission operator to develop and implement documented physical security plans that cover each of their respective transmission stations, transmission substations, and primary control centers identified as critical in Requirement R1.

15. Requirement R6 requires that each transmission owner and transmission operator subject to Requirements R4 and R5 have an unaffiliated third party with appropriate experience review its Requirement R4 evaluation and Requirement R5 security plan. Requirement R6 states that the transmission owner or transmission operator must either modify its evaluation and security plan consistent with the recommendation, if any, of the reviewer or document its reasons for not doing so. In addition, Requirement R6 requires each transmission owner to implement procedures for protecting sensitive or confidential information made available to third-party reviewers or developed under the Reliability Standard from public disclosure.

D. Notice of Proposed Rulemaking

16. On July 17, 2014, the Commission issued a Notice of Proposed Rulemaking proposing to approve Reliability Standard CIP–014–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[13] In addition, the NOPR proposed to direct NERC to develop two modifications to the Reliability Standard. First, the NOPR proposed to direct NERC to develop a modification to allow applicable governmental authorities (*i.e.,* the Commission and any other appropriate federal or provincial authorities) to add or subtract facilities from an applicable entity's list of critical facilities under Requirement R1.[14] Second, the NOPR proposed to direct NERC to modify the Reliability Standard to remove the term ''widespread'' as it appears in the phrase ''widespread instability'' in Requirement R1.[15] The NOPR also proposed to direct NERC to submit two informational filings, one addressing the protection of ''High Impact'' control centers and the other addressing resiliency measures, to be submitted, respectively, within six months and one

[7] *Id.* P 10.

[8] NERC explains that, to meet the 90-day deadline in the March 7 Order, the NERC Standards Committee approved waivers to NERC's Standard Processes Manual to shorten the comment and ballot periods for the Standards Authorization Request and draft Reliability Standard. NERC Petition at 13–14. Reliability Standard CIP–014–1 is not attached to this Final Rule. The complete text of Reliability Standard CIP–014–1 is available on the Commission's eLibrary document retrieval system in Docket No. RM14–15–000 and is posted on the ERO's Web site, *available at http://www.nerc.com.*

[9] NERC Petition at 15–16.

[10] *Id.* at 18. NERC states that, although the terms ''Transmission stations'' and ''Transmission substations'' are sometimes used interchangeably, Reliability Standard CIP–014–1 uses the term ''Transmission substation'' to refer to a facility contained within a physical border (*e.g.,* a fence or wall) that contains one or more autotransformers. *Id.* According to NERC, the term ''Transmission station,'' as used in Reliability Standard CIP–014–1, refers to a facility that functions as a switching station or switchyard but does not contain autotransformers. *Id.* at 18–19.

[11] *Id.* at 25 (citing Reliability Standard CIP–002–5.1 (Cyber Security—BES Cyber System Categorization), Attachment 1 (Impact Rating Criteria)).

[12] *Id.*

[13] *Physical Security Reliability Standard,* Notice of Proposed Rulemaking, 79 FR 42,734 (July 23, 2014), 148 FERC ¶ 61,040 (2014) (NOPR).

[14] *Id.* P 23.

[15] *Id.* P 29.

year following the effective date of a final rule in this proceeding.[16]

17. In response to the NOPR, the Commission received 33 sets of initial comments and six sets of reply comments. We address below the issues raised in the NOPR and comments. The Appendix to this final rule lists the entities that filed comments in response to the NOPR.

II. Discussion

18. Pursuant to FPA section 215(d)(2), we approve Reliability Standard CIP–014–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission also approves the associated violation risk factors, violation severity levels, implementation plan, and effective date proposed by NERC (*i.e.,* the ''first day of the first calendar quarter that is six months beyond'' the effective date of the final rule in this proceeding).[17] As discussed below, the Commission determines that Reliability Standard CIP–014–1 satisfies the directives in the March 7 Order concerning the development and submittal of physical security Reliability Standards.

19. In addition to approving Reliability Standard CIP–014–1, the Commission adopts in part the NOPR proposal directing NERC to develop and submit modifications to the Reliability Standard concerning the use of the term ''widespread'' in Requirement R1. The Commission determines that the term ''widespread'' is unclear with respect to the obligations it imposes on applicable entities; how it would be implemented by applicable entities; and how it would be enforced. Accordingly, the Commission directs NERC, pursuant to FPA section 215(d)(5), to remove the term ''widespread'' from Reliability Standard CIP–014–1 or, alternatively, to propose modifications to the Reliability Standard that address the Commission's concerns. We direct that NERC submit a responsive modification within six months from the effective date of this final rule.

20. The Commission does not adopt the NOPR proposal that would have required NERC to develop and submit modifications to Reliability Standard CIP–014–1 to allow applicable governmental authorities (*i.e.,* the Commission and any other appropriate federal or provincial authorities) to add or subtract facilities from an applicable entity's list of critical facilities under Requirement R1. We determine that the Commission's enforcement authority under FPA section 215(e), and particularly the use of targeted auditing following implementation of Reliability Standard CIP–014–1, will allow us to address the concerns raised in the NOPR.

21. With respect to the informational filings proposed in the NOPR, the Commission adopts the proposal to direct NERC to make an informational filing addressing whether Reliability Standard CIP–014–1 provides physical security for all ''High Impact'' control centers, as that term is defined in Reliability Standard CIP–002–5.1, necessary for the reliable operation of the Bulk-Power System. However, the Commission extends the deadline for that informational filing until two years following the effective date of Reliability Standard CIP–014–1. The Commission, at this time, does not adopt the NOPR proposal to direct NERC to make an informational filing addressing resiliency. Instead, the Commission will continue to consider ways for industry to best inform the Commission of its current and future resiliency efforts, which could take the form of reports and/or technical conferences to address specific areas of concern (*e.g.,* spare parts, fuel security, and advanced technologies).

22. We address below the following issues raised in the NOPR and in the comments: (A) Removal of the term ''widespread''; (B) applicable governmental authorities' ability to add or subtract facilities from an entity's list of critical facilities; (C) informational filing on ''High Impact'' control centers; (D) informational filing on resiliency; (E) third-party verification and review; (F) exclusion of generators from the applicability section of Reliability Standard CIP–014–1; (G) confidentiality; (H) other issues raised in comments; (I) violation risk factors and violation severity levels; and (J) implementation plan and effective date.

A. Removal of the Term ''Widespread''

March 7 Order

23. The March 7 Order stated that a critical facility is ''one that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk-Power System.''[18]

NERC Petition

24. Reliability Standard CIP–014–1 states that its purpose is to ''identify and protect Transmission stations and Transmission substations, and their associated primary control centers, that if rendered inoperable or damaged as a result of a physical attack could result in widespread instability, uncontrolled separation, or Cascading within an Interconnection.''[19] Requirement R1 states that the ''initial and subsequent risk assessments shall consist of a transmission analysis or transmission analyses designed to identify the Transmission station(s) and Transmission substation(s) that if rendered inoperable or damaged could result in widespread instability, uncontrolled separation, or Cascading within an Interconnection.''

NOPR

25. The NOPR proposed to direct NERC to modify Reliability Standard CIP–014–1 to remove the term ''widespread'' as it appears in the phrase ''widespread instability.'' The NOPR stated that the phrase ''widespread instability'' is undefined by NERC and is inconsistent with the March 7 Order's explanation of ''critical facility'' and the definition of ''reliable operation'' in FPA section 215(a)(4).[20]

26. The NOPR stated that the use of ''widespread instability'' in Requirement R1 could, depending on the meaning of ''widespread,'' narrow the scope (and number) of identified critical facilities under Reliability Standard CIP–014–1 beyond what was contemplated in the March 7 Order. The NOPR also stated that the use of the term ''widespread'' could potentially render the Reliability Standard unenforceable or lead to an inadequate level of reliability by omitting facilities that are critical to the reliable operation of the Bulk-Power System.

Comments

27. NERC comments that it does not oppose the NOPR directive but that the modification should be developed through NERC's standards development process and NERC should be allowed to propose alternative clarifying language ''to ensure the proposed Reliability Standard remains focused on Interconnection impacts and not local

[16] *Id.* PP 35, 57.

[17] NERC Petition, Exhibit B (Implementation Plan) at 1.

[18] March 7 Order, 146 FERC ¶ 61,166 at P 6.

[19] NERC Petition at 17.

[20] ''[A facility] that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk-Power System.'' March 7 Order, 146 FERC ¶ 61,166 at P 6; 16 U.S.C. 824o(a)(4) (''The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.'').

impacts.'' [21] NERC states that the term ''widespread'' was used to focus applicable entities' security efforts on facilities whose loss would have more than a local area impact.

28. SIA, Idaho Power, Pa PUC, SmartSenseCom, Foundation and Pepco support the NOPR proposal because they believe that the term ''widespread'' is vague or inconsistent with the definition of ''reliable operation'' in FPA section 215.[22] Pepco, for example, states that the term ''widespread'' is ambiguous, will require requests for clarification or interpretation and will expose applicable entities to ''second-guessing'' from auditors. KCP&L, while it does not state that it supports the proposal, acknowledges that the term ''widespread'' is vague and that the term ''introduces interpretive language that may be problematic for compliance and enforcement interpretations as well as unintentionally narrow the scope of facilities.'' [23]

29. Other commenters do not support the proposed directive largely because they contend that the proposal may have the unintended consequence of expanding the scope of Reliability Standard CIP–014–1 to include localized events that have no impact on an Interconnection.[24] APS, SCE, SDG&E, and G&T Cooperatives also maintain that while the term ''widespread'' is not defined by NERC, it appears elsewhere in the Reliability Standards, including in NERC's definition of ''Cascading'' and in the TPL Reliability Standards, and is understood by industry. Associations also state that the Commission should withdraw the NOPR proposal; however, Associations state that, in the alternative, the Commission should clarify that removal of the term ''widespread'' is not intended to bring within the scope of Reliability Standard CIP–014–1 ''a substation or station unless the applicable Transmission Owner determines through technical studies and analyses that include the application of engineering judgment and practice that the loss of such facility would have a critical impact on the operation of the [bulk electric system] in the event the asset is rendered inoperable or damaged.'' [25] NARUC states that the proposal will add costs without necessarily improving reliability.

30. ITC, while agreeing that the term ''widespread'' is not well-defined and would render the Reliability Standard vague, contends that the definition of critical facility in Requirement R1 should be replaced by defining as critical all physical facilities that contain ''High Impact'' or ''Medium Impact'' BES Cyber Systems as those terms are defined in Reliability Standard CIP–002–5.1.

Commission Determination

31. The Commission adopts the NOPR proposal in part and directs NERC to remove the term ''widespread'' from Reliability Standard CIP–014–1 or, alternatively, to propose modifications to the Reliability Standard that address the Commission's concerns. The differing views expressed in the comments validate the concern raised in the NOPR that the meaning of the term ''widespread'' is unclear and subject to interpretation.

32. We stated in the March 7 Order that ''the Reliability Standards that we are ordering today apply only to critical facilities that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk-Power System.[26] We affirm the March 7 Order's statement that ''[m]ethodologies to determine these facilities should be based on objective analysis, technical expertise, and experienced judgment.'' [27]

33. However, incorporating the undefined term ''widespread'' in Reliability Standard CIP–014–1 introduces excessive uncertainty in identifying critical facilities under Requirement R1.[28] As the Commission stated in the March 7 Order, only an instability that has a ''critical impact on the operation of the interconnection'' warrants finding that the facility causing the instability is critical under Requirement R1. The March 7 Order did not intend to suggest that the physical security Reliability Standards should address facilities that do not have a ''critical impact on the operation of the interconnection.'' This understanding is, we believe, unintentionally absent in Requirement R1 because the requirement only deems a facility critical when, if rendered inoperable or damaged, it could result in widespread instability, uncontrolled separation, or Cascading within an Interconnection. The definition in Requirement R1 should not be dependent on how an applicable entity interprets the term ''widespread'' but instead should be modified to make clear that a facility that has a critical impact on the operation of an Interconnection is critical and therefore subject to Requirement R1.

34. While some commenters contend that the meaning of the term ''widespread'' is well-understood by industry, we find that there is ample evidence in the record to support the conclusion that the term is susceptible to different interpretations by applicable entities. Notably, KCP&L states that, while it was a participant in the standards drafting process for Reliability Standard CIP–014–1, it agrees that the term requires interpretation. Moreover, KCP&L and Pepco share our concern that compliance enforcement authorities may find it difficult to consistently enforce compliance with Requirement R1 without a clear understanding of the term's meaning.

35. Accordingly, pursuant to FPA section 215(d)(5), the Commission directs NERC to develop a modification to Reliability Standard CIP–014–1 that either removes the term ''widespread'' from Requirement R1 or, in the alternative, proposes changes that address the Commission's concerns. Further, we direct that NERC submit a responsive modification within six months from the effective date of this final rule. We recognize that certain entities commented on how NERC could modify Reliability Standard CIP–014–1 to address the Commission's stated concerns.[29] However, we conclude that it is appropriate to allow NERC to develop and propose a modification in the first instance. With respect to ITC's more general comments regarding the scope of critical facilities in Requirement R1, we address the potential for applying the impact designations in Reliability Standard CIP–002–5.1 to Reliability Standard CIP–014–1, Requirement R1 in the section below regarding the NOPR's proposed informational filing on ''High Impact'' control centers.

[21] NERC Comments at 19.

[22] *See* SIA Comments at 2; Idaho Power Comments at 2; Pa PUC Comments at 5; Pepco Comments at 4–5; SmartSenseCom Comments at 7–8; Foundation Reply Comments at 7.

[23] KCP&L Comments at 4.

[24] *See* APS Comments at 3; SCE Comments at 3; SDG&E Comments at 4–5; TVA Comments at 9–10; Tallahassee Comments at 1; Oncor Comments at 3–4; Ohio PUC Comments at 4–5; BPA Comments at 3; NARUC Comments at 11; G&T Cooperatives Comments at 8–11; Southern Comments at 7–10.

[25] Associations Comments at 14–15; *see also* APS Comments at 3–4, Southern Comments at 11.

[26] March 7 Order, 146 FERC ¶ 61,166 at P 6 n.5.

[27] *Id.* P 6.

[28] *See Version 5 Critical Infrastructure Protection Reliability Standards,* Order No. 791, 78 FR 72,755 (Dec. 3, 2013), 145 FERC ¶ 61,160, at P 67 (2013), *order granting clarification in part and denying rehearing,* Order No. 791–A, 146 FERC ¶ 61,188 (2014) (directing removal or clarification ''identify, assess and correct'' language).

[29] *See, e.g.,* BPA Comments at 2; Ohio PUC Comments at 5; TVA Comments at 9, ITC Comments at 9.

B. Applicable Governmental Authority's Ability To Add or Subtract Facilities From an Entity's List of Critical Facilities

March 7 Order

36. In the March 7 Order, the Commission stated that:

> [T]he risk assessment used by an owner or operator to identify critical facilities should be verified by an entity other than the owner or operator. Such verification could be performed by NERC, the relevant Regional Entity, a Reliability Coordinator, or another entity. The Reliability Standards should include a procedure for the verifying entity, as well as the Commission, to add or remove facilities from an owner's or operator's list of critical facilities. . . .[30]

NERC Petition

37. Reliability Standard CIP–014–1 does not include a procedure that allows the Commission to add or subtract facilities from an applicable entity's list of critical facilities under Requirement R1. Instead, NERC states that the Commission has the existing authority to enforce NERC Reliability Standards pursuant to FPA section 215(e)(3).[31] NERC explains that a transmission owner must be able to demonstrate that its method for performing its risk assessment under Requirement R1 ''was technically sound and reasonably designed to identify its critical Transmission stations and Transmission substations.'' [32] NERC maintains that if ''in the course of assessing an entity's compliance with the proposed Reliability Standard, NERC, a Regional Entity or [the Commission] finds that the entity's transmission analysis was patently deficient and the Requirement R2 verification process did not cure those deficiencies, they could use their enforcement authority to compel Transmission Owners to re-perform the risk assessment using assumptions designed to identify the appropriate critical facilities.'' [33]

NOPR

38. The NOPR stated that Reliability Standard CIP–014–1 does not include a procedure that allows the Commission to add or subtract facilities from an applicable entity's list of critical facilities. The NOPR stated that if the Commission determined through an audit of an applicable entity, or through some other means, that a critical facility does not appear on the entity's list of critical facilities, there is no provision in Reliability Standard CIP–014–1 to allow the Commission to require its inclusion. In the NOPR, the Commission proposed to direct NERC to modify the physical security Reliability Standard to ''include a procedure that would allow applicable governmental authorities, *i.e.,* the Commission and any other appropriate federal or provincial authorities, to add or subtract facilities from an applicable entity's list of critical facilities.'' [34]

Comments

39. NERC asserts that the Commission should not adopt the NOPR proposal. NERC maintains that the proposal is unnecessary because it duplicates existing Commission compliance monitoring and enforcement authority.[35] Moreover, NERC contends that the NOPR's concerns surrounding the use of existing compliance and enforcement methods to ensure compliance with Requirement R1 are unsubstantiated. NERC states that if the NOPR proposal is adopted, then the Commission must better justify the reasons for the directive and limit and clarify the scope and content of the proposed directive.

40. Pa PUC, Foundation, SmartSenseCom and Paschall state that they support the NOPR proposal.[36] Other commenters do not oppose the proposal but maintain that it should be clarified or modified if adopted by the Commission.[37]

41. The majority of commenters do not support the NOPR proposal for various legal and policy reasons.[38] Associations' comments are representative of this viewpoint in that they address: (1) The statutory authority to modify critical facility lists or otherwise allow the Commission (or any other governmental authority) an operational role in the performance of a Reliability Standard; (2) how the Commission would afford entities due process in determining whether to direct the addition or removal of facilities while still maintaining confidentiality; and (3) what constitutes ''any other appropriate federal or provincial authorities'' and the legal authority and advisability of delegating responsibility to another government entity. Like NERC, Associations contend that the Commission already possesses the compliance and enforcement authority to ensure that applicable entities comply with Requirement R1.[39] Specifically, Associations state that the ''Commission has sufficient existing enforcement authority under the FPA to take actions to address concerns raised in the NOPR regarding the sufficiency of decisions made to identify critical facilities under CIP–014–1 . . . includ[ing] the use of traditional enforcement authority under Section 215(e)(3), including audits and investigations, which it has used on several occasions.'' [40] Associations also request a technical conference in two years that addresses the implementation of Reliability Standard CIP–014–1.

Commission Determination

42. Based on our review of the comments, we determine not to adopt the NOPR proposal.

43. We are persuaded by commenters that the NOPR directive would present NERC, as the entity that would have to develop the proposed modification, and the Commission, which would have to approve any NERC proposal, with a number of substantial policy issues. Ultimately, we believe that the NOPR proposal would require NERC and the Commission to expend resources that could be better applied elsewhere.

44. The Commission, instead, will focus its resources on carrying out compliance and enforcement activities to ensure that critical facilities are identified under Requirement R1. In its comments, NERC indicated that NERC staff will submit to the NERC Board of Trustees a report three months following implementation of Requirements R1, R2 and R3 concerning the scope of facilities identified as

[30] March 7 Order, 146 FERC ¶ 61,166 at P 11.

[31] NERC Petition at 37.

[32] *Id.*

[33] *Id.*

[34] NOPR, 148 FERC ¶ 61,040 at P 23.

[35] NERC Comments at 8 (''the Commission can use its broad enforcement authority to make certain that the applicable entity re-performs the risk assessment on whatever timeline the Commission deems appropriate or face penalties or sanctions under the FPA'').

[36] Pa PUC Comments at 5; Foundation Comments at 3; SmartSenseCom Comments at 6; Paschall Comments at 2.

[37] *See* G&T Cooperatives Comments at 3–8; ITC Comments at 12; NYPSC Comments at 5–7; Pepco Comments at 5–7; Idaho Power Comments at 1–2.

[38] *See* Southern Comments at 2–7; Trade Associations Comments at 5–12; GridWise Comments at 3–9; Duke Comments at 3–5; NARUC Comments at 4; KCP&L Comments at 2–4; SDG&E Comments at 3–4; Oncor Comments at 2–3; Entergy Comments at 1; TAPS Comments at 3–9; APS Comments at 2–3; BPA Comments at 2; SCE Comments at 2; Ohio PUC Comments at 3–4; TVA Comments at 6–9; CEA Comments at 3–9; NU Utilities Comments at 1.

[39] Associations Comments at 9; *see also* TAPS Comments at 5 (''If the Commission finds a Registered Entity's risk assessment study to be inadequate because it lacks a critical facility, the Registered Entity will be in violation of [Requirement] R1 of the Physical Security standard . . . [t]he Commission could then direct a specific method of compliance . . . and impose daily penalties until the Registered Entity complies. If despite the threat of penalties, the Commission were concerned about the need for timely action, it could order the Registered Entity to come into compliance within a specified reasonable timeframe.'').

[40] Associations Comments at 9.

critical, including the number of facilities identified as critical and their defining characteristics.[41] NERC also committed to sending this report to Commission staff.[42] Based on the results reported by NERC, we expect Commission staff to audit a representative number of applicable entities to ensure compliance with Reliability Standard CIP–014–1. Depending on the audit findings, the Commission will determine if there is a need for any further action by the Commission including, but not limited to, directing NERC to develop modifications to Reliability Standard CIP–014–1 to provide greater specificity to the methodology for determining critical facilities. At this time, we will not direct Commission staff to convene a technical conference on implementation of Reliability Standard CIP–014–1 in two-years' time, as requested by Associations. We may revisit that proposal at a later time.

C. Informational Filing on ''High Impact'' Control Centers

March 7 Order

45. The March 7 Order stated that a ''critical facility is one that, if rendered inoperable or damaged, could have a critical impact on the operation of the interconnection through instability, uncontrolled separation or cascading failures on the Bulk-Power System.''[43] The March 7 Order, while not mandating that a minimum number of facilities be deemed critical under the physical security Reliability Standards, explained that the ''Commission expects that critical facilities generally will include, but not be limited to, critical substations and critical control centers.''[44]

NERC Petition

46. NERC states that Reliability Standard CIP–014–1 addresses the protection of primary control centers, which NERC defines as facilities that ''operationally control[ ] a Transmission station or Transmission substation when the electronic actions from the control center can cause direct physical actions at the identified Transmission station or Transmission substation, such as opening a breaker.''[45]

47. NERC maintains that ''[c]ontrol centers that provide back-up capability and control centers that cannot operationally control a critical Transmission station or Transmission substation do not present similar direct risks to Real-time operations if they are the target of a physical attack,'' and thus they are not covered by Reliability Standard CIP–014–1.[46] NERC explains that the destruction of a back-up control center would ''have no direct reliability impact in Real-time as the entity can continue operation . . . from its primary control center.''[47] With respect to control centers that do not physically operate Bulk-Power System facilities, such as control centers operated by reliability coordinators, NERC states that, while ''certain monitoring and oversight capabilities might be lost as a result of a physical attack on such control centers, the Transmission Owner or Transmission Operator that operationally controls the critical Transmission station or Transmission substation would be able to continue operating its transmission system to prevent widespread instability, uncontrolled separation, or Cascading within an Interconnection.''[48]

48. NERC acknowledges that certain control centers categorized as ''High Impact'' or ''Medium Impact'' under Reliability Standard CIP–002–5.1 (Cyber Security—BES Cyber System Categorization) would not be covered control centers under Reliability Standard CIP–014–1.[49] NERC explains that this situation:

> reflects the different nature of cyber security risks and physical security risks at control centers . . . [a] primary cyber security concern for control centers is the corruption of data or information and the potential for operators to take action based on corrupted data or information . . . [and] [t]his concern exists at control centers that operationally control Bulk-Power System facilities and those that do not. As such, there is no distinction in CIP–002–5.1 between these control centers . . . however, such a distinction is appropriate in the physical security context.[50]

49. NERC points out that Reliability Standard CIP–006–5 already requires physical security protections that are ''designed to restrict physical access to locations containing High and Medium Impact Cyber Systems,'' which include control centers and backup control centers for reliability coordinators, balancing authorities, transmission operators and generation operators irrespective of their ability to operationally control Bulk-Power System facilities.[51]

NOPR

50. The NOPR proposed to direct NERC to make an informational filing within six months of the effective date of a final rule in this proceeding indicating whether the development of Reliability Standards that provide physical security for all ''High Impact'' control centers, as that term is defined in Reliability Standard CIP–002–5.1, is necessary for the reliable operation of the Bulk-Power System.

51. The NOPR stated that primary and back-up control centers of functional entities other than transmission owners and operators identified as ''High Impact'' may warrant assessment and physical security controls under this Reliability Standard because a successful attack could prevent or impair situational awareness, especially from a wide-area perspective, or could allow attackers to distribute misleading and potentially harmful data and operating instructions that could result in instability, uncontrolled separation, or cascading failures.

52. The NOPR stated that the proposed informational filing should address whether there is a need for consistent treatment of ''High Impact'' control centers for cybersecurity and physical security purposes through the development of Reliability Standards that afford physical protection to all ''High Impact'' control centers. The NOPR also stated that the development of physical security protections for all ''High Impact'' control centers would not be without precedent because, as noted above, Reliability Standard CIP–006–5 already requires that ''High Impact'' control centers have some physical protections, including restrictions on physical access, to protect BES Cyber Assets. However, the NOPR further stated that the security measures required by Reliability Standard CIP–006–5 may not be comparable to those required by Reliability Standard CIP–014–1, and thus may not be sufficient to ''deter, detect, delay, assess, communicate, and respond to potential threats and vulnerabilities'' as required in Requirement R5 of Reliability Standard CIP–014–1. Further, the NOPR stated that Reliability Standard CIP–006–5 does not require an ''unaffiliated third party review'' of the evaluation and security plan required by Reliability Standard CIP–014–1.

[41] NERC Comment at 27–28. NERC's post-implementation reports are further discussed below.

[42] *Id.* at 28.

[43] March 7 Order, 146 FERC ¶ 61,166 at P 6.

[44] *Id.* P 6, n.6.

[45] NERC Petition at 19.

[46] *Id.*

[47] *Id.* at 20.

[48] *Id.* at 20–21.

[49] Reliability Standard CIP–002–5.1 (Cyber Security—BES Cyber System Categorization), Attachment 1 (Impact Rating Criteria).

[50] NERC Petition at 22 n.55.

[51] *Id.* at 21.

Comments

53. NERC states that it does not oppose submitting an informational filing to address whether ''High Impact'' control centers warrant assessment and physical security controls under Reliability Standard CIP–014–1. However, NERC requests that the Commission modify the NOPR proposal to give NERC at least 12 months from the effective date of a final rule in this proceeding to submit the informational filing.

54. Other commenters, while not necessarily agreeing that all ''High Impact'' control centers should be subject to Reliability Standard CIP–014–1, support the NOPR proposal for various reasons.[52] Associations state that the informational filing ''will provide a more granular mapping of the strategic considerations embedded in the CIP standards . . . as well as consideration of the issues relating to control centers not covered by CIP–014–1.'' [53] MISO and SDG&E state that the informational filing could be a useful way for identifying areas of possible improvement in the future. Some commenters, including Associations, recommend that the Commission direct NERC to submit the informational filing as critical energy infrastructure information (CEII).

55. ITC supports the proposed informational filing but states that the Commission should widen the scope of the informational filing to assess the benefits of extending Reliability Standard CIP–014–1 to all ''High Impact'' and ''Medium Impact'' BES Cyber Assets. ITC states that the definition of ''critical'' assets is insufficiently comprehensive because it fails to provide physical security for facilities that contain crucial Cyber Assets. ITC further states that identifying critical facilities under Requirement R1 is unnecessary because applicable entities already have a list of facilities containing ''High Impact'' and ''Medium Impact'' Cyber Assets, which could also serve as the list of critical facilities for the purposes of Reliability Standard CIP–014–1. SIA agrees that Requirement R1 should be modified to include all ''High Impact'' control centers.

56. Commenters opposed to the NOPR proposal contend that the informational filing is unnecessary or would be burdensome.[54] Trade Associations state that Reliability Standard CIP–014–1 correctly focuses on the protection of primary control centers that operationally control transmission stations or substations identified under Requirement R1. Idaho Power states that Reliability Standard CIP–006–5 contains enough physical access controls to meet the expectations of ''deter, detect, delay, assess, communicate, and respond'' because there are extensive monitoring and alerting requirements that must be applied to all ''High Impact'' control centers. Reclamation states that Reliability Standard CIP–014–1 will capture all ''High Impact'' control centers as currently drafted. Pepco states that an informational filing would divert resources from implementation and compliance with Reliability Standard CIP–014–1.

Commission Determination

57. The Commission adopts the NOPR proposal and directs NERC to submit an informational filing that addresses whether there is a need for consistent treatment of ''High Impact'' control centers for cybersecurity and physical security purposes through the development of Reliability Standards that afford physical protection to all ''High Impact'' control centers. The Commission, however, modifies the NOPR proposal and extends the due date for the informational filing to two years following the effective date of Reliability Standard CIP–014–1.

58. While we approve Reliability Standard CIP–014–1 in this final rule, including the Reliability Standard's treatment of control centers, the Commission, for the reasons set forth in the NOPR, finds that NERC should assess whether all ''High Impact'' control centers should be protected under Reliability Standard CIP–014–1.[55] We recognize that NERC and applicable entities will be in a better position to provide this assessment after implementation of Reliability Standard CIP–014–1 and Reliability Standard CIP–006–5, the latter of which provides some physical protection to ''High Impact'' control centers. Accordingly, the Commission directs NERC to submit the informational filing two years following the effective date of Reliability Standard CIP–014–1. The Commission, while not directing NERC to submit the informational filing as CEII, recognizes the concerns raised by commenters regarding confidentiality. The Commission expects NERC to prepare the informational filing and submit it in such a way as to protect any critical information from public disclosure.

59. At this time, the Commission will not direct NERC to address in the informational filing whether all ''High Impact'' and ''Medium Impact'' BES Cyber Assets should be considered critical for the purposes of Reliability Standard CIP–014, Requirement R1. We are sympathetic to several points raised in ITC's comments, which echo some of the statements in the NOPR. However, as stated in the NOPR, the basis for directing an informational filing regarding control centers is found in the March 7 Order, where the Commission stated that it ''expects that critical facilities generally will include, but not be limited to, critical substations and critical control centers.'' [56] While NERC explained why not all ''High Impact'' control centers may be critical for the purposes of Reliability Standard CIP–014–1, we conclude that this issue requires close attention and should be addressed in the informational filing. The broader concerns raised by ITC regarding the scope of Requirement R1 can be evaluated by NERC and industry as part of the implementation process. As we noted above, the Commission will devote resources to compliance with and enforcement of Reliability Standard CIP–014–1 to ensure that all critical facilities are identified pursuant to Requirement R1. Should the Commission find through these efforts, or through the post-implementation reports and informational filing that NERC will submit, that Requirement R1 as currently written is not capturing all critical facilities, then the Commission will act upon that information.

D. Informational Filing on Resiliency

March 7 Order

60. In the March 7 Order, the Commission stated that the development of physical security Reliability Standards ''will help provide for the resiliency and reliable operation of the Bulk-Power System. To that end, the proposed Reliability Standards should allow owners or operators to consider resiliency of the grid in the risk assessment when identifying critical facilities, and the elements that make up those facilities, such as transformers that typically require significant time to repair or replace. As part of this process, owners or operators may consider elements of resiliency such as how the system is designed, operated, and

[52] *See* Associations Comments at 16; KCP&L Comments at 4; Foundation Comments at 7; SDG&E Comments at 5; Pa PUC Comments at 6; SCE Comments at 4; MISO Comments at 6–7.

[53] Associations Comments at 16.

[54] Trade Associations Comments at 12; Pepco Comments at 7.

[55] *See* NOPR, 148 FERC ¶ 61,040 at PP 35–39.

[56] NOPR, 148 FERC ¶ 61,040 at P 44 (quoting March 7 Order, 146 FERC ¶ 61,166 at P 6 n.6).

maintained, and the sophistication of recovery plans and inventory management.'' [57]

NERC Petition

61. Reliability Standard CIP–014–1 mentions resiliency in Requirement R5, stating in Requirement R5.1 that the physical security plans that entities develop shall include, among other attributes: ''Resiliency or security measures designed collectively to deter, detect, delay, assess, communicate, and respond to potential physical threats and vulnerabilities identified during the evaluation conducted in Requirement R4.'' The NERC petition describes Requirement R5.1, with regard to resiliency, as referring to ''steps an entity may take that, while not specifically targeted as hardening the physical security of the site, help to decrease the potential adverse impact of a physical attack . . . including modifications to system topology or the construction of a new Transmission station . . . that would lessen the criticality of the facility.'' [58]

NOPR

62. The NOPR stated that the NERC petition describes resiliency measures that could be included in the required physical security plans. The NOPR also stated, however, that specific resiliency measures are not required by Reliability Standard CIP–014–1, which is consistent with the March 7 Order. Instead, the NOPR noted that Reliability Standard CIP–014–1 allows the security plans to be flexible in order to meet different threats and protect varying Bulk-Power System configurations.

63. The NOPR stated that resiliency is as, or even more, important than physical security given that physical security cannot protect against all possible attacks. The NOPR also stated that, in the case of the loss of a substation, the Bulk-Power System may depend on resiliency to minimize the impact of the loss of facilities and restore blacked-out portions of the Bulk-Power System as quickly as possible. The NOPR further stated that some entities may implement resiliency measures rather than security measures, such as by adding facilities or operating procedures that reduce or eliminate the importance of existing critical facilities, which could significantly improve reliability and resiliency.

64. The NOPR stated that the NERC petition indicated that the NERC Board of Trustees expects NERC management to monitor and assess the implementation of Reliability Standard CIP–014–1 on an ongoing basis, which would include: The number of assets identified as critical under the Reliability Standard; the defining characteristics of the assets identified as critical; the scope of security plans (*i.e.,* the types of security and resiliency measures contemplated under the various security plans); the timelines included in the security plan for implementing the security and resiliency measures; and industry progress in implementing the Reliability Standard. The NOPR also stated that NERC explained that this information could be used to provide regular updates to Commission staff.[59] The NOPR proposed to rely on NERC's ongoing assessment of Reliability Standard CIP–014–1's implementation and to require NERC to make such information available to Commission staff upon request.

65. In addition, the NOPR proposed to direct NERC to submit an informational filing that addresses the resiliency of the Bulk-Power System when confronted with the loss of critical facilities. The NOPR stated that the informational filing should explore what steps can be taken, in addition to those required by Reliability Standard CIP–014–1, to maintain the reliable operation of the Bulk-Power System when faced with the loss or degradation of critical facilities. The NOPR proposed to direct NERC to submit the informational filing within one year after the effective date of the final rule in this proceeding.[60]

Comments

66. NERC requests that the Commission not direct it to submit an informational filing on resiliency. NERC contends that an informational filing on resiliency would divert resources from NERC's oversight of the implementation of Reliability Standard CIP–014–1 and NERC's efforts to assess the Reliability Standard's effectiveness. NERC states that it will monitor and assess implementation of Reliability Standard CIP–014–1, as described in NERC's petition, and will prepare two initial reports for the NERC Board of Trustees, the first report being submitted three months following implementation of Requirements R1, R2 and R3 and the second report being submitted three months after implementation of Requirements R4, R5 and R6. With respect to the second report, NERC states that ''[g]iven the NOPR's discussion of resiliency, this report will pay particular attention to the resiliency measures included in entities' security plans.'' [61] NERC further states that it commits to provide both reports to Commission staff.

67. Pepco does not support the proposed informational filing because of the burden Pepco contends it would impose on NERC and registered entities, including diverting resources from the implementation of Reliability Standard CIP–014–1. Pepco asserts that resiliency is already addressed in Reliability Standard CIP–014–1.

68. SDG&E, MISO and Idaho Power support directing NERC to submit the proposed informational filing on resiliency as a way of determining next steps for enhancing the reliability of the Bulk-Power System.[62]

69. Other commenters, including Associations, while generally agreeing that the issue of resiliency needs to be considered, recommend that the Commission convene a technical conference rather than require NERC to submit an informational filing because, they maintain, a technical conference would be more effective.[63]

Commission Determination

70. The Commission determines not to adopt the NOPR proposal requiring NERC to submit an informational filing concerning resiliency of the Bulk-Power System. While commenters expressed differing views on whether an informational filing is needed, the comments recognized the importance of Bulk-Power System resiliency. In addition, NERC committed to providing the Commission with two reports following implementation of Reliability Standard CIP–014–1, which, NERC indicates, will address the issue of resiliency.

71. Rather than require NERC to submit an informational filing at this time, the Commission will review the NERC reports and will consider ways for industry to best inform the Commission of its current and future

[57] March 7 Order, 146 FERC ¶ 61,166 at P 7.

[58] NERC Petition at 42.

[59] NOPR, 148 FERC ¶ 61,040 at P 56.

[60] NERC issued a report on severe impact resilience in 2012. *See* NERC, Severe Impact Resilience: Considerations and Recommendations (May 2012), *available at http://www.nerc.com/comm/OC/SIRTF%20Related%20Files%20DL/SIRTF_Final_May_9_2012-Board_Accepted.pdf.* The NOPR stated that the proposed informational filing could draw on the report but should also reflect subsequent work and development on this topic, particularly including supply chain, transporting and other logistical issues for equipment such as large transformers. NOPR, 148 FERC ¶ 61,040 at P 57.

[61] NERC Comments at 28.

[62] *See* SDG&E Comments at 5; MISO Comments at 6–7; Idaho Power Comments at 4; *see also* Paschall Comments at 2.

[63] *See* Associations Comments at 17; KCP&L Comments at 6–7; SCE Comments at 4; Trade Associations Comments at 13–14; GridWise Comments at 3.

resiliency efforts, which could take the form of reports and/or technical conferences to address specific areas of concern (*e.g.,* spare parts, fuel security, and advanced technologies).

E. Third-Party Verification and Review

March 7 Order

72. In the March 7 Order, the Commission stated that ''the risk assessment used by an owner or operator to identify critical facilities should be verified by an entity other than the owner or operator . . . [and] [s]imilarly, the determination of threats and vulnerabilities and the security plan should also be reviewed by NERC, the relevant Regional Entity, the Reliability Coordinator, or another entity with appropriate expertise.'' [64]

NERC Petition

73. Requirement R2 of Reliability Standard CIP–014–1 requires transmission owners to have their risk assessments verified by an unaffiliated third party. Requirement R6, likewise, requires each transmission owner and transmission operator to have their vulnerability and threat assessment(s) along with their security plan(s) for any critical facilities reviewed by an unaffiliated third party.

74. Regarding how an applicable entity is supposed to address any recommendations by a third-party verifier, Reliability Standard CIP–014–1, in Requirement R2.3, states that the transmission owner must either (a) ''modify its identification . . . consistent with the recommendation'' or (b) ''document the technical basis for not modifying the identification in accordance with the recommendation.'' Similarly, Requirement R6.3 sets forth the procedure for considering any recommendations from the reviewing entity as to the threat assessments and security plans: The applicable entity must either (a) ''modify its evaluation or security plan(s) consistent with the recommendation'' or (b) ''document the reason(s) for not modifying the evaluation or security plan(s) consistent with the recommendation.''

75. NERC states that ''[r]equiring documentation of the technical basis for not modifying the identification in accordance with the recommendation will help ensure that a Transmission Owner meaningfully considers the verifier's recommendations and follows those recommendations unless it can technically justify its reasons for not doing so. To comply with Part 2.3, the technical justification must be sound and based on acceptable approaches to conducting transmission analyses.'' [65] The NERC petition contains a similar explanation for the third-party review (Requirement R6) of the threat assessments and security plans mandated in Requirements R4 and R5.[66]

NOPR

76. The NOPR proposed to approve the third-party verification and review method proposed by NERC in Requirements R2 and R6. The NOPR stated that failure to provide a written, technically justifiable reason for rejecting a third-party recommendation would render the applicable entity non-compliant. With that understanding, the NOPR proposed to approve NERC's proposed third-party verification and review in Requirements R2 and R6 of Reliability Standard CIP–014–1 as an equally efficient and effective alternative to the directive in the March 7 Order.

Comments

77. NERC states that it supports the NOPR proposal. NERC states that third-party verification and review will provide another layer of expertise and independence to the identification of critical assets, the evaluation of threats and vulnerabilities, and the development of effective security plans. NERC reiterates that an applicable entity's failure to provide a reasonable, written explanation for declining to follow a third-party recommendation would constitute non-compliance.

78. MISO, Reclamation, KCP&L, ITC, and G&T Cooperatives support the NOPR proposal but each suggest modifications or request clarification of Reliability Standard CIP–014–1.[67]

79. MISO states that entities like itself, that are both reliability coordinators and planning coordinators, may be subject to substantial, simultaneous demands by many transmission owners for concurrent verification of risk assessments. MISO notes that Requirement R2.2 requires applicable entities to have their risk assessment verified within 90 days of completion of the risk assessment. MISO states that firm adherence to the 90-day deadline could undermine the protections in Reliability Standard CIP–014–1 by requiring verifying entities (*e.g.,* MISO) to conduct hurried or shorter-than-optimal assessments. Accordingly, MISO seeks clarification that NERC has the discretion to extend the implementation deadline, especially with respect to the 90-day verification deadline in Requirement R2.2. Likewise, G&T Cooperatives, NIPSCO and KCP&L state that there should be flexibility regarding the 90-day deadline because of the limited pool of qualified third-party verifiers.

80. Reclamation states that transmission owners should have discretion to make decisions regarding third-party recommendations based on cost and risk analyses. Reclamation also states that Requirement 2.1 should be modified to require that third-party verifications be conducted by a transmission owner's planning coordinator or transmission planner. If the transmission owner is also the planning coordinator and transmission planner, then Reclamation states that the verification should be conducted by the reliability coordinator.

81. KCP&L states that NERC should develop a pre-approved list of qualified third-party contractors or require third parties to register with NERC. KCP&L also seeks clarification that an independent system operator (ISO) or regional transmission operator (RTO) concurrent with its role as reliability coordinator could provide third-party review services. KCP&L states that it does not oppose having an RTO that is also a reliability coordinator or planning coordinator serve as a third-party reviewer but would not support a mandate requiring a specific third-party reviewer. KCP&L also seeks clarification of the meaning of the phrase ''unaffiliated third-party.''

82. ITC states that the Commission should ''confirm that the verification of a responsible entity's risk assessment, threat assessment, and security plan, as specified in Requirements R2 and R6, constitutes full compliance by that responsible entity with respect to the risk assessment and security plan.'' [68]

83. NIPSCO, TVA and Idaho Power do not support the NOPR proposal. NIPSCO contends that third-party verification is ''inconsistent with the approach to entity self-assessment applied in other Reliability Standards'' and notes that the Version 5 CIP Reliability Standards do not include a provision for third-party review.[69] NIPSCO also contends that the use of third parties could raise confidentiality concerns. Idaho Power maintains that the proposal should not be adopted because it does not require third parties to include a written or technical justification with their recommendations. Idaho Power also

[64] March 7 Order, 146 FERC ¶ 61,166 at P 11.

[65] NERC Petition at 36.

[66] *Id.* at 50.

[67] *See also* Paschall Comments at 2; Foundation Comments at 7.

[68] ITC Comments at 10.

[69] NIPSCO Comments at 2.

states that ''if a third-party verification and review process is incorporated in to the Standard, it should clearly describe the specific methodology and performance criteria to be applied.'' [70] TVA states that FPA section 215 does not contemplate the use of third-party verifiers and reviewers acting in an enforcement role. TVA also contends that Reliability Standard CIP–014–1 does not contain any qualification criteria that third-party verifiers and reviewers must meet. TVA further states that using third-party verifiers and reviewers could compromise the confidentiality of critical information.

Commission Determination

84. We adopt the NOPR proposal and approve the third-party verification and review provisions found in Requirements R2 and R6 of Reliability Standard CIP–014–1. These provisions, as stated by NERC, provide an important, independent layer of expertise in the identification, assessment and protection of critical facilities.

85. We disagree with the arguments raised in the comments submitted by NIPSCO, TVA and Idaho Power. The use of third-party verification and review in Reliability Standard CIP–014–1 is not inconsistent with other Commission-approved Reliability Standards merely because third-party review is not used in other Reliability Standards. NIPSCO is correct that the Version 5 CIP Reliability Standards do not include third-party review provisions. However, as NIPSCO acknowledges, the Version 5 CIP Reliability Standards contain bright-line criteria that guide the determinations made by applicable entities in identifying BES Cyber Assets.[71] By contrast, Reliability Standard CIP–014–1 contains no such criteria and instead requires applicable entities to develop their own analysis. In addition, the threat evaluation in Requirement R4 and security plan in Requirement R6 involve areas of expertise that applicable entities in the electric industry may not possess and thus would strongly benefit from the experience of qualified third parties.

86. Similarly, we disagree with TVA that the use of third-party verifiers and reviewers is inconsistent with FPA section 215. As discussed above, we reject TVA's view that third-party verifiers and reviewers will be acting in an enforcement capacity. These third parties will have no authority to determine whether an applicable entity has violated a requirement of Reliability Standard CIP–014–1, require compliance, or issue penalties. Moreover, as stated in the NOPR, an applicable entity in some cases could be found to be in violation of a requirement even if the applicable entity's actions were verified by a third party.[72] We also determine that the requirements in Reliability Standard CIP–014–1 (*i.e.,* Requirements R2.1 and R6.1) establishing the qualifications for third-party verifiers and reviewers are sufficient. As discussed below, as Reliability Standard CIP–014–1 is implemented, we are satisfied that NERC and Regional Entities will provide additional assistance to applicable entities to identify qualified third-party verifiers and reviewers if the need arises. We are also satisfied that Requirements R2.4 and R6.4 provide adequate protection against the disclosure of sensitive or confidential information.

87. In response to Idaho Power's concern, we expect that third-party verifiers and reviewers will articulate a reasonable basis for their recommendations. The absence of such a basis for a recommendation could justify an applicable entity's decision to decline to adopt the recommendation. We also see no reason to include in Reliability Standard CIP–014–1 ''specific methodology and performance criteria'' for third-party verification and review beyond what is already contained in the requirements and compliance measures recited in the Reliability Standard.

88. With respect to the other comments, there is no evidence in the record to support the conclusion that an insufficient number of qualified third-party verifiers and reviewers exists such that applicable entities will be unable to meet the 90-day deadline in Requirements R2 and R6. To the extent an applicable entity requires additional time to comply, that situation should be addressed on a case-by-case basis.[73] Reclamation has not explained why Requirement R2.1 should be modified to require that a transmission owner use its planning coordinator or transmission planner as a verifier, and thus we reject that proposal. In addition, addressing Reclamation's second point, while risk and cost could be aspects of an applicable entity's technical justification for declining to follow a third-party recommendation, ultimately there must be a sufficient objective basis in the justification document from which to determine that the applicable entity acted reasonably in declining to follow the recommendation.

89. With respect to KCP&L's comments, there may be value in NERC developing a list of qualified third-party verifiers and reviewers or otherwise requiring some form of registration process for third-party verifiers and reviewers. The Commission, however, will not direct NERC to do so at this time. We expect that NERC could, as Reliability Standard CIP–014–1 is implemented, pursue or, if necessary, propose such an effort if warranted. Indeed, Reliability Standard CIP–014–1 appears to contemplate such a role for NERC by indicating in Requirement R6.1 that an entity is qualified to serve as a reviewer if ''approved by the ERO.'' In addition, we see no reason why an ISO or RTO could not serve as a third-party verifier or reviewer provided it satisfies the qualifications stated in Requirements R2.1 and R6.1. We also conclude that the term ''unaffiliated third party'' is sufficiently clear. As NERC stated in its petition, ''the term 'unaffiliated' means that the selected verifying entity cannot be a corporate affiliate (*i.e.,* the verifying entity cannot be an entity that corporately controls, is controlled by or is under common control with, the Transmission Owner). The verifying entity also cannot be a division of the Transmission Owner that operates as a functional unit.'' [74] KCP&L does not indicate what, in this explanation, is ambiguous or requires clarification.

90. With respect to ITC's comment, third-party verification under Requirement R2 adds an important layer of expertise and independence in the identification of critical facilities. However, verification under Requirement R2 is not intended to and, indeed, cannot cure an applicable entity's failure to comply with Requirement R1 if it is determined by the compliance enforcement authority that the applicable entity failed to do so, a situation that ITC concedes could

[70] Idaho Power Comments at 3–4.

[71] We also note that in Order No. 706, the Commission directed NERC to develop an external review procedure for the identification of critical assets by responsible entities. *See Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 122 FERC ¶ 61,040, at PP 322–329, *order on reh'g,* Order No. 706–A, 123 FERC ¶ 61,174 (2008), *order on clarification,* Order No. 706–B, 126 FERC ¶ 61,229 (2009), *order on clarification,* Order No. 706–C, 127 FERC ¶ 61,273 (2009).

[72] NOPR, 148 FERC ¶ 61,040 at P 23.

[73] For similar reasons, we reject Entergy's suggestion that Reliability Standard CIP–014–1 include language providing for flexibility concerning delays in compliance with deadlines contained in the Reliability Standard due to acts of nature. *See* Entergy Comments at 1.

[74] NERC Petition at 34–35.

happen.[75] We anticipate that a properly verified critical facility list will normally result in compliance with Requirement R1, but the Commission cannot foreclose the possibility that that may not be the case.[76]

F. Generators

March 7 Order

91. The March 7 Order did not direct NERC to make the physical security Reliability Standards applicable to specific functional entity types. The March 7 Order stated that ''some of the requirements imposed by these newly proposed Reliability Standards may best be performed by the owner and other activity may best be performed by the operator,'' and that NERC should clearly indicate which entity is responsible for each requirement.[77] With regard to the applicable types of facilities, the Commission stated that it ''is not requiring NERC to adopt a specific type of risk assessment, nor is the Commission requiring that a mandatory number of facilities be identified as critical facilities under the Reliability Standards.'' [78]

NERC Petition

92. In explaining why the Reliability Standard does not include generator owners and generator operators as applicable entities, the standard drafting team found that:

> it was not necessary to include Generator Operators and Generator Owners in the Reliability Standard. First, Transmission stations or Transmission substations interconnecting generation facilities are considered when determining applicability. Transmission Owners will consider those Transmission stations and Transmission substations that include a Transmission station on the high side of the Generator Step-up transformer (GSU) using Applicability Section 4.1.1.1 and 4.1.1.2 . . . Second, the transmission analysis or analyses conducted under Requirement R1 should take into account the impact of the loss of generation connected to applicable Transmission stations or Transmission substations. Additionally, the [March 7] order does not explicitly mention generation assets and is reasonably understood to focus on the most critical Transmission Facilities.[79]

93. NERC explains that generator owners and generator operators were not included in the applicability section because, ''while the loss of a generator facility due to a physical attack may have local reliability effects, the loss of the facility is unlikely to have the widespread, uncontrollable impact'' contemplated for loss of a critical facility in the March 7 Order.[80] NERC maintains that a ''generation facility does not have the same critical functionality as certain Transmission stations and Transmission substations due to the limited size of generating plants, the availability of other generation capacity connected to the grid, and planned resilience of the transmission system to react to the loss of a generation facility.'' [81]

NOPR

94. The NOPR proposed to approve the applicability section of the Reliability Standard CIP–014–1 without the inclusion of generator owners and generator operators. The NOPR stated that omitting generator owners and generator operators from the applicability section is consistent with the March 7 Order. The NOPR affirmed the statement in the March 7 Order that the ''number of facilities identified as critical will be relatively small compared to the number of facilities that comprise the Bulk-Power System.'' [82] The NOPR proposed to accept NERC's justification for excluding generator owners and operators because it is in keeping with the March 7 Order's focus on protecting the most critical facilities. The NOPR stated that, according to NERC, a generation facility ''does not have the same critical functionality as certain Transmission stations and Transmission substations due to the limited size of generating plants, the availability of other generation capacity connected to the grid, and planned resilience of the transmission system to react to the loss of a generation facility.'' [83] The NOPR also noted that Requirement R1 mandates a transmission analysis that accounts for transmission owner- or transmission operator-owned substations that connect generating stations to the Bulk-Power System with step-up transformers.

95. While proposing to accept the applicability section of the proposed Reliability Standard, the NOPR stated that NERC's proposed omission of generator owners and generator operators could potentially exempt substations owned or operated by generators. The NOPR sought comment on the potential reliability impact of excluding generator owned or operated substations.

Comments

96. NERC states that it supports the NOPR proposal to approve the applicability criteria in Reliability Standard CIP–014–1 without the inclusion of generator owners and generator operators. NERC, reiterating the justification in the NERC petition, states that the loss of a generation facility is unlikely to result in critical impacts on the Bulk-Power System.

97. Associations, Trade Associations, Reclamation, G&T Cooperatives, KCP&L, Idaho Power, and APS also support the NOPR proposal.[84] Associations' comments are representative of the comments supportive of the NOPR proposal in that Associations state that generation facilities will be considered in Reliability Standard CIP–014–1, even without generator owners and generator operators included in the applicability criteria, because all generators interconnected to applicable transmission stations or substations will be in included in the transmission analysis under applicability sections 4.1.1.1 and 4.1.1.2.

98. Paschall states, without elaboration, that generation facilities should be included within the scope of Reliability Standard CIP–014–1. Foundation comments that it supports Reliability Standard CIP–014–1, as modified in the NOPR, and also advocates for the inclusion of certain generation facilities in a second stage physical security Reliability Standard (discussed in Section H below).

[75] ITC Comments at 9 (''ITC further doesn't disagree that, in extremely dire circumstances, a risk assessment which has been verified by a third-party may nonetheless be so deficient (and the third-party review be similarly inadequate) that it could be considered non-compliant.''); *see also* NERC Petition at 37 (''If, in the course of assessing an entity's compliance with the proposed Reliability Standard, NERC, a Regional Entity, or FERC finds that the entity's transmission analysis was patently deficient and that the Requirement R2 verification process did not cure those deficiencies, they could use their enforcement authority to compel Transmission Owners to re-perform the risk assessment using assumptions designed to identify the appropriate critical facilities.'').

[76] *See* Order No. 706, 122 FERC ¶ 61,040 at P 320 (denying ''safe harbor'' for good faith compliance with CIP Reliability Standards).

[77] March 7 Order, 146 FERC ¶ 61,166 at P 6, n.4.

[78] *Id.* P 6.

[79] NERC Petition, Exhibit A (Proposed Reliability Standard) at 23. The standard drafting team provided the following example: ''a Transmission station or Transmission substation identified as a Transmission Owner facility that interconnects generation will be subject to the Requirement R1 risk assessment if it operates at 500 kV or greater or if it is connected at 200 kV–499 kV to three or more other Transmission stations or Transmission substations and has an 'aggregate weighted value' exceeding 3000 according to the table in Applicability Section 4.1.1.2.'' *Id.* at 23.

[80] NERC Petition at 22.

[81] *Id.*

[82] NOPR, 148 FERC ¶ 61,040 at P 44 (quoting March 7 Order, 146 FERC ¶ 61,166 at P 12).

[83] NOPR, 148 FERC ¶ 61,040 at P 45 (quoting NERC Petition at 22).

[84] Associations Comments at 16–17; Trade Associations Comments at 12–13; Reclamation Comments at 1; G&T Cooperatives Comments at 13–14; KCP&L Comments at 5; Idaho Power Comments at 3; APS Comments at 4–5.

Commission Determination

99. We adopt the NOPR proposal and approve the applicability criteria in Reliability Standard CIP–014–1 without the inclusion of generator owners and generator operators. As the Commission stated in the NOPR, we agree with NERC that a generation facility ''does not have the same critical functionality as certain Transmission stations and Transmission substations due to the limited size of generating plants, the availability of other generation capacity connected to the grid, and planned resilience of the transmission system to react to the loss of a generation facility.''

100. Paschall provides a conclusory statement that generation facilities should be included in Reliability Standard CIP–014–1, but does not provide a rationale for this position. Thus, we find Paschall's comments unpersuasive.

G. Confidentiality

March 7 Order

101. The March 7 Order stated that:

All three steps of compliance with the Reliability Standard described above could contain sensitive or confidential information that, if released to the public, could jeopardize the reliable operation of the Bulk-Power System. Guarding sensitive or confidential information is essential to protecting the public by discouraging attacks on critical infrastructure. Therefore, NERC should include in the Reliability Standards a procedure that will ensure confidential treatment of sensitive or confidential information but still allow for the Commission, NERC and the Regional Entities to review and inspect any information that is needed to ensure compliance with the Reliability Standards.[85]

NERC Petition

102. Reliability Standard CIP–014–1 includes two requirements addressing the concerns over confidentiality. Requirements R2.2 and R6.4, which are substantially the same, state that ''[e]ach Transmission Owner shall implement procedures, such as the use of non-disclosure agreements, for protecting sensitive or confidential information made available to the unaffiliated third party [verifier or reviewer] and to protect or exempt sensitive or confidential information developed pursuant to this Reliability Standard from public disclosure.''

Comments

103. Associations, GridWise, Duke, Seattle, ITC, and Trade Associations state that the Commission should explicitly address the issue of confidentiality in the final rule. Associations state that the Commission should state that any data produced or collected by an RTO in accordance with a requirement of Reliability Standard CIP–014–1 are protected and should not be made available to a market monitor pursuant to a RTO tariff or market monitor agreement. Associations state that, at a minimum, a market monitor should have to make a filing with the Commission explaining the need for such information and indicating how the market monitor would protect such information from disclosure. GridWise and ITC state that they share Associations' concerns regarding confidentiality.

104. Trade Associations and Seattle comment that the final rule should contain an explicit statement that Reliability Standard CIP–014–1 is intended to preempt any state or local public disclosure laws. SWTDUG's reply comments question the Commission's legal authority to preempt state or local public disclosure laws, as suggested by Trade Associations and Seattle, without further Congressional action.

105. Duke comments that the Commission should take all necessary steps to protect the confidential information related to the activities of applicable entities, the Commission, NERC and Regional Entities in performance of their obligations under Reliability Standard CIP–014–1. Duke states that, pursuant to the Commission's regulations, the ''disposition of each violation or alleged violation that relates to a Cybersecurity Incident or that would jeopardize the security of the Bulk-Power System if publicly disclosed shall be nonpublic unless the Commission directs otherwise.''[86] Duke recommends interpreting this provision to include violations of Reliability Standard CIP–014–1 or to revise the regulation to do so. Duke also maintains that: (1) The risk assessment required under Requirement R1; (2) the third-party verification performed under Requirement R2; (3) the notification provided to transmission operators under Requirement R3; (4) the evaluation of threats and vulnerabilities performed under Requirement R4; (5) the development of physical security plans performed under Requirement R5; and (6) the third-party review performed under Requirement R6 all qualify as CEII. In addition, Duke states that this information is also exempt from the Freedom of Information Act under the (b)(4) exemption for ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.''

Commission Determination

106. In the March 7 Order, the Commission recognized that compliance with the contemplated physical security Reliability Standards would likely require the development or sharing of confidential or sensitive material that, if disclosed to the public, could jeopardize the reliable operation of the Bulk-Power System. As a result, the Commission directed NERC to include adequate procedures in the Reliability Standards to prevent the dissemination of confidential or sensitive information.

107. We find that NERC has included sufficient safeguards in Reliability Standard CIP–014–1 to ensure that confidential or sensitive information produced in compliance with the Reliability Standard will not be publicly disclosed. Reliability Standard CIP–014–1 includes requirements regarding the sharing of information between applicable entities and third-party verifiers and reviewers in Requirements R2.4 and R6.4. Moreover, the ''Compliance'' section of Reliability Standard CIP–014–1 provides: ''Confidentiality: To protect the confidentiality and sensitive nature of the evidence for demonstrating compliance with this standard, all evidence will be retained at the Transmission Owner's and Transmission Operator's facilities.''

108. The Commission will take all necessary and appropriate steps, as provided for in our governing statutes and regulations, to preserve an applicable entity's confidential or sensitive information when the public disclosure of such information could jeopardize the reliable operation of the Bulk-Power System. However, we decline to address in this final rule issues of preemption or the specific mechanism for treating confidential or sensitive information. Moreover, we find that it would be inappropriate to address Associations' request concerning the disclosure of information related to compliance with Reliability Standard CIP–014–1 to market monitors pursuant to a market monitor agreement or RTO tariff. No such agreements or tariffs are before us in this rulemaking proceeding.

H. Other Issues

109. Entergy seeks clarification as to whether the requirement in Reliability Standard CIP–014–1, Requirement R5 that an applicable entity ''shall develop and implement a documented physical security plan(s) that covers their

[85] March 7 Order, 146 FERC ¶ 61,166 at P 10.

[86] 18 CFR 39.7(b)(4).

respective Transmission station(s), Transmission substation(s), and primary control center(s) . . . [and] shall be developed within 120 calendar days following the completion of Requirement R2 and executed according to the timeline specified in the physical security plan(s)'' means that the actions called for in the security plan must be completed within 120 days. We see no ambiguity in Requirement R5 as the requirement only states that the security plan, not the actions called for in the plan, must be developed within 120 calendar days.

110. Reclamation proposes that the term ''risk assessment'' in Requirement R1 of Reliability Standard CIP–014–1 be changed to ''impact assessment'' because the requirement contemplates an assessment on the impact of the loss of facilities on the stability of the bulk electric system rather than a ''risk assessment.'' Reclamation further states that, based on the generally accepted meaning of the term ''risk assessment,'' that term better correlates to Requirement R4. We see no practical reason to require NERC to modify the nomenclature used in Requirement R1. Similarly, we see no reason to require NERC to change ''risk assessment'' to ''threat risk assessment,'' as suggested by Paschall, or to require NERC to define ''risk assessment'' because the term is largely defined in Requirement R1.

111. Foundation recommends that the Commission direct NERC to begin development of a second phase physical security Reliability Standard. Foundation maintains that such a Reliability Standard would address deficiencies in Reliability Standard CIP–014–1, including the exclusion of generation facilities and certain control centers. For example, Foundation maintains that the loss of a single generation facility could cause cascading outages on the Bulk-Power System. However, for the reasons discussed in Sections C and F above, we are not persuaded that there is a sufficient factual basis at this time to direct NERC to develop a second phase physical security Reliability Standard. While we decline to direct NERC to develop a second phase physical security Reliability Standard at this time, the informational filing on ''High Impact'' control centers required in this final rule, the post-implementation reports that NERC has committed to provide to the Commission, the Commission's compliance and enforcement efforts, and other outreach with NERC, industry and the public, will inform the Commission's views going forward as to what additional steps, if any, might be required to help ensure the reliable operation of the Bulk-Power System in the face of physical security threats.

I. Violation Risk Factors and Violation Severity Levels

112. Each requirement of Reliability Standard CIP–014–1 includes one violation risk factor and has an associated set of at least one violation severity level. The ranges of penalties for violations will be based on the sanctions table and supporting penalty determination process described in the Commission-approved NERC Sanction Guidelines, according to the NERC petition. The NOPR proposed to approve the violation risk factors and violation severity levels for the requirements in Reliability Standard CIP–014–1 consistent with the Commission's established guidelines.[87] The Commission did not receive any comments regarding this aspect of the NOPR. Accordingly, the Commission approves the violation risk factors and violation severity levels for the requirements in Reliability Standard CIP–014–1.

J. Implementation Plan and Effective Date

NERC Petition

113. The NERC petition proposes that Reliability Standard CIP–014–1 become effective the ''first day of the first calendar quarter that is six months beyond the date that this standard is approved by applicable regulatory authorities'' (*i.e.,* the effective date of a final rule in this proceeding approving the proposed Reliability Standard).[88] NERC states that the initial risk assessment required under Requirement R1 must be completed by or before the effective date of the proposed Reliability Standard.[89] As described in the requirements of the Reliability Standard, NERC also identifies when Requirements R2, R3, R4, R5, and R6 must be complied with following the effective date of Reliability Standard CIP–014–1.

NOPR

114. The NOPR proposed to approve NERC's implementation plan and effective date for Reliability Standard CIP–014–1.

Comments

115. KCP&L states that the Commission should make it clear if the effective date of Reliability Standard CIP–014–1 will be earlier than April 2016, which KCP&L states is the effective date of Reliability Standard CIP–002–5. KCP&L states that the ''basis for determination of criticality in CIP–014–1 references the same applicability as found in the CIP–002–5 . . . [and the] potential disconnect in implementation dates may impact registered entities adversely in preparations for Critical Infrastructure Protection standards or in application of physical security improvements given the work required to identify critical assets.'' [90]

Commission Determination

116. We approve the implementation plan and effective date proposed by NERC for Reliability Standard CIP–014–1. In response to KCP&L's comment, we understand that, pursuant to the implementation plan and effective date proposed by NERC and approved herein, Reliability Standard CIP–014–1 will become effective before April 2016.

III. Information Collection Statement

117. The Paperwork Reduction Act (PRA) [91] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements imposed by agency rules.[92] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

[87] *North American Electric Reliability Corp.,* 135 FERC ¶ 61,166 (2011).

[88] NERC Petition, Exhibit B (Implementation Plan) at 1. Exhibit B also delineates the completion timelines for Requirements R2 through R6. Parts 2.1, 2.2, and 2.4 of Requirement R2 shall be completed within 90 calendar days of the effective date of the Reliability Standard. Part 2.3 of Requirement R2 shall be completed within 60 calendar days of the completion of performance under Requirement R2 part 2.2. Requirement R3 shall be completed within 7 calendar days of completion of performance under Requirement R2. Requirements R4 and R5 shall be completed within 120 calendar days of completion of performance under Requirement R2. Parts 6.1, 6.2, and 6.4 of Requirement R6 shall be completed within 90 calendar days of completion of performance under Requirement R5. Part 6.3 of Requirement R6 shall be completed within 60 calendar days of Requirement R6 part 6.2.

[89] *Id.*

[90] KCP&L Comments at 7.

[91] 44 U.S.C. 3501–3520.

[92] *See* 5 CFR 1320.10.

Comments

118. Associations state that developing a security plan will cost more than $19,000 per company and ''should include a more realistic estimate of costs to comply with the proposed standard because of the influence that the Commission's assessment may have on the judgment of state utility commission or other regulatory authorities determining the prudence of costs incurred to comply with the proposed standard.'' [93] Associations also state ''that it understands that one medium-sized investor-owned utility anticipates that third-party contract support will cost approximately $270,000 for conducting transmission studies under R1, third-party verification under R2, analyses of threats under R4, and support for security plan development under R5.'' [94] Associations further state that the Commission's estimate did not include the cost of implementing the actual security measures included in applicable entity security plan. KCP&L states that it supports Associations' comments.

Commission Determination

119. We adopt the Information Collection Statement estimates contained in the NOPR. As we have previously stated, the estimates provided in an Information Collection Statement are meant to quantify the paperwork burden imposed by a final rule.[95] The Information Collection Statement is not intended to estimate the cost of compliance with the requirements of a Reliability Standard approved in a final rule.[96] Associations has not explained why it believes the Commission's paperwork burden estimate is not ''realistic'' or what would be a ''realistic'' figure other than to relate, in a footnote, that it understands that an unidentified medium-sized utility anticipates that compliance with requirements of Reliability Standard CIP–014–1, rather than the paperwork burden imposed by a final rule approving the Reliability Standard, will cost approximately $270,000. Associations' comments do not provide any creditable evidence or analysis to cause us to reevaluate the paperwork burden estimate contained in the NOPR. Accordingly, as set forth below, we adopt the NOPR's Information Collection Statement burden and cost estimates.

120. The Commission based its estimates on the number of respondents on the NERC compliance registry as of May 28, 2014. According to the registry, there are 357 transmission owners (TOs) and 197 transmission operators (TOPs). The NERC compliance registry also shows that there are only 19 transmission operators that are not also registered as a transmission owner.

121. The burden associated with the final rule is included in FERC–725U (Mandatory Reliability Standards: Reliability Standard CIP–014, OMB Control Number 1902–0274).[97] Thefollowing table shows the Commission's burden and cost estimates, broken down by requirement and year:

FERC–725U

Requirements in reliability standard CIP–014–1 over years 1–3	Number and type of respondents (1)	Number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours and cost per response [98] (4)	Total burden hours and total cost (3)*(4)
Year 1:					
R1	357 TOs	1	357	20	7,140
				$1,220	$435,540
R2	357 TOs	1	357	34	12,138
				$2,342	$836,094
R3	2 TOPs	1	2	1	2
				$128	$256
R4	30 TOs	1	32	80	2,560
	2 TOPs			$4,880	$156,160
R5	30 TOs	1	32	320	10,240
	2 TOPs			$19,520	$624,640
R6	30 TOs	1	32	304	9,728
	2 TOPs			$18,812	$601,984
Record Retention	357 TOs	1	359	2	718
	2 TOPs			$64	$22,976
Year 2:					
Record Retention	357 TOs	1	359	2	718
	2 TOPs			$64	$22,976
Year 3:					
R1	30 TOs	1	30	20	600
				$1,220	$36,600
R2	30 TOs	1	30	34	1,029

[93] Associations Comments at 19.

[94] *Id.* at 19 n.19.

[95] As defined in the PRA, ''the term ''burden'' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—(A) reviewing instructions; (B) acquiring, installing, and utilizing technology and systems; (C) adjusting the existing ways to comply with any previously applicable instructions and requirements; (D) searching data sources; (E) completing and reviewing the collection of information; and (F) transmitting, or otherwise disclosing the information.''

[96] *Version 5 Critical Infrastructure Protection Reliability Standards,* Order No. 791, 78 FR 72,755 (Dec. 3, 2013), 145 FERC ¶ 61,160, at P 235 (2013), *order granting clarification in part and denying rehearing,* Order No. 791–A, 146 FERC ¶ 61,188 (2014).

[97] The requirement for NERC to make the informational filing is part of the responsibilities related to being the nation-wide Electric Reliability Organization. The burden related to that filing is part of FERC–725 (OMB Control Number 1902–0225).

[98] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * XX per Hour = Average Cost per Response.

The hourly cost figures are based on data for wages plus benefits from the Bureau of Labor Statistics (as of September 4, 2014) at *http://www.bls.gov/oes/current/naics3_221000.htm* and *http://www.bls.gov/news.release/ecec.nr0.htm.* The figures are rounded for the purposes of calculations in this table and are:

- For electrical engineers: $60.87/hr., rounded to $61/hr.
- for attorneys: $128/hr.
- for administrative staff: $31.86/hr., rounded to $32/hr.

FERC–725U—Continued

Requirements in reliability standard CIP–014–1 over years 1–3	Number and type of respondents (1)	Number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours and cost per response [98] (4)	Total burden hours and total cost (3)*(4)
				$2,342	$70,260
R3	2 TOPs	1	2	1	2
				$128	$256
R4	30 TOs	1	32	80	2,560
	2 TOPs			$4,880	$156,160
R5	30 TOs	1	32	80	2,560
	2 TOPs			$4,880	$156,160
R6	30 TOs	1	32	134	4,288
	2 TOPs			$8,442	$270,144
Record Retention	357 TOs	1	359	2	718
	2 TOPs			$64	$22,976
Year 1 Total					42,526
					$2,677,650
Year 2 Total					718
					$22,976
Year 3 Total					11,748
					$712,556
TOTAL (for Years 1–3)					54,992
					$3,413,182

122. In arriving at the figures in the above table, the Commission made the following assumptions:

a. Requirement R1: We assume that responsible entities will complete the required risk assessment at approximately the same time as they complete the assessments required under the existing TPL Reliability Standards. Accordingly, the burden for Reliability Standard CIP–014–1 only represents the documentation required in addition to what entities currently prepare. Conservatively, we assume that in the first year all transmission owners and transmission operators will complete the required risk assessment.[99] In the third year, we assume that only 30 transmission operators will be required to do another risk assessment and that the entities with critical facilities after the first risk assessment will still have critical facilities after the second risk assessment.

b. Requirement R5: We assume that developing physical security plans in the first year will be more time consuming than in later years because in later years the plans will likely only need to be updated.

123. *Title:* FERC–725U, Mandatory Reliability Standards: Reliability Standard CIP–014–1.

Action: Proposed Collection of Information.

OMB Control No: 1902–0274.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: Ongoing.

Necessity of the Information: Reliability Standard CIP–014–1 implements the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, Reliability Standard CIP–014–1 ensures that applicable entities with critical Bulk-Power System facilities develop and implement physical security plans to address physical security threats and vulnerabilities that could result in widespread instability, uncontrolled separation, or cascading within an Interconnection.

Internal review: The Commission has reviewed Reliability Standard CIP–014–1 and has determined that the Reliability Standard is necessary to ensure the reliability and integrity of the nation's Bulk-Power System.

124. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Comments submitted to OMB should refer to FERC–725U and OMB Control No. 1902–0274.

IV. Environmental Analysis

125. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[100] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[101] The actions here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

126. The Regulatory Flexibility Act of 1980 (RFA) [102] generally requires a description and analysis of proposed

[99] While it is likely that only large transmission owners and transmission operators will have critical facilities under Requirement R1, the Commission's estimate includes all transmission owners and operators because reliable data on what percentage of large owners and operators control critical facilities is unavailable.

[100] Order No. 486, *Regulations Implementing the National Environmental Policy Act of 1969,* 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[101] 18 CFR 380.4(a)(2)(ii).

[102] 5 U.S.C. 601–612.

rules that will have significant economic impact on a substantial number of small entities.

127. The Small Business Administration (SBA) revised its size standard (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.[103] Under SBA's new size standards, transmission owners and transmission operators likely come under the following category and associated size threshold: Electric bulk power transmission and control, at 500 employees.[104]

128. The NOPR stated that, based on U.S. economic census data, the approximate percentage of small firms in this category is 57 percent.[105] The NOPR also stated that the Commission did not have information concerning how the economic census data compares with entities registered with NERC and is unable to estimate the number of small transmission owners and transmission operators using the new SBA definition. However, the NOPR stated that Reliability Standard CIP–014–1 only applies to transmission owners and transmission operators that own and/or operate certain critical Bulk-Power System facilities. In the NOPR, the Commission stated that it believes that Reliability Standard CIP–014–1 will be applicable to a relatively small group of large entities. No comments were received addressing the Commission's proposed certification.[106]

129. Accordingly, the Commission certifies that Reliability Standard CIP–014–1 will not have a significant impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Document Availability

130. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

131. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

132. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

133. This final rule is effective January 26, 2015. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.[107] This final rule is being submitted to the Senate, House, and Government Accountability Office.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Note: This appendix will not appear in the *Code of Federal Regulations.*

Appendix

Abbreviation	Commenter
Initial Commenters	
APS	Arizona Public Service Company.
Associations	Edison Electric Institute, Electric Power Supply Association, Electricity Consumers Resource Council.
BPA	Bonneville Power Administration.
CEA	Canadian Electricity Association.
Duke	Duke Energy Corporation.
Entergy	Entergy.
Foundation	Foundation for Resilient Societies.
GridWise	GridWise Alliance.
G&T Cooperatives	Associated Electric Cooperative, Inc., Basin Electric Power Cooperative, and Tri-State Generation and Transmission Association, Inc.
Idaho Power	Idaho Power Company.
ITC	International Transmission Company.
KCP&L	Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company.
MISO	Midcontinent Independent System Operator, Inc.
NARUC	National Association of Regulatory Utility Commissioners.
NEMA	National Electrical Manufactures Association.
NERC	North American Electric Reliability Corporation.
NU	Utilities Northeast Utilities System.
NYPSC	New York Public Service Commission.
Ohio PUC	Public Utilities Commission of Ohio.
Oncor	Oncor Electric Delivery Company LLC.
Pa PUC	Pennsylvania Public Utility Commission.
Paschall	Roger Paschall.
Pepco	Pepco Holdings, Inc.
Reclamation	U.S. Department of Interior, Bureau of Reclamation.
Seattle	City of Seattle.

[103] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77,343 (Dec. 23, 2013).

[104] 13 CFR 121.201, Sector 22, Utilities.

[105] NOPR, 148 FERC ¶ 61,040 at P 70. Data and further information are available on the SBA Web site. *See* SBA Firm Size Data, *available at http://www.sba.gov/advocacy/849/12162.* Since issuance of the NOPR, the Commission has obtained data that enables us to estimate more closely the number of small entities affected by this final rule. We now estimate that 28 percent (or 103 out of the 359 entities) are small entities.

[106] To the extent that Associations' comments, which we addressed above in the Information Collection Statement section, were also directed to the Commission's proposed certification regarding the Regulatory Flexibility Act, Associations' comments do not dispute any of the assumptions underlying the proposed certification or contest the proposed certification itself.

[107] 5 U.S.C. 804(2).

Abbreviation	Commenter
SCE	Southern California Edison.
SDG&E	San Diego Gas & Electric.
SIA	Security Industry Association.
Southern	Southern Company Services, Inc.
TAPS	Transmission Access Policy Study Group.
TVA	Tennessee Valley Authority.
Trade Associations	American Public Power Association, Large Public Power Council, National Rural Electric Cooperative Association.
Xcel	Xcel Energy Services Inc.
Reply Commenters	
Foundation	Foundation for Resilient Societies.
ITC	International Transmission Company.
NIPSCO	Northern Indiana Public Service Company.
SmartSenseCom	SmartSenseCom, Inc.
SWTDUG	Southwest Transmission Dependent Utility Group.
Tallahassee	City of Tallahassee.

[FR Doc. 2014–27908 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–394]

RIN 1117–AB38

Exemption From Registration for Persons Authorized Under U.S. Nuclear Regulatory Commission or Agreement State Medical Use Licenses or Permits and Administering the Drug Product DaTscan™

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Interim final rule with request for comment.

SUMMARY: The Drug Enforcement Administration (DEA) is amending its regulations to waive the requirement of registration for persons who are authorized under United States Nuclear Regulatory Commission or Agreement State medical use licenses or permits and administer the drug product DaTscan™.

DATES: Effective November 25, 2014. Interested persons may file written comments on this interim final rule pursuant to 5 U.S.C. 553. Electronic comments must be submitted, and written comments must be postmarked, on or before January 26, 2015. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–394'' on all electronic and written correspondence. The DEA encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Paper comments that duplicate electronic submissions are not necessary. Should you, however, wish to submit written comments in lieu of electronic comments, they must be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Imelda L. Paredes, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record and will be made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments containing personal identifying information or confidential business information identified as directed above will be made publicly available in redacted form.

An electronic copy of this document and supplemental information to this interim final rule with request for comment are available at *http://www.regulations.gov* for easy reference. If you wish to personally inspect the comments and materials received or the supporting documentation the DEA used in preparing the interim final rule with request for comment, these materials will be available for public inspection by appointment. To arrange a viewing, please see the **FOR FURTHER INFORMATION CONTACT** paragraph above.

Legal Authority

The DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled

Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, currently accepted medical use, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308. Pursuant to 21 U.S.C. 822(a)(1), ''every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.'' Further, pursuant to 21 U.S.C. 822(a)(2), ''every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.''

The Attorney General however may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety pursuant to 21 U.S.C. 822(d). The Attorney General delegated this authority to the Administrator of the DEA, 28 CFR 0.100(b), who in turn redelegated that authority to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator''). Section 7 of 28 CFR part 0, subpart R, App.

Purpose and Background of the Regulatory Action

On May 10, 1994, the United States Patent and Trademark Office issued a patent to GE Healthcare, the sole manufacturer of the radioactive drug DaTscan™, for 20 years for the development of DaTscan™. On January 14, 2011, the U.S. Food and Drug Administration (FDA) approved DaTscan™ as a diagnostic tool containing a radioisotopic form of ioflupane, [^{123}I]ioflupane. This product is approved for medical use and was simultaneously granted exclusive marketing rights to GE Healthcare for five years in accordance with 21 CFR 314.108. Ioflupane is a schedule II controlled substance under the CSA.

The FDA approved labeling of DaTscan™ states that DaTscan™ is a radiopharmaceutical indicated for striatal dopamine transporter visualization using single photon emission computed tomography (SPECT) brain imaging to assist in the evaluation of adult patients with suspected Parkinsonian syndromes (PS). DaTscan™ is an adjunct to other diagnostic evaluations, and it may be used to help differentiate essential tremors from tremors due to PS, (idiopathic Parkinson's disease (PD), multiple system atrophy (MSA), and progressive supranuclear palsy (PSP)). According to GE Healthcare, DaTscan™ was not designed to distinguish among PD, MSA, and PSP. However, the results created by the contrast that occurs after the administration of DaTscan™ may also be used to help rule out other diseases that may have similar symptoms, like essential tremor, for individuals early in the course of their disease.

Because DaTscan™ contains [^{123}I]ioflupane, a schedule II controlled substance, it may only be handled by entities registered with the DEA to handle schedule II controlled substances.[1] However, due to its I–123 radioactive component, the handling of DaTscan™ in the United States is also strictly controlled by Federal and State laws limiting distribution to licensed radiopharmacies and certain licensed medical facilities. It is regulated by the United States Nuclear Regulatory Commission (NRC) under 10 CFR part 35 or by an Agreement State[2] under equivalent Agreement State requirements. NRC also authorizes certain Federal Agencies (*i.e.,* Master Materials licensees (MML)) to issue their medical facilities medical use permits that are equivalent to NRC medical use licenses. The NRC and Agreement States require those medical facilities administering radioactive medical byproduct material to obtain a medical use license or permit and comply with specific regulations pertaining to security, recordkeeping, and reporting. *Id.* In accordance with 10 CFR parts 20 and 35 and equivalent Agreement State requirements, applicants for NRC and Agreement State licensure must comply with and demonstrate radiation safety precautions and instructions, methodologies for measurement of dosages to be administered, physical security of medical byproduct material, and recordkeeping requirements.

As a result of these overlapping registration/licensing requirements, DaTscan™ is available only by authorization from a DEA-registered practitioner. Therefore, it may only be administered to a patient by physicians authorized under an NRC or an Agreement State license or NRC MML permit to perform imaging and localization studies under 10 CFR 35.200 or equivalent Agreement State requirements who are also registered with the DEA to administer schedule II controlled substances. Accordingly, only NRC- or Agreement State-licensed or NRC MML permitted radiology imaging centers that are also registered with the DEA to handle schedule II controlled substances, such as hospitals and private practice imaging centers, may conduct diagnostic analysis using DaTscan™.

Currently, GE Healthcare manufactures DaTscan™ and provides it directly to its DEA-registered radiopharmacies, who then transfer it to DEA-registered imaging centers for administration and scanning procedures. This process occurs in a closed system of distribution that is currently regulated by both the DEA and the NRC/Agreement State.

[1] The DEA continues to review the control status of [^{123}I] Ioflupane pursuant to 21 U.S.C. 811. While this interim final rule with request for comment is separate and apart from the control process, and does not resolve the control status of [^{123}I] Ioflupane, this waiver of registration is designed to encourage use of this drug product as a diagnostic tool until the control status of [^{123}I] Ioflupane is resolved.

[2] An Agreement State is defined as any State with which the Nuclear Regulatory Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended (the Act). Further, Section 274 of the Act provides a statutory basis under which the NRC discontinues its regulatory authority to regulate byproduct materials; source materials; and small quantities of special nuclear materials. The Agreement State assumes authority from the NRC with its own compatible legislation and regulations, including compatible requirements to 10 CFR part 35, once the Agreement is signed in accordance with Section 274b of the Act. Agreement States implement regulatory programs to regulate byproduct, source and certain special nuclear materials that are compatible with NRC requirements and adequate to protect public health and safety.

In addition to qualifying for registration with the DEA pursuant to 21 U.S.C. 823(f), practitioners must adhere to controls pertaining to physical security, reporting, and recordkeeping, in order to detect and prevent diversion of controlled substances. See, *e.g.,* 21 CFR 1301.75–1301.76, 1304.21–1304.22. For example, DEA-registered pharmacies and institutional practitioners may disperse controlled substances throughout the stock of non-controlled substances in such a manner as to obstruct the theft or diversion of the controlled substances; they must also report thefts or significant losses of controlled substances to the DEA within one business day of discovery; dispositions of schedule II controlled substances must be authorized by a DEA Form 222; and they must maintain specified records of each transaction involving a controlled substance for a period of two years.

The NRC and Agreement States require that any person who manufactures, produces, acquires, receives, possesses, prepares, uses, or transfers radioactive byproduct material for medical use do so only in accordance with a specific medical use license issued by the NRC or an Agreement State or permit issued by an NRC MML. *See* 10 CFR 35.11–12. Radioisotope I–123 meets the definition of byproduct material in paragraph 3B of Section 11e. of the Atomic Energy Act (AEA), as revised in 1978 and in 2005 by the Energy Policy Act (EPAct) (*i.e.,* any material that has been made radioactive by use of a particle accelerator; and is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity).

The NRC and Agreement States regulate licensed materials (*i.e.,* byproduct material) which must be tracked from initial production to final disposal in order to ensure accountability; to identify when licensed material could be lost, stolen, or misplaced; and to ensure that possession limits listed on the license are not exceeded.

In accordance with 10 CFR 20.1101, licensees are required to implement a radiation protection program that requires licensees to develop, document, and implement procedures to ensure the security and safe use of all the licensed material from the time it arrives at their facilities until it is used, transferred, or disposed of. The DEA regulations require practitioners to ''provide effective controls and procedures to guard against theft and diversion of controlled substances.'' 21 CFR 1301.71(a). In addition, in accordance with 21 CFR 1301.75(b), practitioners must store schedule II controlled substances in a securely locked, substantially constructed cabinet. However, pharmacies and institutional practitioners (*e.g.,* hospitals) may ''disperse such substances throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances.'' *Id.*

The NRC and Agreement States also require distributor-licensees to verify the licensure status of each recipient prior to transferring radioactive byproduct material each time it is transferred. *See* 10 CFR 30.41. In contrast to the NRC/Agreement State regulations and licensure requirements, the DEA in accordance with 21 CFR 1301.74(a) has mandated that ''before distributing a controlled substance to any person who the registrant does not know to be registered to possess the controlled substance, the registrant shall make a good faith inquiry either with the Administration or with the appropriate State controlled substances registration agency, if any, to determine that the person is registered to possess the controlled substance.''

The NRC and Agreement States also require licensees to comply with recordkeeping requirements for three years from the date of receipt and to provide the NRC with accurate records for the receipt, transfer, and disposal of the byproduct material in accordance with 10 CFR 30.51. This is more stringent than the DEA regulations, which require registrants to maintain records for a period of two years for inspection and copying by the DEA. *See* 21 CFR 1304.04(a).

With this interim final rule, the DEA is only waiving registration requirements specifically for persons administering DaTscan™ directly to patients for diagnostic purposes.[3] Persons administering the specific drug product DaTscan™ are exempt from requirements pertaining to registration, security, recordkeeping, and reporting. In addition, the drug product DaTscan™ is exempt from the labeling and packaging requirements of the CSA. Exempt persons must follow the applicable NRC or Agreement State regulations and requirements when handling DaTscan™.

Because persons who administer DaTscan are subject to strict NRC/Agreement State requirements, the DEA has determined that the waiver from registration of persons who administer DaTscan™ is consistent with the public health and safety. These exempt persons must be authorized by a valid NRC or Agreement State medical use license or NRC MML medical use permit for imaging or localization studies under 35.200 or equivalent Agreement State requirements and be subject to security, oversight, and monitoring that is as stringent as that provided by the CSA and its implementing regulations. Compliance with NRC or Agreement State requirements significantly reduces the risk of diversion, thereby ensuring that the public health and safety will not be compromised by this waiver.

Finally, in accordance with the AEA disposal requirements in 10 CFR 20.2002 through 20.2005, the licensee is required to dispose of the radioactive medical waste while complying with environmental and health protection regulations. Since DaTscan™ has a radiologic shelf life of less than 36 hours, it cannot be stored for any significant amount of time between the time it is manufactured and the time it is administered to a patient, thereby minimizing the risk of diversion during the transfer process and decreasing the time to detect theft or loss. Accordingly, those persons waived from registration and other requirements by this interim final rule (*i.e.,* those persons administering DaTscan™ directly to patients for diagnostic purposes) will be also exempted from the disposal requirements of 21 CFR part 1317, and the manufacturers and distributors of DaTscan™ will be required to comply with the DEA disposal regulations (21 CFR part 1317) in order to ensure that any drug product that is not administered or that remain after administration is not diverted to illicit use.

Under this interim final rule, a DEA-registered practitioner must prepare a record containing the practitioner's name and signature, DEA registration number, drug product name, date the record was signed, and patient name, and provide this record to the patient. The record must be transferred by the patient to the imaging center. The imaging center will then request the drug product DaTscan™ from the DEA-registered distributor by providing the written record as authorization to transfer the drug product. The DEA-registered distributor shall maintain this document as the record of the transaction. The DEA-registered distributor will verify that the imaging center has a current, valid NRC or Agreement State medical use license or

[3] Persons that handle other controlled substances in addition to DaTscan™ must be registered with the DEA to handle those other controlled substances.

NRC MML medical use permit that authorizes imaging and localization and if it does, the distributor will then request the drug product DaTscan™ from the manufacturer. After receipt of the drug product DaTscan™ from the manufacturer, the distributor will transfer the ordered amount of the drug product DaTscan™ to the imaging center for the test. The DaTscan™ will be administered to the patient, and the test will be performed. Any DaTscan™ that is not administered or that remains after the administration will then be returned to the distributor by the licensee and subsequently disposed of in accordance with the DEA disposal regulations. Both the DEA-registered distributor and the DEA-registered manufacturer must comply with all DEA regulations pertaining to schedule II controlled substances including security, registration, and recordkeeping.

Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule, which waives registration for persons authorized under United States Nuclear Regulatory Commission or Agreement State medical use licenses or NRC MML medical use permits, who administer the drug product DaTscan™ directly to patients for diagnostic purposes, has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563 ''Improving Regulation and Regulatory Review'' section 1(b) General Principles of Regulation.

The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Further, both 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, of reducing costs, of harmonizing rules, and of promoting flexibility. The DEA assessed the costs and benefits of this regulation and believes that the regulatory approach selected maximizes net benefits.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Deputy Assistant Administrator, in accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The RFA applies ''[w]henever an agency is required by section 553 of [the APA], or any other law, to publish a general notice of proposed rulemaking for any proposed rule.'' 5 U.S.C. 603. Here, the DEA for good cause finds that notice and comment procedures are unnecessary and contrary to the public interest because without prompt waiver of registration, some members of the healthcare community may not be able to utilize the diagnostic tool. Accordingly, these rules are being adopted on an interim final basis. Additionally, this interim final rule is alleviating regulatory restrictions on those affected by its implementation.

Although, the DEA does not have a basis to estimate the number of affected entities and quantify the economic impact of this interim final rule, a qualitative analysis indicates that this interim final rule is likely to result in some cost savings for the healthcare industry. The affected entities will continue to meet NRC or Agreement State requirements for licensure, security, recordkeeping, and reporting, which in many cases are more stringent than the DEA's requirements. The DEA estimates cost savings will be realized from the removal of DEA requirements for those administering the drug product DaTscan™ that are duplicative of NRC or Agreement State requirements, such as: Registration fees, recordkeeping, and periodic reports. While the DEA does estimate that this interim final rule will provide some cost savings, it does not believe the savings will be significant since the affected entities are required to continue to meet NRC requirements for handling DaTscan™.

Paperwork Reduction Act of 1995

This rule does not involve a collection of information within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1501 *et seq.*), the DEA has determined and certifies pursuant to UMRA that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under the provisions of UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA) (5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this interim final rule with request for comment to both Houses of Congress and to the Comptroller General.

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA), including notice of proposed rulemaking and the pre-promulgation opportunity for public comment, if it is determined to be unnecessary,

impracticable, or contrary to the public interest (5 U.S.C. 553 (b)(B)). The DEA for good cause finds that it is unnecessary and contrary to the public interest to seek public comment prior to promulgating this interim final rule because, without prompt waiver of registration, some members of the healthcare community may not be able to utilize this diagnostic tool and patients in need may not receive it. DaTscan™ is an important tool in differentiating essential tremors from tremors due to Parkinsonian Syndrome (PS) and can help healthcare professionals provide more accurate diagnoses. These rules are therefore, being adopted on an interim final basis. Additionally, the DEA is alleviating the regulatory burdens on those administering the drug product DaTscan™. Furthermore, this alleviation will mean that patients have a greater chance of receiving important diagnostic testing.

In addition, the APA permits an agency to make effective upon date of publication ''a substantive rule which grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553 (d)(1). The DEA finds that this interim final rule with request for comments meets the criterion set forth in 5 U.S.C. 553 (d)(1) for an exception to the APA effective date requirement.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Controlled substances, Drug abuse, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1301 is amended as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 953, 956, 957, 958, unless otherwise noted.

■ 2. Add a new § 1301.29 to read as follows:

§ 1301.29 Registration waivers; exemption from practitioner registration for persons authorized by a United States Nuclear Regulatory Commission or agreement state medical use license or permit and administering the drug product DaTscan™

(a) The requirement of registration is waived for persons administering the drug product DaTscan™ to a patient for diagnostic purposes if the person is authorized by a valid medical use license or permit issued by the United States Nuclear Regulatory Commission (NRC) or NRC master materials licensee or an agreement state authorizing the person to receive, possess, use, or transfer byproduct material in accordance with NRC or agreement state rules and regulations.

(1) As used in this section, ''agreement state'' is any state with which the NRC or the Atomic Energy Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended. As of October 2014, those states considered ''non-agreement states'' include: Alaska, Connecticut, Delaware, Hawaii, Idaho, Indiana, Michigan, Missouri, Montana, South Dakota, Vermont, Washington, DC, West Virginia, and Wyoming. All other states have entered into agreements with the NRC.

(2) This section does not exempt persons identified in this paragraph (a) from any statutory or regulatory requirements pertaining to any controlled substance other than the drug product DaTscan™.

(3) This section does not exempt from the requirement of registration persons who prescribe, or order the administration of, the drug product DaTscan™.

(b) Persons identified in paragraph (a) of this section are exempt from application of 21 U.S.C. 822(a)(2), 827, and 828 (registration, records, reports, and order forms) and sections 1301.71, 1301.75, and 1301.76 of this chapter (practitioner security), to the extent described in paragraphs (e) and (f) of this section, only with respect to administering the drug product DaTscan™.

(c) The drug product DaTscan™ is exempt from application of 21 U.S.C. 825 and § 1302.03 of this chapter to the extent described in paragraph (d) of this section.

(d) *Labeling and packaging.* In lieu of the requirements set forth in part 1302 of this chapter, the label and the packaging of the drug product DaTscan™ must be prominently marked with its full trade name or other description and the name of the manufacturer in such a way that the product can be readily identified as the drug product DaTscan™. The symbol designating the schedule of the drug product DaTscan™ is not required on either the label or the packaging of the drug product DaTscan™.

(e) *Registration and security.* Any person who manufactures or distributes the drug product DaTscan™ must be registered under the Act and comply with all relevant security requirements regarding the schedule II controlled substances being distributed or used in the manufacturing process. Any person identified in paragraph (a) of this section is not required to be registered under the Act to handle the drug product DaTscan™, and these persons are not required to store the drug product DaTscan™ in accordance with security requirements regarding controlled substances.

(f) *Records and reports.* Any person who manufactures or distributes the drug product DaTscan™ must keep complete and accurate records and file all reports required under part 1304 of this chapter regarding all controlled substances distributed or used in the manufacturing process for the drug product DaTscan™. In reports required by 21 CFR 1304.33 due to transactions with persons identified in paragraph (a) of this section, the DEA registration number of the person identified in paragraph (a) is not required to be reported. Any person identified in paragraph (a) who handles the drug product DaTscan™ is not required to maintain records or file reports required by the Act or its implementing regulations. The authorizing practitioner shall prepare a record containing the practitioner's name, signature, date of authorization, DEA registration number, drug product name, and patient name, and provide this record to the patient. This record prepared by the DEA registered practitioner shall be used as the distributor's record of the distribution.

(g) *Criminal penalties* No exemption granted pursuant to this section affects the criminal liability for illegal manufacture, distribution, or possession of controlled substances contained in the drug product DaTscan™. Use of the drug product DaTscan™ is lawful for registrants and nonregistrants only as long as such activity is intended for administration for diagnostic purposes.

(h) The persons identified in paragraph (a) of this section shall return all unused drug product DaTscan™ to the DEA-registered distributor from whom the person received it, for disposal in accordance with 10 CFR 20.2001–20.2008.

(i) Once the drug product DaTscan™ is returned to the appropriate DEA-registered distributor, it shall be disposed of in accordance with the following procedures:

(1) The DEA-registered distributor shall keep a record of the return;

(2) After receipt of the drug product DaTscan™, the DEA-registered distributor shall hold the drug product DaTscan™ until it is no longer considered low-level radioactive waste

in accordance with 10 CFR 20.2001(a)(2); and

(3) After the drug product DaTscan™ is no longer considered low-level radioactive waste, the DEA-registered distributor shall dispose of all unused DaTscan™ in accordance with 21 CFR part 1317.

(j) The exemptions specified in this section are not applicable to the drug product DaTscan™ if there are any changes in the quantitative or qualitative composition of the preparation or mixture after the date of this regulation, or change in the trade name or other designation of the drug product DaTscan™.

Dated: November 18, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–27917 Filed 11–24–14; 8:45 am]

BILLING CODE 4410–09–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4001, 4022, and 4044

RIN 1212–AB23

Title IV Treatment of Rollovers From Defined Contribution Plans to Defined Benefit Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: In April 2014, PBGC proposed to amend its regulations to clarify the treatment of benefits resulting from a rollover distribution from a defined contribution plan to a defined benefit plan, if the defined benefit plan was terminated and trusteed by PBGC. Under the proposal, a benefit resulting from rollover amounts generally would not be subject to PBGC's maximum guaranteeable benefit or phase-in limitations and would be in the second highest priority category of benefits in the allocation of assets. PBGC is now finalizing that proposal. Except for making minor clarifications suggested by commenters, the final regulation is the same as the proposed regulation. This rulemaking is part of PBGC's efforts to enhance retirement security by promoting lifetime income options.

DATES: Effective December 26, 2014. See Applicability in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*klion.catherine@pbgc.gov*), Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4024. (TTY and TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This regulatory action is needed to provide guidance on treatment of benefits resulting from a rollover distribution from a defined contribution plan to a defined benefit plan, where the defined benefit plan is terminated and trusteed by the Pension Benefit Guaranty Corporation (PBGC).

Legal authority for this action comes from section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of Title IV of ERISA, section 4022 of ERISA (Single-Employer Plan Benefits Guaranteed), and section 4044 of ERISA (Allocation of Assets).

Major Provisions of the Regulatory Action

Under the final regulation, a benefit resulting from rollover amounts generally will be in the second highest priority category among various classes of benefits in the allocation of assets and generally will not be subject to PBGC's maximum guaranteeable benefit or phase-in limitations.

Background

PBGC administers the single-employer pension plan termination insurance program under Title IV of ERISA. The program covers private-sector, single-employer defined benefit plans, for which premiums are paid to PBGC each year. Covered plans that are underfunded may terminate either in a distress termination under section 4041(c) of ERISA or in an involuntary termination (one initiated by PBGC) under section 4042 of ERISA. When such a plan terminates, PBGC typically is appointed statutory trustee of the plan, and becomes responsible for paying benefits in accordance with the provisions of Title IV. At times, plans trusteed by PBGC include contributions made by employees that fund part of the benefit under the plan.

Mandatory Contributions

A plan may be funded in whole or in part by mandatory contributions. Under section 4044(b)(6) of ERISA, the term ''mandatory contributions'' means amounts contributed to the plan by a participant that are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

Typically, mandatory employee contributions are required under the plan as a percentage of the employee's compensation. They are withheld from the salary of the employee by the employer and deposited to the employee's credit in the defined benefit plan on an after-tax basis.[1] Such mandatory employee contributions have generally been used to fund a portion of the participant's accrued benefit as determined under the plan's benefit formula and are required in order to receive the portion of the accrued benefit derived from employer contributions.

Section 411(c)(2)(B) of the Code[2] provides that, in the case of a defined benefit plan, the accrued benefit derived from mandatory employee contributions is equal to the employee's contributions accumulated to normal retirement age using specified rates under section 411(c)(2)(C), and converted to an actuarially equivalent annuity commencing at normal retirement age, using an interest rate under section 417(e)(3) of the Code as of the determination date. Section 411(c)(1) of the Code provides that an employee's accrued benefit derived from employer contributions as of any date is the excess, if any, of the accrued benefit for the employee as of that date over the accrued benefit derived from contributions made by the employee as of that date.

PBGC Treatment of Mandatory Employee Contributions in Terminated Plans

When a plan terminates in a distress termination or an involuntary termination, each participant's plan benefit is assigned to one or more of six ''priority categories'' that are described in paragraphs (1) through (6) of section 4044(a) of ERISA.[3] Participants' accrued

[1] Generally, contributions by employees to defined benefit plans (whether mandatory or voluntary) are not deductible for federal income tax purposes.

[2] See also ERISA section 204(c)(2)(B). References to the Code in this preamble should be read to include the parallel provision under ERISA.

[3] Plan assets must be allocated to each priority category in succession, beginning with priority category one (PC1). The benefits assigned to each priority category under section 4044 of ERISA in general are as follows:

- PC1: The portion of a participant's accrued benefit derived from the participant's voluntary contributions.
- PC2: The portion of a participant's accrued benefit derived from the participant's mandatory contributions.

benefits derived from mandatory employee contributions are assigned to PC2. Because benefits in PC2 have a higher claim on plan assets than nearly all other benefits under the plan, when an underfunded plan terminates, plan assets are usually (but not always) sufficient to pay accrued benefits derived from mandatory employee contributions.

Although PBGC generally pays benefits only in annuity form, PBGC's regulations allow a return of mandatory employee contributions in a single installment (or a series of installments), provided certain conditions are met (see § 4022.7(b)(2)).

Rollover Benefits Under the Code and Treasury/IRS Guidance

Section 401(a)(31) of the Code requires a qualified plan to permit a distributee of any eligible rollover distribution to elect a direct rollover of any part of the distribution to an eligible retirement plan. Section 402(c) of the Code permits an individual receiving an eligible rollover distribution from a qualified plan to elect to roll over any portion of that distribution within a specified time to an eligible retirement plan that accepts the rollover (including a defined benefit plan).

On February 21, 2012, the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) issued Rev. Rul. 2012–4,[4] which clarified certain qualification requirements under section 401(a) of the Code for use of rollover amounts to provide an additional benefit under a defined benefit plan. Under the facts of the example provided in Rev. Rul. 2012–4, a qualified defined benefit plan provides that it will accept a direct rollover of a distribution from a qualified defined contribution plan maintained by the same employer for an employee or former employee of the employer who separates from service after age 55 with at least 10 years of service and elects to commence an immediate annuity of the employee's benefit under the plan (including the additional benefit resulting from the direct rollover).

Rev. Rul. 2012–4 treats the amounts rolled over as mandatory employee contributions for purposes of section 411(c) of the Code. The revenue ruling further provides that, if the plan provided an annuity with respect to the rollover in excess of the amount determined under the rules of section 411(c) of the Code, such as by using a more favorable actuarial conversion basis than required by those rules, the portion of the benefit resulting from the rollover amounts that exceeded the benefit derived from mandatory employee contributions as determined under section 411(c)(2) of the Code would be subject to the requirements applicable to a benefit attributable to employer contributions. The revenue ruling states that in this case, the liability for the total benefit resulting from the rollover (including the portion of the accrued benefit considered to be derived from employer contributions because it exceeds the amount determined under section 411(c)(2)(B)) would likely exceed the amounts rolled over, which means that the employer will become responsible for additional funding costs.

Rev. Rul. 2012–4 states (in footnote 1) that PBGC is developing guidance on the Title IV treatment of benefits under a defined benefit plan resulting from a rollover. This final rule is that guidance.[5]

PBGC is amending its regulations to provide guidance on Title IV treatment of rollovers, both in anticipation of increased use of rollovers, and as part of its efforts to promote retirement security. The availability of a rollover of a participant's retirement savings in a 401(k) or other defined contribution plan to a defined benefit plan expands the opportunities for participants to elect lifetime annuity options.

Proposed Rule

On April 2, 2014 (at 79 FR 18483), PBGC published a proposed rule on Title IV treatment of rollovers. PBGC received comments from the American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), the American Council of Life Insurers (ACLI), and AARP.[6] The commenters all supported the proposed rule and PBGC's efforts to promote lifetime income options.

In response to the comments, the final regulation makes the following clarifications:

- The amendments in this final rule apply only to rollovers from defined contribution plans. See § 4001.2 (definition of rollover amounts).
- Rollover amounts include both salary deferral contributions made by the participant, any additional employer contributions provided for under the defined contribution plan, and earnings on both. See § 4001.2 (definition of rollover amounts).
- The annuity benefit resulting from a rollover amount is a pension benefit (and thus guaranteeable). See § 4022.2 (definition of pension benefit).

Except for these clarifications, the final regulation is the same as the proposed regulation.

Overview of Final Regulation

PBGC is amending its regulations on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) and Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The amendments establish or clarify the rules for treatment of rollovers from a defined contribution plan to a defined benefit plan, when the defined benefit plan later terminates in an underfunded status. Following are the most important changes:

- A benefit resulting from rollover amounts will be treated as an accrued benefit derived from mandatory employee contributions in PC2 (which has a higher claim on plan assets than nearly all other benefits under the plan), to the extent that the benefit is determined using the rules of Code section 411(c)(2)(B).
- Unlike other PC2 benefits, a PC2 benefit resulting from rollover amounts will generally not be payable in lump sum form.
- The portion of a benefit resulting from rollover amounts that exceeds the accrued benefit derived from mandatory employee contributions (*i.e.,* the portion derived from employer contributions) will be a guaranteeable benefit in PC3, PC4, or PC5, as applicable.
- A participant's accrued benefit resulting from rollover amounts generally will not be subject to PBGC's maximum guaranteeable benefit limitation under section 4022(b) of ERISA and thus will not be taken into

- PC3: The portion of a participant's benefit that was in pay status as of the beginning of the three-year period ending on the termination date (or bankruptcy filing date, if applicable), or that would have been in pay status at the beginning of such three-year period if the participant had retired before the beginning of such three-year period, provided that the benefit was the lowest benefit payable under the plan provisions at any time during the period beginning five years before the termination date (or bankruptcy filing date, if applicable) and ending on the termination date.
- PC4: All other guaranteed benefits.
- PC5: All other nonforfeitable benefits.
- PC6: All other benefits.

[4] 2012–8 I.R.B. 386, *http://www.irs.gov/irb/2012-08_IRB/ar08.html.*

[5] The facts of the example in Rev. Rul. 2012–4 involve an employee who separates from service after age 55 with at least ten years of service and elects to commence an immediate annuity and rolls over a benefit from a defined contribution plan to a defined benefit plan maintained by the same employer. However, rollovers are permitted in broader circumstances. This final rule is not limited to the facts in the example.

[6] The comments can be found at *http://www.pbgc.gov/documents/Comments-to-PBGC-on-Title-IV-Rollover-Treatment.pdf.*

account in applying that limitation. However, the maximum guaranteeable benefit limitation will apply to any benefit resulting from a rollover amount that exceeds the accrued benefit treated as derived from mandatory employee contributions (*i.e.,* the accrued benefit attributable to employer contributions).

• A participant's accrued benefit resulting from rollover amounts generally will not be subject to the five-year phase-in limitation on the guarantee of benefit increases. However, the phase-in limitation will apply to any benefit resulting from a rollover amount that exceeds the accrued benefit treated as derived from mandatory employee contributions, with the phase-in period beginning as of the date the rollover contribution was received by the plan.

A detailed discussion of the final regulation follows.

Regulatory Changes

Guaranteed Benefits

Under section 4022 of ERISA, PBGC guarantees the payment of all nonforfeitable benefits provided by a plan, subject to two principal statutory limitations—the maximum guaranteeable benefit limitation and the five-year phase-in limitation.

The amount of the maximum monthly guarantee is set by law and is updated each calendar year. The maximum guaranteeable benefit applicable to a plan is fixed as of that plan's termination date. Under the Pension Protection Act of 2006, if a plan terminates during a plan sponsor's bankruptcy and the sponsor entered bankruptcy on or after September 16, 2006, the maximum guaranteeable benefit is fixed as of the date the sponsor entered bankruptcy.

The five-year phase-in limitation generally applies to a benefit increase that has been in effect for less than five years. Generally, 20 percent of a benefit increase is guaranteed after one year, 40 percent after two years, etc., with full phase-in of the guarantee after five years. If the amount of the monthly benefit increase is below $100, the annual rate of phase-in is $20 rather than 20 percent. For this purpose, a benefit increase resulting from a plan amendment is deemed to be in effect on the later of the amendment's adoption date or its effective date.

Historically, PBGC has interpreted the statutory limitations to apply to the participant's total nonforfeitable accrued benefit under a plan, including that portion of the benefit funded by traditional after-tax mandatory employee contributions. In the case of rollover amounts, however, PBGC will exempt from these limitations the accrued benefit derived from mandatory employee contributions determined under the rules of Code section 411(c)(2)(B). The exemption will not apply to any benefit resulting from rollover amounts that exceeds the accrued benefit derived from mandatory employee contributions (*i.e.,* the accrued benefit attributable to employer contributions).

Rollovers can help preserve participants' retirement savings until retirement. They provide a valuable means for participants to withdraw their benefits from one retirement plan and contribute them to another. PBGC believes that rollovers to defined benefit plans may provide lifetime-annuity protection at a competitive cost. Consistent with the Administration's initiative on retirement security, PBGC wants to eliminate impediments to this form of annuitization of distributions from defined contribution plans by providing assurances to participants that their benefits attributable to rollover amounts to a defined benefit plan will largely be protected from the limitations that might otherwise apply if the plan terminates and is trusteed by PBGC.

There are a number of reasons why PBGC views benefits resulting from the portion of rollover amounts treated as mandatory employee contributions differently from other benefits under a plan. Unlike other mandatory employee contributions, rollover benefits require an affirmative election by the participant to roll over a pension distribution to obtain an additional annuity from a defined benefit plan. If the benefit resulting from rollover amounts caused a participant's total benefit under the plan to exceed PBGC's maximum guaranteeable benefit, participants might be reluctant to roll over benefits from defined contribution plans to defined benefit plans. Applying the five-year phase-in limitation to benefits resulting from rollover amounts similarly might make rollovers unattractive.

The limitations on PBGC's guarantee were designed to protect the pension insurance system from risk of loss. But rollovers do not present the same risk of loss to the insurance program as other benefits. A benefit derived from rollover amounts treated as mandatory employee contributions is considered under Rev. Rul. 2012–4 to be actuarially equivalent to the rollover amounts received by the defined benefit plan. Therefore, although a plan accepting a rollover becomes liable to pay additional benefits, it simultaneously receives additional funds of equivalent value. That is not true for most new benefit accruals. Accordingly, it is a reasonable statutory interpretation to exempt from the maximum guaranteeable benefit and phase-in limitations a benefit resulting from rollover amounts that does not exceed the accrued benefit treated as derived from mandatory employee contributions.

In accordance with PBGC's statutory interpretation, the final rule amends § 4022.22 to exempt the rollover benefit amount derived from mandatory employee contributions from the maximum guaranteeable benefit limitation. Thus, PBGC will exclude that amount from its determination of the participant's maximum guaranteeable benefit. However, any rollover benefit in excess of the portion of such benefit derived from mandatory employee contributions (*i.e.,* any portion of the rollover benefit derived from employer contributions) will be combined with the annuity otherwise payable under the plan in determining the participant's maximum guaranteeable benefit.

Similarly, the final rule amends § 4022.24 to exempt a participant's rollover benefit derived from mandatory employee contributions from the five-year phase-in limitation. The five-year phase-in limitation will, however, apply to the portion of any rollover benefit derived from employer contributions, with that benefit portion deemed to be in effect on the date the rollover amounts were received by the plan.

PBGC's regulations provide for a third guarantee limitation, the ''accrued-at-normal'' limitation, which restricts PBGC's guarantee of temporary supplements. Under § 4022.21, PBGC's guarantee cannot exceed the accrued benefit payable as a straight life annuity at normal retirement age. PBGC will include the annuity attributable to rollover amounts in the determination of the accrued-at-normal limitation, which will increase the limitation against which the participant's entire benefit is measured, and will apply the accrued-at-normal limitation to the entire benefit, including rollover amounts. This will generally have the effect of increasing the participant's guaranteeable benefit.

Form of Payment

Before being amended by this final rule, PBGC's regulation provided for the return of mandatory employee contributions in a single installment (or a series of installments) if a participant, or a beneficiary of a pre-retirement death benefit, so elected in accordance with the plan's provisions. If a participant (or a surviving spouse)

elected a return of mandatory employee contributions prior to the annuity starting date in the form of a lump sum, instead of as an annuity, the lump sum benefit would have been determined under § 4044.12(c)(2) as the amount of the participant's accumulated mandatory contributions.[7] A withdrawal of the participant's accumulated mandatory employee contribution would have resulted in an accrued benefit under the plan derived solely from employer contributions.

Under the final regulation, PBGC generally will not pay participants a lump sum return of mandatory employee contributions attributable to rollover amounts. PBGC will disregard a plan's provisions for the return of employee contributions in a lump sum and will make rollover amounts payable only in the form of an annuity. Because the participant had the chance to take the distribution from a defined contribution plan as a lump sum and instead chose to roll it into a defined benefit plan to obtain additional annuity benefits, it would seem anomalous to later allow the participant to convert the additional annuity back into a lump sum. Moreover, paying the additional benefit as an annuity is consistent with PBGC's policy of promoting retirement security through preserving lifetime retirement income.

Under the final regulation, the annuity resulting from rollover amounts will be payable at the same time, and in the same form, as the remainder of the participant's benefit under the plan to avoid administrative burden to PBGC.[8] In the case of a plan that provides for a pre-retirement death benefit that returns the employee's mandatory contributions in a single installment, if a participant dies after the plan terminates, PBGC will not allow the participant's spouse to elect to withdraw the mandatory contributions attributable to rollover amounts in a single installment. Instead, PBGC will include such contributions in the value of the plan's qualified preretirement survivor annuity (QPSA) to the spouse.[9] PBGC will determine whether a payment was de minimis (currently $5,000 or less under § 4022.7(b)(1)(i)) and, if so, will base the amount of the payment on the lump sum value of the participant's total benefit payable by PBGC (the benefit resulting from rollover amounts combined with the benefit excluding rollover amounts).

Allocation of Assets

The final rule also amends PBGC's asset allocation regulation to set forth rules for PBGC treatment of rollover benefits when a defined benefit plan terminates with insufficient assets to pay all benefits.

New §§ 4044.12(b)(4) and (c)(4) describe the calculation of a participant's total annuity benefit resulting from rollover amounts. For participants and beneficiaries not yet in pay status as of the termination date, the rollover amounts will be credited with interest payable under plan provisions to the plan's termination date, and converted to an annuity benefit payable at the normal retirement age using the plan's interest rates and conversion factors in effect as of the plan's termination date for the conversion of such rollover amounts.

Under the final regulation, the portion of a participant's accrued benefit resulting from rollover amounts derived from mandatory employee contributions will be determined using the rules of section 411(c) of the Code. Specifically, the participant's accumulated mandatory employee contributions—the participant's rollover amounts credited with interest at 120% of the Federal mid-term rate from the date of the rollover to the plan's termination date—will be converted to an actuarially equivalent straight life annuity under the plan payable at the normal retirement age using the applicable interest rate and mortality table under section 417(e) of the Code as of the plan's termination date. Consistent with Rev. Rul. 2012–4, which defines this annuity amount as the actuarial equivalent of an employee's rollover amounts to a defined benefit plan, only an annuity benefit determined on this basis will be assigned to PC2.

Rev. Rul. 2012–4 permits a qualified defined benefit plan to offer a subsidy with respect to a rollover by using a more generous annuity conversion factor than under the minimum rules for an actuarially equivalent annuity under section 411(c) of the Code, provided the additional qualification requirements applicable to a benefit derived from employer contributions are met. If, under the plan's provisions, the benefit resulting from rollover amounts exceeds the annuity derived from mandatory employee contributions determined under the rules of section 411(c)(2) of the Code—for example, because the plan uses more generous conversion factors than those under section 417(e) of the Code—the final regulation treats the portion of the benefit in excess of the annuity derived from mandatory employee contributions under the rules of section 411(c)(2) as a benefit derived from *employer* contributions for purposes of assigning the benefits to the priority categories under part 4044. The annuity benefit derived from employer contributions will be a guaranteeable benefit in PC3, PC4, or PC5, as applicable, because it is a nonforfeitable benefit (*i.e.,* a benefit for which the participant has satisfied all plan conditions for entitlement as of the plan's termination date). Under section 4022(a) of ERISA, PBGC is required to guarantee all nonforfeitable benefits provided by a plan, subject to the limitations contained in section 4022(b).

Applicability

The amendments made by this final rule will apply to terminations initiated on or after December 26, 2014.

Compliance With Rulemaking Requirements

Executive Order 12866 ''Regulatory Planning and Review'' and Executive Order 13563 ''Improving Regulation and Regulatory Review''

This final rule is not a ''significant regulatory action'' under Executive Order 12866.

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, of reducing costs, of harmonizing rules,

[7] PBGC determines the amount of the lump sum benefit based on the participant's accumulated contributions—*i.e.,* the employee's mandatory contributions credited with interest for the period through the plan's termination date (but not less than the minimum lump sum required under section 411(c) of the Code upon withdrawal of mandatory employee contributions). Interest on that sum is thereafter based on PBGC's late-payment interest rate until the participant's distribution date.

[8] PBGC will disregard any plan provision that allows an additional annuity resulting from rollover amounts to have an annuity starting date that differs from the annuity starting date for the remainder of the participant's benefit under the plan.

[9] If no QPSA is payable, the mandatory contributions would be payable to a named beneficiary in a life annuity form that would commence at the same time as a QPSA could commence under PBGC's regulations. In the case of a cash refund annuity (*i.e.,* a post-retirement lump sum death benefit of the value of the participant's mandatory contributions in excess of the pension payments received by the participant at the time of death), PBGC will disregard this plan provision. Instead, PBGC will include the value of the mandatory contributions in the qualified joint and survivor annuity (QJSA) to the spouse or, if no QJSA is payable, would pay such amounts to a named beneficiary in a life annuity form that would commence at the same time as a QJSA could commence under PBGC's regulations.

and of promoting flexibility. Executive Orders 12866 and 13563 require a comprehensive regulatory impact analysis be performed for any economically significant regulatory action, defined as an action that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. In accordance with OMB Circular A–4, PBGC has examined the economic and policy implications of this final rule and has concluded that the action's benefits justify its costs.

Under Section 3(f)(1) of Executive Order 12866, a regulatory action is economically significant if ''it is likely to result in a rule that may . . . [h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.'' PBGC has determined that this final rule does not cross the $100 million threshold for economic significance and is not otherwise economically significant.

PBGC estimates that the annual economic impact of this final rule will be about $11,000,000. This is the amount PBGC estimates that participants who roll over benefits from defined contribution plans to defined benefit plans that subsequently terminate and are trusteed by PBGC in aggregate would gain (and PBGC would lose), as a result of the regulatory change to exclude from the maximum guaranteeable benefit and phase-in limitations any benefit resulting from rollover amounts that does not exceed the accrued benefit derived from mandatory employee contributions.

Since IRS has only recently provided guidance to defined benefit plans on calculating rollover amounts, PBGC has no historic data to draw upon in developing this estimate. Accordingly, PBGC made conservative assumptions based on its judgment about such factors as how many defined benefit plans would allow rollovers from defined contribution plans and how many participants in such plans would roll over benefits from defined contribution plans.

Although it is difficult to predict with any certainty the annual economic impact of the regulatory action, given that the estimate is so far below $100 million, PBGC has determined that the annual economic impact of the final rule will be less than $100 million.

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposed or final rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the Regulatory Flexibility Act requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the rule describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of the Regulatory Flexibility Act requirements with respect to this final rule, PBGC considers a small entity to be a plan with fewer than 100 participants. This criterion is consistent with certain requirements in Title I of ERISA and the Internal Revenue Code, as well as the definition of a small entity that the Department of Labor has used in similar circumstances for purposes of the Regulatory Flexibility Act.

Further, while some large employers that terminate plans may have small plans that terminate along with larger ones, in general most small plans are maintained by small employers. Thus, PBGC believes that assessing the impact of the final rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act. Therefore, in the proposed rule, PBGC requested comments on the appropriateness of the size standard used in evaluating the impact on small entities of the amendments to the benefit payments regulation. No comments were received on this point.

On the basis of this definition of small entity, PBGC certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the amendments in this final rule will not have a significant economic impact on a substantial number of small entities. Virtually all, if not all, of the effect of this final rule will be on PBGC or persons who receive benefits from PBGC. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), sections 603 and 604 do not apply.

List of Subjects

29 CFR Part 4001

Pensions.

29 CFR Part 4022

Pension insurance, Pensions.

29 CFR Part 4044

Pension insurance, Pensions.

For the reasons given above, PBGC is amending 29 CFR parts 4001, 4022, and 4044 as follows.

PART 4001—TERMINOLOGY

■ 1. The authority citation for part 4001 continues to read as follows:

Authority: 29 U.S.C. 1301, 1302(b)(3).

■ 2. In § 4001.2, add a definition for ''rollover amounts'' in alphabetical order to read as follows:

§ 4001.2 Definitions.

* * * * *

Rollover amounts means the dollar amount of all or any part of a distribution that is rolled over from a defined contribution plan into a defined benefit plan in accordance with section 401(a)(31) or 402(c) or similar provisions under the Internal Revenue Code. Rollover amounts include salary deferral contributions made by the participant, any additional employer contributions provided for under the defined contribution plan, and earnings on both.

* * * * *

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 3. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322(b), 1341(c)(3)(D), and 1344.

§ 4022.2 [Amended]

■ 4. In § 4022.2, the definition of ''pension benefit'' is amended by adding at the end ''An annuity benefit resulting from a rollover amount is a pension benefit.''

■ 5. Amend § 4022.7 as follows:

■ a. In paragraph (b)(2)(i), add the phrase ''except as provided in paragraph (b)(2)(iii) of this section,'' after the words ''Notwithstanding any other provision of this part,'';

■ b. Add paragraph (b)(2)(iii); and

■ c. Revise paragraph (c)(2).

The addition and revision read as follows:

§ 4022.7 Benefits payable in a single installment.

* * * * *

(b) * * *

(2) * * *

(iii) *Rollover amounts.* The rule in paragraph (b)(2) of this section (dealing with return of employee contributions) does not apply to a participant's accumulated mandatory employee contributions resulting from rollover amounts (as determined under § 4044.12(c)(4)(i) of this chapter) or the benefit derived from such mandatory employee contributions.

* * * * *

(c) * * *

(2) *Exception.* Except in the case of accumulated mandatory employee contributions resulting from rollover amounts (as determined under § 4044.12(c)(4)(i) of this chapter), upon the death of a participant the PBGC may pay in a single installment (or a series of installments) that portion of the participant's accumulated mandatory employee contributions that is payable under the plan in a single installment (or a series of installments) upon the participant's death.

* * * * *

■ 6. In § 4022.8, add paragraph (f) to read as follows:

§ 4022.8 Form of payment.

* * * * *

(f) *Rollover amounts.* The annuity benefit resulting from rollover amounts (as determined under § 4044.12(c)(4) of this chapter) is combined with any other benefit under the plan and paid in the same form and at the same time as the other benefit.

■ 7. In § 4022.22, add paragraph (d) to read as follows:

§ 4022.22 Maximum guaranteeable benefit.

* * * * *

(d) *Rollover amounts.* Any portion of a benefit derived from mandatory employee contributions resulting from rollover amounts (as determined under § 4044.12(c)(4)(i) of this chapter) is disregarded in applying the provisions of §§ 4022.22 and 4022.23. However, any portion of a benefit derived from employer contributions resulting from rollover amounts (as determined under § 4044.12(c)(4)(ii) of this chapter) is combined with any other benefit under the plan for purposes of determining the maximum guaranteeable benefit under §§ 4022.22 and 4022.23. For example, assume that a participant has an $80,000 total annual plan benefit at age 65, of which $15,000 is derived from mandatory employee contributions resulting from rollover amounts and $5,000 is derived from employer contributions resulting from rollover amounts. The $15,000 benefit derived from employee contributions resulting from rollover amounts would be excluded in the determination of the participant's maximum guaranteeable amount. The participant's remaining $65,000 benefit (including the $5,000 benefit derived from employer contributions resulting from rollover amounts) would be subject to the maximum guaranteeable benefit limitation. Assuming the plan terminated in 2014, the participant's maximum guaranteeable benefit of approximately $59,000 for a straight life annuity at age 65 would effectively be increased by the $15,000 benefit derived from employee contributions resulting from rollover amounts, resulting in total guaranteeable benefits of approximately $74,000. (The maximum guaranteeable benefit limitation would apply to the participant's benefit derived from employer contributions; as a result, $6,000 of the participant's benefit derived from employer contributions would not be guaranteeable by PBGC.)

■ 8. In § 4022.24, add paragraph (g) to read as follows:

§ 4022.24 Benefit increases.

* * * * *

(g) *Rollover amounts.* Any portion of a benefit derived from mandatory employee contributions resulting from rollover amounts (as determined under § 4044.12 (c)(4)(i) of this chapter) is disregarded in applying the provisions of §§ 4022.24 through 4022.26. However, any portion of a benefit derived from employer contributions resulting from rollover amounts (as determined under § 4044.12(c)(4)(ii) of this chapter) is combined with any other benefit under the plan in applying the provisions of §§ 4022.24 through 4022.26. In such case, the benefit increase is deemed to be in effect on the date the rollover amounts are received by the plan.

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 9. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362.

■ 10. In 4044.12, paragraphs (b)(4) and (c)(4) are added to read as follows:

§ 4044.12 Priority category 2 benefits.

* * * * *

(b) * * *

(4) *Rollover amounts.* In the case of a benefit resulting from rollover amounts, notwithstanding the provisions of paragraph (b)(2) of this section, the interest rates and conversion factors in paragraph (c)(4) of this section are used to determine the portion of the accrued benefit derived from the employee's contributions and, if any, the portion of the accrued benefit derived from employer contributions.

(c) * * *

(4) *Special rules for benefit resulting from rollover amounts.* (i) *Mandatory employee contributions.* Notwithstanding paragraphs (c)(1) through (3) of this section, in the case of a benefit resulting from rollover amounts, the accrued benefit derived from mandatory employee contributions is determined using the interest rates and conversion factors under section 411(c)(2)(B) and (C) of the Code for purposes of computing an employee's accrued benefit derived from the employee's contributions. The annuity benefit and the pre-retirement death benefit, as determined on this basis, is the benefit resulting from rollover amounts in priority category 2.

(ii) *Employer contributions.* Any portion of a participant's accrued benefit resulting from rollover amounts that is in excess of the accrued benefit derived from mandatory employee contributions determined in accordance with paragraph (c)(4)(i) of this section (*i.e.,* the accrued benefit derived from employer contributions) is a guaranteeable benefit in priority category 3, priority category 4, or priority category 5, as applicable under this part.

Issued in Washington, DC, this 18 day of November, 2014.

Alice C. Maroni,

Acting Director, Pension Benefit Guaranty Corporation .

[FR Doc. 2014–27826 Filed 11–24–14; 8:45 am]

BILLING CODE 7709–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0690; FRL–9919–48–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions incorporate by

reference (IBR) the current requirements of the Federal Prevention of Significant Deterioration (PSD) program into the Maryland SIP. Additionally, the revisions will allow Maryland's PSD program to automatically update with any revisions to the Federal regulations. EPA is approving these revisions to Maryland's PSD program in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on January 26, 2015 without further notice, unless EPA receives adverse written comment by December 26, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0690 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: kreider.andrew@epa.gov.*

C. *Mail:* EPA–R03–OAR–2014–0690, Andrew Kreider, Acting Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0690. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 22, 2013, the Maryland Department of the Environment (MDE) submitted a formal revision (#13–05) to the Maryland State Implementation Plan (SIP). The SIP revision incorporates by reference the most current Federal PSD regulations which are codified at 40 CFR 52.21, and will allow future revisions to the Federal PSD program to be automatically incorporated into Maryland's SIP.

Maryland has previously adopted a PSD program through an IBR of a date-specific version of the Federal PSD program. The currently approved Maryland SIP incorporates the Federal regulations as published in the 2009 version of the Code of Federal Regulations, and ''as amended by the 'Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule' (Tailoring Rule; 75 FR 31514), and the 'Deferral for CO_2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration and Title V Programs' (Biomass Deferral; 76 FR 43490).''

EPA took final action to approve Maryland's IBR of the 2009 version of 40 CFR 52.21 ''as amended'' by the Tailoring Rule on August 2, 2012 (77 FR 45949). Subsequently, MDE submitted a revision which incorporated the provisions of the Biomass Deferral into the Maryland SIP. On November 16, 2012, EPA took final action to approve that revision (78 FR 13497). EPA's August 2, 2012 approval incorporated a number of important required elements into Maryland's PSD program, including those related to the 2008 ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR $PM_{2.5}$ Rule; 73 FR 28321). For PSD sources in Maryland, this required that PSD permits address direct $PM_{2.5}$ emissions as well as precursor emissions (including sulfur dioxide (SO_2) and oxides of nitrogen (NO_X)), established significant emission rates for $PM_{2.5}$ and precursor emissions, and established the requirement to account for condensable particulate matter. On January 4, 2013, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), in *Natural Resources Defense Council* (NRDC) v. *EPA*,[1] issued a decision that remanded the EPA's rules implementing the 1997 $PM_{2.5}$ NAAQS, including the 2008 NSR $PM_{2.5}$ Rule. The court's remand of the 2008 NSR $PM_{2.5}$ Rule is relevant to this final rulemaking. This rule promulgated NSR requirements for implementation of $PM_{2.5}$ in both nonattainment areas (nonattainment NSR) and attainment/unclassifiable areas (PSD). The D.C. Circuit found that EPA erred in implementing the $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of title I of the CAA, rather than pursuant to the additional implementation provisions specific to particulate matter nonattainment areas in subpart 4. The court ordered the EPA to ''repromulgate these rules pursuant to Subpart 4 consistent with this opinion.'' *Id.* at 437. However, as the requirements of subpart 4 only pertain to nonattainment areas, it is EPA's position that the portions of the 2008 NSR $PM_{2.5}$ Rule that address requirements for $PM_{2.5}$ in attainment and unclassifiable areas are not affected by the D.C. Circuit's opinion in *NRDC* v. *EPA.* Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated in the 2008 NSR $PM_{2.5}$ Rule in order to comply with the court's decision. Accordingly, EPA's approval of Maryland's SIP as to the PSD requirements promulgated by the 2008 NSR $PM_{2.5}$ Rule in this action does

[1] *See* 706 F.3d 428 (D.C. Cir. 2013).

not conflict with the D.C. Circuit's opinion.

On October 20, 2010, EPA promulgated additional PSD regulations relating to $PM_{2.5}$: ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs), and Significant Monitoring Concentrations (SMC)'' (2010 PSD $PM_{2.5}$ Rule; 73 FR 64864). Because Maryland's currently approved SIP incorporates the 2009 version of the CFR, these provisions are not currently in the Maryland SIP. On January 22, 2013, the D.C. Circuit, in *Sierra Club* v. *EPA,*[2] issued a judgment that, *inter alia,* vacated and remanded the SIL provisions at 40 CFR 52.21(k)(2). Additionally, the D.C. Circuit vacated the SMC provisions at section 52.21(i)(5)(i)(c). In response to the D.C. Circuit's decision, EPA took final action on December 9, 2013 to remove the SIL provisions from the Federal PSD regulations and to revise the SMC for $PM_{2.5}$ to zero (78 FR 73698). Therefore, the provisions with which the court took issue are not in effect in Maryland and are not being approved into the Maryland SIP as part of this action.

The 2010 PSD $PM_{2.5}$ Rule also established increments for $PM_{2.5}$ pursuant to the legal authority contained in section 166(a) of the CAA for pollutants for which NAAQS are promulgated after 1977. An increment is the maximum allowable level of ambient pollutant concentration increase that is allowed to occur above the applicable baseline concentration in a particular area. As such, an increment defines ''significant deterioration.'' The $PM_{2.5}$ increment provisions at 40 CFR 52.21(c) were not affected by the D.C. Circuit's decision on the 2010 PSD $PM_{2.5}$ Rule, and are therefore being approved into the Maryland SIP with this final approval action.

Additionally, EPA notes that on June 23, 2014, the United States Supreme Court, in *Utility Air Regulatory Group* v. *Environmental Protection Agency,*[3] issued a decision addressing the application of PSD permitting requirements to greenhouse gas (GHG) emissions. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source (or modification thereof) required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action before the D.C. Circuit to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant: (i) That the source emits or has the potential to emit above the major source thresholds; or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFRs 51.166(b)(48)(v) and 52.21(b)(49)(v)).

EPA anticipates a need to revise federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. In states that allow future revisions to the Federal PSD program to be automatically incorporated into the SIP as Maryland has done in this case, this will be accomplished as soon as EPA revises the federal PSD rules. The timing and content of subsequent EPA actions with respect to the EPA regulations is expected to be informed by additional legal processes before the D.C. Circuit. EPA is not expecting states to have revised their existing PSD program regulations at this juncture before the D.C. Circuit has addressed these issues and before EPA has revised its regulations at 40 CFRs 51.166 and 52.21. However, EPA is evaluating PSD program submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

Maryland's existing approved SIP contains the greenhouse gas permitting requirements reflected in 40 CFR 52.21 after EPA issued the Tailoring Rule. As a result, the PSD permitting program in Maryland previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT when sources emit or increase greenhouse gases in the amount of 75,000 tons per year (measured as carbon dioxide (CO_2) equivalent CO_2e). Although the approved Maryland PSD permitting program may also currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not prevent EPA from approving the submission addressed in this rule. Maryland's 2013 SIP submission does not add any greenhouse gas permitting requirements that are inconsistent with the Supreme Court decision. While this submission incorporates all of 40 CFR 52.21 for completeness, the submission reincorporates PSD permitting requirements for greenhouse gases that are mostly already in the Maryland SIP.

However, this revision does add to the Maryland SIP the elements of EPA's 2012 rule implementing Step 3 of the phase in of PSD permitting requirements for greenhouse gases described in the Tailoring Rule. 77 FR 41051 (July 12, 2012). This rule became effective on August 13, 2012. Specifically, the incorporation of the Step 3 rule provisions will allow GHG-emitting sources to obtain plantwide applicability limits (PALs) for their GHG emissions on a CO_2e basis. The GHG PAL provisions, as currently written, include some provisions that may no longer be appropriate in light of the Supreme Court decision. Since the Supreme Court has determined that sources and modifications may not be defined as ''major'' solely on the basis of the level of greenhouse gases emitted or increased, PALs for greenhouse gases may no longer have value in some situations where a source might have triggered PSD based on greenhouse gas emissions alone. However, PALs for GHGs may still have a role to play in determining whether a modification that triggers PSD for a pollutant other than greenhouse gases should also be subject to BACT for greenhouse gases. These provisions, like the other GHG provisions discussed previously, will likely be revised pending further legal action. However, this SIP revision does not add new requirements for sources or modifications that only emit or increase greenhouse gases above the major source threshold or the 75,000 tpy greenhouse gas level in 40 CFR 52.21(b)(49)(iv). Rather, the PAL's provisions provide increased flexibility to sources that wish to address their GHG emissions in a PAL. Since this flexibility may still be valuable to sources in at least one context described above, EPA believes that it is appropriate to approve these provisions into the Maryland SIP at this juncture.

While the automatic IBR of 40 CFR 52.21 being approved into Maryland's SIP through this action will incorporate some regulations that will be revised in subsequent EPA actions to address the Supreme Court decision, approving the automatic IBR into Maryland's SIP at this time will ensure that Maryland's

[2] *See* 705 F.3d 458, 469.

[3] 134 S.Ct. 2427.

PSD requirements will remain consistent with the Federal regulations at the time of any subsequent revisions EPA makes to the Federal PSD program. In a related matter, on July 12, 2013, the D.C. Circuit, in *Center for Biological Diversity* v. *EPA* [4] vacated the provisions of the Biomass Deferral, which had delayed (for three years) the applicability of PSD and title V requirements to biogenic CO_2 emissions. While the ultimate disposition of the Federal regulations implementing the Biomass Deferral has not yet been determined, the deferral expired on July 21, 2014 anyway, and could not presently be used even absent the vacatur. As previously discussed, any future revisions to the Federal regulations will automatically be incorporated into Maryland's SIP. Therefore, while this approval action includes the vacated portions of 40 CFR 52.21(b)(49)(ii)(a), EPA's approval does not conflict with the D.C. Circuit's decision.

II. Summary of SIP Revision

MDE's August 22, 2013 SIP revision request includes amendments to the following provisions of the Code of Maryland Regulations (COMAR): Regulation .01 under 26.11.01—General Administrative Provisions, and Regulation .14 under COMAR 26.11.06—General Emission Standards, Prohibitions, and Restrictions. The revisions remove the date-specific IBR of section 52.21, replacing it with an IBR of 40 CFR 52.21 ''as amended.'' As previously discussed, these revisions incorporate the current Federal PSD requirements, and will automatically incorporate any future changes to the Federal regulations into the Maryland SIP. EPA is approving the SIP revision in accordance with the CAA and the requirements for PSD permitting programs.

III. Final Action

EPA is approving MDE's August 22, 2013 submittal as a revision to the Maryland SIP. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on January 26, 2015 without further notice unless EPA receives adverse comment by December 26, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action pertaining to Maryland's PSD program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference,

[4] *See* 722 F.3d 401.

Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 5, 2014.

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry/entries for COMAR 26.11.01.01 and 26.11.06.14. The revised text reads as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
26.11.01 General Administrative Provisions				
26.11.01.01	Definitions	7/8/13	11/25/14 [Insert **Federal Register** citation].	Revised .01B(37).
*	*	*	*	*
26.11.06 General Emission Standards, Prohibitions, and Restrictions				
*	*	*	*	*
26.11.06.14	Control of PSD Sources	7/8/13	11/25/14 [Insert **Federal Register** citation].	Revised .14B(1).
*	*	*	*	*

* * * * *

[FR Doc. 2014–27749 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2013–0690; FRL–9919–65–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia's Redesignation Request and Associated Maintenance Plan of the West Virginia Portion of the Martinsburg-Hagerstown, WV–MD Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of West Virginia's request to redesignate to attainment the West Virginia portion of the Martinsburg-Hagerstown, WV–MD nonattainment area (the Martinsburg Area or Area) for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). EPA is also approving as a revision to the West Virginia State Implementation Plan (SIP) the associated maintenance plan to show maintenance of the 1997 annual $PM_{2.5}$ NAAQS through 2025 for the Area. As part of this action, EPA is making a determination that the Martinsburg Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. The maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and nitrogen oxides (NO_X) mobile vehicle emissions budgets (MVEBs) for Berkeley County, West Virginia for the 1997 annual $PM_{2.5}$ NAAQS which EPA is approving for transportation conformity purposes. Furthermore, EPA is approving, as a revision to the West Virginia SIP, the 2007 base year emissions inventory for the Area for the 1997 annual $PM_{2.5}$ NAAQS. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on December 26, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2013–0690. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 5, 2013, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) formally submitted a request to redesignate the West Virginia portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. Concurrently, WVDEP submitted a maintenance plan for the Area as a SIP revision to ensure continued attainment throughout the Area over the next 10 years. The maintenance plan also

includes a 2007 base year emissions inventory for $PM_{2.5}$, NO_X, sulfur dioxide (SO_2), volatile organic compounds (VOC) and ammonia (NH_3) for the1997 annual $PM_{2.5}$ NAAQS in order to meet the emissions inventory requirements of section 172(c)(3) of the CAA. In addition, the maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs used for transportation conformity purposes for Berkeley County, West Virginia for the 1997 annual $PM_{2.5}$ NAAQS.

On April 16, 2014, the notice of proposed rulemaking (NPR) was signed by the Regional Administrator for this rulemaking action. This NPR was published in the **Federal Register** on May 5, 2014 (79 FR 25540) and included proposals for several rulemaking actions. First, EPA proposed to find that the Martinsburg Area met the requirements for redesignation of the Area for the 1997 annual $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. Second, EPA proposed approval of the associated maintenance plan as a SIP revision for the 1997 annual $PM_{2.5}$ NAAQS, which included the 2017 and 2025 for $PM_{2.5}$ and NO_X MVEBs for purposes of transportation conformity. Third, EPA proposed approval of the 2007 comprehensive emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS to meet the requirements of section 172(c)(3) of the CAA. Finally, EPA proposed to find that the Area continues to attain the1997 annual $PM_{2.5}$ NAAQS.

In the May 5, 2014 NPR, EPA addressed the effects of one order and two decisions of the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) on the approval of the redesignation request and approval: (1) The D.C. Circuit Court's December 30, 2011 order staying Cross-State Air Pollution Control Rule (CSAPR) (*i.e.* Transport Rule) pending resolution of the petitions for review of that rule in *EME Homer City Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases); (2) the D.C. Circuit Court's August 21, 2012 decision to vacate and remand to EPA the CSAPR; and, (3) the D.C. Circuit Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 annual $PM_{2.5}$ standard. Details of West Virginia's submittal and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Since the Regional Administrator's signature of the NPR on April 16, 2014, the Supreme Court issued a decision and order, and the D.C. Circuit Court issued an order regarding the status of EPA's regional trading programs for transported air pollution, Clean Air Interstate Rule (CAIR) and CSAPR. On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). However, this April 29, 2014 Supreme Court decision did not lift the stay on the implementation of CSAPR issued by the D.C. Circuit Court by order dated December 30, 2011. In light of the April 29, 2014 Supreme Court decision, on June 26, 2014, EPA moved to have the D.C. Circuit Court's December 30, 2011 stay of CSAPR lifted. *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its motion, EPA asked the D.C. Circuit Court to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit Court granted EPA's motion and lifted the stay of CSAPR which was imposed on December 30, 2011. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. EPA intends to act in accordance with the D.C. Circuit Court's October 23, 2014 order and will commence implementation of CSAPR beginning January 2015 pursuant to the D.C. Circuit Court's directive lifting the stay.

Also, in the May 5, 2014 NPR, EPA discussed the January 4, 2013 D.C. Circuit Court's decision regarding subpart 4 and a proposed rule, ''Identification of Nonattainment Classification and Deadlines for Submission of SIP Provisions for the 1997 and 2006 $PM_{2.5}$ NAAQS'' (the $PM_{2.5}$ Subpart 4 Classification and Deadline Rule) that EPA issued on November 21, 2013 (78 FR 69806), which identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 annual and/or 2006 24-hour $PM_{2.5}$ standards. On June 2, 2014 (79 FR 31566), EPA finalized the rule.

II. Final Action

EPA is taking final action on the redesignation request and SIP revisions submitted by the State of West Virginia on August 5, 2013 for the West Virginia portion of the Martinsburg Area for the 1997 annual $PM_{2.5}$ NAAQS. EPA is approving West Virginia's redesignation request for the 1997 annual $PM_{2.5}$ NAAQS, because EPA has determined that the request meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA.

EPA is finding that the West Virginia portion of the Martinsburg Area has attained and is continuing to attain the 1997 annual $PM_{2.5}$ NAAQS. As explained in the NPR, West Virginia has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. The air quality modeling analysis conducted for the Transport Rule demonstrates that the Area would be able to attain the 1997 annual $PM_{2.5}$ NAAQS even in the absence of either CAIR or the Transport Rule. EPA's modeling projections show that the ambient monitors in the Area are expected to continue to maintain compliance in the 2012 and 2014 ''no CAIR'' base cases. Therefore, none of the ambient monitoring sites in the Area are ''receptors'' that EPA projects will have future nonattainment problems or difficulty maintaining the NAAQS. Given the D.C. Circuit Court's October 23, 2014 order lifting the stay on CSAPR, EPA expects the State's reliance on CAIR to be replaced with reliance on CSAPR beginning in January 2015. CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in the Eastern United States, including West Virginia, that significantly contribute to downwind nonattainment of the 1997 $PM_{2.5}$ and ozone NAAQS and 2006 $PM_{2.5}$ NAAQS. Because CSAPR should result in greater emissions reductions of SO_2 and NO_X than CAIR in West Virginia and neighboring states, EPA expects the West Virginia portion of the Martinsburg Area to continue to attain the 1997 annual $PM_{2.5}$ NAAQS through the implementation of CSAPR.

EPA is also approving the associated maintenance plan for the Martinsburg Area as a revision to the West Virginia SIP for the 1997 annual $PM_{2.5}$ NAAQS because it meets the requirements of section 175A of the CAA. In addition, EPA is approving the 2017 and 2025 $PM_{2.5}$ and NO_X MVEBs submitted by West Virginia for Berkeley County for transportation conformity purposes. Furthermore, EPA is approving the 2007 comprehensive emissions inventory for the 1997 annual $PM_{2.5}$ NAAQS as a revision to the West Virginia SIP because it meets the requirements of section 172(c)(3) of the CAA. Approval of this redesignation request will change the official designation of the West Virginia portion of the Martinsburg Area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, approving the redesignation request, the maintenance plan, MVEBs, and the 2007 comprehensive emissions inventory for the West Virginia portion of the Martinsburg Area for the 1997 annual $PM_{2.5}$ NAAQS, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 6, 2014.

William C. Early,

Acting Regional Administrator, Region III.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding a new entry ''1997 Annual $PM_{2.5}$ Maintenance Plan for the West Virginia Portion of the Martinsburg, WV-Hagerstown, MD Area'' at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
1997 Annual $PM_{2.5}$ Maintenance Plan for the West Virginia Portion of the Martinsburg WV-Hagerstown, MD Area.	Berkeley County	8/5/13	11/25/14 [Insert **Federal Register** citation].	See § 52.2526(k), § 52.2531(h) and § 52.2532(f).

■ 3. Section 52.2526 is amended by adding paragraph (k) to read as follows:

§ 52.2526 Control strategy: Particulate matter.

* * * * *

(k) EPA approves the 1997 annual $PM_{2.5}$ maintenance plan for the West Virginia portion of the Martinsburg WV-Hagerstown, MD Nonattainment Area (Berkeley County). The maintenance plan includes the 2017 and 2025 $PM_{2.5}$ and NO_X mobile vehicle emissions budgets (MVEBs) for Berkeley County for transportation conformity purposes.

■ 4. Section 52.2531 is amended by adding paragraph (h) to read as follows:

§ 52.2531 Base year emissions inventory.

* * * * *

(h) EPA approves as a revision to the West Virginia State Implementation Plan the comprehensive emissions inventory for the West Virginia portion for the Martinsburg WV-Hagerstown, MD $PM_{2.5}$ nonattainment area submitted by the West Virginia Department of Environmental Protection on August 5, 2013. The emissions inventory includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources, onroad mobile sources and biogenic sources. The pollutants that comprise the inventory are nitrogen oxides (NO_X), volatile organic compounds (VOC), $PM_{2.5}$, ammonia (NH_3), and sulfur dioxide (SO_2).

■ 5. Section 52.2532 is amended by adding paragraph (f) to read as follows:

§ 52.2532 Motor vehicle emissions budgets.

* * * * *

(f) EPA approves the following revised 2017 and 2025 motor vehicle emissions budgets (MVEBs) for the West Virginia portion of the Martinsburg WV-Hagerstown, MD for the 1997 Annual $PM_{2.5}$ maintenance area submitted by the Secretary of the Department of Environmental Protection on August 5, 2013:

Applicable geographic area	Year	Tons per year $PM_{2.5}$	Tons per year NO_X
Martinsburg Area (Berkeley County)	2017	83	2,621
Martinsburg Area (Berkeley County)	2025	50	1,660

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 6. The authority citation for part 81 continues to read as follows:

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

■ 7. Section 81.349 is amended by revising the entry for ''Martinsburg, WV-Hagerstown, MD: Berkeley County'' and footnote 2 at the end of the table titled ''West Virginia—1997 Annual $PM_{2.5}$ NAAQS'' to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated Area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
* * * *	*	*	*	*
Martinsburg, WV-Hagerstown, MD:				
Berkeley County	11/25/14	Attainment		Moderate
* * * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

[FR Doc. 2014–27751 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–R06–OAR–2008–0074; FRL–9919–74–Region 6]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delegation of authority.

SUMMARY: The Texas Commission on Environmental Quality (TCEQ) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by the Environmental Protection Agency (EPA) at 40 CFR part 63, as amended between April 13, 2004 and April 24, 2013. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ.

DATES: This rule is effective on January 26, 2015 without further notice, unless EPA receives relevant adverse comment by December 26, 2014. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2008–0074, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Mr. Rick Barrett at *barrett.richard@epa.gov.* Please also

send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• Mail or delivery: Mr. Rick Barrett, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2008–0074. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. 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 and 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: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7253.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett (6PD–R), Air Permits Section, telephone (214) 665–7227; email: *barrett.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refers to EPA.

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I. What does this action do?

EPA is taking direct final action to approve the delegation of certain NESHAPs to TCEQ. With this delegation, TCEQ has the primary responsibility to implement and enforce the delegated standards. See sections V and VI, below, for a discussion of which standards are being delegated and which are not being delegated.

II. What is the authority for delegation?

Section 112(l) of the CAA, and 40 CFR part 63, subpart E, authorizes EPA to delegate authority to any State or local agency which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The hazardous air pollutant standards are codified at 40 CFR part 63.

III. What criteria must Texas' program meet to be approved?

Section 112(l) of the CAA enables EPA to approve State air toxics programs or rules to operate in place of the Federal air toxics program or rules. 40 CFR part 63, subpart E (subpart E) governs EPA's approval of State rules or programs under section 112(l).

EPA will approve an air toxics program if we find that:

(1) The State program is ''no less stringent'' than the corresponding Federal program or rule;

(2) The State has adequate authority and resources to implement the program;

(3) The schedule for implementation and compliance is sufficiently expeditious; and

(4) The program otherwise complies with Federal guidance.

In order to obtain approval of its program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), only the criteria of 40 CFR 63.91(d) must be met. 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d) for part 70 sources.

IV. How did TCEQ meet the Subpart E approval criteria?

As part of its Title V submission, TCEQ stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 into its regulations. This applied to both existing and future standards as they applied to part 70 sources ((60 FR 30444 (June 7, 1995) and 61 FR 32699 (June 25, 1996)). On December 6, 2001, EPA promulgated final full approval of the State's operating permits program effective November 30, 2001 (66 FR 63318). The TCEQ was originally delegated the authority to implement certain NESHAPs effective May 17, 2005 (70 FR 13108). Under 40 CFR 63.91(d)(2), once a State has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. TCEQ has affirmed that it still meets the up-front approval criteria.

V. What is being delegated?

By letter dated January 16, 2008, TCEQ requested EPA to update its existing NESHAP delegation. The TCEQ requests delegation of certain Part 63 NESHAPs for all sources (both part 70 and non-part 70 sources). TCEQ's request included newly incorporated NESHAPs promulgated by EPA and amendments to existing standards currently delegated, as amended between April 13, 2004 and October 29, 2007. These NESHAP were adopted by the TCEQ on December 5, 2007.

By letter dated August 28, 2013, EPA received a second request from TCEQ to update its existing NESHAP delegation. The TCEQ requests delegation of certain Part 63 NESHAPs for all sources (both part 70 and non-part 70 sources). TCEQ's request included newly incorporated NESHAPs promulgated by EPA and amendments to existing standards that are currently delegated, as amended between October 30, 2007 and April 24, 2013. These NESHAP

were adopted by the TCEQ on July 26, 2013.

VI. What is not being delegated?

EPA cannot delegate to a State any of the Category II Subpart A authorities set forth in 40 CFR 63.91(g) (2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. In addition, some Part 63 standards have certain provisions that cannot be delegated to the States. Therefore, any Part 63 standard that EPA is delegating to TCEQ that provides that certain authorities cannot be delegated are retained by EPA and not delegated. Furthermore, no authorities are delegated that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. Finally, section 112(r), the accidental release program authority, is not being delegated by this approval.

All of the inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Texas should be directed to the EPA Region 6 Office.

In addition, this delegation to TCEQ to implement and enforce certain NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Under this definition, EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because TCEQ has not submitted information to demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

VII. How will applicability determinations under Section 112 be made?

In approving this delegation, TCEQ will obtain concurrence from EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR part 63 to the extent that implementation, administration, or enforcement of these sections have not been covered by EPA determinations or guidance.

VIII. What authority does EPA have?

We retain the right, as provided by CAA section 112(l)(7), to enforce any applicable emission standard or requirement under section 112. EPA also has the authority to make certain decisions under the General Provisions (subpart A) of part 63. We are granting TCEQ some of these authorities, and retaining others, as explained in sections V and VI above. In addition, EPA may review and disapprove of State determinations and subsequently require corrections. (*See* 40 CFR 63.91(g) and 65 FR 55810, 55823, September 14, 2000, as amended at 70 FR 59887, October 13, 2005; 72 FR 27443, May 16, 2007.)

Furthermore, we retain any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in the footnotes of the part 63 delegation table at the end of this rule are the authorities that cannot be delegated to any State or local agency which we therefore retain.

IX. What information must TCEQ provide to EPA?

TCEQ must provide any additional compliance related information to EPA, Region 6, Office of Enforcement and Compliance Assurance within 45 days of a request under 40 CFR 63.96(a).

In receiving delegation for specific General Provisions authorities, TCEQ must submit to EPA Region 6 on a semi-annual basis, copies of determinations issued under these authorities. For part 63 standards, these determinations include: Section 63.1, Applicability Determinations; Section 63.6(e), Operation and Maintenance Requirements—Responsibility for Determining Compliance; Section 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; Section 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; Sections 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; Section 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; Section 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; Section 63.7(e)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; Sections 63.7(e)(2)(iv), (h)(2), and (h)(3), Waiver of Performance Testing; Sections 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; Section 63.8(f), Approval of Minor Alternatives to Monitoring; Section 63.8(f), Approval of Intermediate Alternatives to Monitoring; Section 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; Section 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; Section 63.7(a)(4), Extension of Performance Test Deadline.

X. What is EPA's oversight of this delegation to TCEQ?

EPA must oversee TCEQ's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that TCEQ made decisions that decreased the stringency of the delegated standards, then TCEQ shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by 40 CFR 63.91(g)(1)(ii). We will initiate withdrawal of the program or rule if the corrective actions taken are insufficient.

XI. Should sources submit notices to EPA or TCEQ?

For the NESHAPs being delegated and included in the table below, all of the information required pursuant to the general provisions and the relevant subpart of the Federal NESHAP (40 CFR part 63) should be submitted by sources located outside of Indian country, directly to the TCEQ at the following address: Texas Commission on Environmental Quality, Office of Permitting, Remediation and Registration, Air Permits Division (MC 163), P.O. Box 13087, Austin, Texas 78711–3087. The TCEQ is the primary point of contact with respect to delegated NESHAPs. Sources do not need to send a copy to EPA. EPA Region 6 waives the requirement that notifications and reports for delegated standards be submitted to EPA in addition to TCEQ in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii). For those standards that are not delegated, sources must continue to submit all appropriate information to EPA.

XII. How will unchanged authorities be delegated to TCEQ in the future?

In the future, TCEQ will only need to send a letter of request to EPA, Region 6, for NESHAP regulations that TCEQ has adopted by reference. The letter must reference the previous up-front approval demonstration and reaffirm that it still meets the up-front approval criteria. We will respond in writing to

the request stating that the request for delegation is either granted or denied. A **Federal Register** action will be published to inform the public and affected sources of the delegation, indicate where source notifications and reports should be sent, and to amend the relevant portions of the Code of Federal Regulations showing which NESHAP standards have been delegated to TCEQ.

XIII. Final Action

The public was provided the opportunity to comment on the proposed approval of the program and mechanism for delegation of section 112 standards, as they apply to part 70 sources, on June 7, 1995, for the proposed interim approval of TCEQ's Title V operating permits program; and on October 11, 2001, for the proposed final approval of TCEQ's Title V operating permits program. In EPA's final full approval of Texas' Operating Permits Program on December 6, 2001 (66 FR 63318), the EPA discussed the public comments on the proposed final delegation of the Title V operating permits program. In today's action, the public is given the opportunity to comment on the approval of TCEQ's request for delegation of authority to implement and enforce certain section 112 standards for all sources (both part 70 and non-part 70 sources) which have been adopted by reference into Texas' state regulations. However, the Agency views the approval of these requests as a noncontroversial action and anticipates no adverse comments. Therefore, EPA is publishing this rule without prior proposal. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the program and delegation of authority described in this action if adverse comments are received. This action will be effective January 26, 2015 without further notice unless the Agency receives relevant adverse comments by December 26, 2014.

If EPA receives relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

XIV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

The delegation 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. This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state request to receive delegation of certain Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing delegation submissions, EPA's role is to approve submissions provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a delegation submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA to use VCS in place of a delegation submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 26, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 12, 2014.

Bill Luthans,

Acting Director, Multimedia Planning and Permitting Division, Region 6.

40 CFR part 63 is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 2. Section 63.99 is amended by revising paragraph (a)(44)(i) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(44) *Texas.*(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Texas Commission on Environmental Quality for all sources. The ''X'' symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after April 24, 2013 are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF TEXAS [1]

Subpart	Source category	TCEQ [2]
A	General Provisions	X
F	Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI).	X
G	HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater.	X
H	HON—Equipment Leaks	X
I	HON—Certain Processes Negotiated Equipment Leak Regulation	X
J	Polyvinyl Chloride and Copolymers Production	(3)
K	(Reserved)	
L	Coke Oven Batteries	X
M	Perchloroethylene Dry Cleaning	X
N	Chromium Electroplating and Chromium Anodizing Tanks	X
O	Ethylene Oxide Sterilizers	X
P	(Reserved)	
Q	Industrial Process Cooling Towers	X
R	Gasoline Distribution	X
S	Pulp and Paper Industry	X
T	Halogenated Solvent Cleaning	X
U	Group I Polymers and Resins	X
V	(Reserved)	
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X
X	Secondary Lead Smelting	X
Y	Marine Tank Vessel Loading	X
Z	(Reserved)	
AA	Phosphoric Acid Manufacturing Plants	X
BB	Phosphate Fertilizers Production Plants	X
CC	Petroleum Refineries	X
DD	Off-Site Waste and Recovery Operations	X
EE	Magnetic Tape Manufacturing	X
FF	(Reserved)	
GG	Aerospace Manufacturing and Rework Facilities	X
HH	Oil and Natural Gas Production Facilities	X
II	Shipbuilding and Ship Repair Facilities	X
JJ	Wood Furniture Manufacturing Operations	X
KK	Printing and Publishing Industry	X
LL	Primary Aluminum Reduction Plants	X
MM	Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills.	X
NN	(Reserved)	
OO	Tanks-Level 1	X
PP	Containers	X
QQ	Surface Impoundments	X
RR	Individual Drain Systems	X
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	
TT	Equipment Leaks—Control Level 1	X
UU	Equipment Leaks—Control Level 2 Standards	X
VV	Oil—Water Separators and Organic—Water Separators	X
WW	Storage Vessels (Tanks)—Control Level 2	X
XX	Ethylene Manufacturing Process Units Heat Exchange Systems and Waste Operations.	X
YY	Generic Maximum Achievable Control Technology Standards	X
ZZ–BBB	(Reserved)	
CCC	Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration	X
DDD	Mineral Wool Production	X
EEE	Hazardous Waste Combustors	X
FFF	(Reserved)	

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF TEXAS [1]—Continued

Subpart	Source category	TCEQ [2]
GGG	Pharmaceuticals Production	X
HHH	Natural Gas Transmission and Storage Facilities	X
III	Flexible Polyurethane Foam Production	X
JJJ	Group IV Polymers and Resins	X
KKK	(Reserved)	
LLL	Portland Cement Manufacturing	X
MMM	Pesticide Active Ingredient Production	X
NNN	Wool Fiberglass Manufacturing	X
OOO	Amino/Phenolic Resins	X
PPP	Polyether Polyols Production	X
QQQ	Primary Copper Smelting	X
RRR	Secondary Aluminum Production	X
SSS	(Reserved)	
TTT	Primary Lead Smelting	X
UUU	Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants.	X
VVV	Publicly Owned Treatment Works (POTW)	X
WWW	(Reserved)	
XXX	Ferroalloys Production: Ferromanganese and Silicomanganese	X
AAAA	Municipal Solid Waste Landfills	X
CCCC	Nutritional Yeast Manufacturing	X
DDDD	Plywood and Composite Wood Products	X [4]
EEEE	Organic Liquids Distribution	X
FFFF	Misc. Organic Chemical Production and Processes (MON)	X
GGGG	Solvent Extraction for Vegetable Oil Production	X
HHHH	Wet Formed Fiberglass Mat Production	X
IIII	Auto & Light Duty Truck (Surface Coating)	X
JJJJ	Paper and other Web (Surface Coating)	X
KKKK	Metal Can (Surface Coating)	X
MMMM	Misc. Metal Parts and Products (Surface Coating)	X
NNNN	Surface Coating of Large Appliances	X
OOOO	Fabric Printing Coating and Dyeing	X
PPPP	Plastic Parts (Surface Coating)	X
QQQQ	Surface Coating of Wood Building Products	X
RRRR	Surface Coating of Metal Furniture	X
SSSS	Surface Coating for Metal Coil	X
TTTT	Leather Finishing Operations	X
UUUU	Cellulose Production Manufacture	X
VVVV	Boat Manufacturing	X
WWWW	Reinforced Plastic Composites Production	X
XXXX	Tire Manufacturing	X
YYYY	Combustion Turbines	X
ZZZZ	Reciprocating Internal Combustion Engines (RICE)	X
AAAAA	Lime Manufacturing Plants	X
BBBBB	Semiconductor Manufacturing	X
CCCCC	Coke Ovens: Pushing, Quenching and Battery Stacks	X
DDDDD	Industrial/Commercial/Institutional Boilers and Process Heaters Major Sources	X [5]
EEEEE	Iron Foundries	X
FFFFF	Integrated Iron and Steel	X
GGGGG	Site Remediation	X
HHHHH	Miscellaneous Coating Manufacturing	X
IIIII	Mercury Cell Chlor-Alkali Plants	X
JJJJJ	Brick and Structural Clay Products Manufacturing	([6])
KKKKK	Clay Ceramics Manufacturing	([6])
LLLLL	Asphalt Roofing and Processing	X
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X
NNNNN	Hydrochloric Acid Production, Fumed Silica Production	X
OOOOO	(Reserved)	
PPPPP	Engine Test Facilities	X
QQQQQ	Friction Products Manufacturing	X
RRRRR	Taconite Iron Ore Processing	X
SSSSS	Refractory Products Manufacture	X
TTTTT	Primary Magnesium Refining	X
UUUUU	Coal and Oil-Fired Electric Utility Steam Generating Units	X [7]
VVVVV	(Reserved)	
WWWWW	Hospital Ethylene Oxide Sterilizers Area Sources	X
XXXXX	(Reserved)	
YYYYY	Electric Arc Furnace Steelmaking Facilities Area Sources	X
ZZZZZ	Iron and Steel Foundries Area Sources	X
AAAAAA	(Reserved)	
BBBBBB	Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities Area Sources.	X

DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF TEXAS [1]—Continued

Subpart	Source category	TCEQ [2]
CCCCCC	Gasoline Dispensing Facilities Area Sources	X
DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	X
EEEEEE	Primary Copper Smelting Area Sources	X
FFFFFF	Secondary Copper Smelting Area Sources	X
GGGGGG	Primary Nonferrous Metals Area Sources: Zinc, Cadmium, and Beryllium	X
HHHHHH	Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources	X
IIIIII	(Reserved)	
JJJJJJ	Industrial, Commercial, and Institutional Boilers Area Sources	X
KKKKKK	(Reserved)	
LLLLLL	Acrylic and Modacrylic Fibers Production Area Sources	X
MMMMMM	Carbon Black Production Area Sources	X
NNNNNN	Chemical Manufacturing Area Sources: Chromium Compounds	X
OOOOOO	Flexible Polyurethane Foam Production and Fabrication Area Sources	X
PPPPPP	Lead Acid Battery Manufacturing Area Sources	X
QQQQQQ	Wood Preserving Area Sources	X
RRRRRR	Clay Ceramics Manufacturing Area Sources	X
SSSSSS	Glass Manufacturing Area Sources	X
TTTTTT	Secondary Nonferrous Metals Processing Area Sources	X
UUUUUU	(Reserved)	
VVVVVV	Chemical Manufacturing Area Sources	X
WWWWWW	Plating and Polishing Operations Area Sources	X
XXXXXX	Metal Fabrication and Finishing Area Sources	X
YYYYYY	Ferroalloys Production Facilities Area Sources	X
ZZZZZZ	Aluminum, Copper, and Other Nonferrous Foundries Area Sources	X
AAAAAAA	Asphalt Processing and Asphalt Roofing Manufacturing Area Sources	X
BBBBBBB	Chemical Preparations Industry Area Sources	X
CCCCCCC	Paints and Allied Products Manufacturing Area Sources	X
DDDDDDD	Prepared Feeds Manufacturing Area Sources	X
EEEEEEE	Gold Mine Ore Processing and Production Area Sources	
FFFFFFF–GGGGGGG	(Reserved)	
HHHHHHH	Polyvinyl Chloride and Copolymers Production Major Sources	X

[1] Program delegated to Texas Commission on Environmental Quality (TCEQ).

[2] Authorities which may not be delegated include: § 63.6(g), Approval of Alternative Non-Opacity Emission Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting; and all authorities identified in the subparts (*e.g.,* under ''Delegation of Authority'') that cannot be delegated.

[3] The TCEQ was previously delegated this subpart on May 17, 2005 (*70 FR 13018*). The subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Mossville Environmental Action Network* v. *EPA,* 370 F. 3d 1232 (D.C. Cir. 2004). Because of the D.C. Court's holding, this subpart is not delegated to TCEQ at this time.

[4] This subpart was issued a partial vacatur on October 29, 2007 (72 FR 61060) by the United States Court of Appeals for the District of Columbia Circuit.

[5] Final rule. See 78 FR 7138 (January 31, 2013).

[6] TCEQ was previously delegated this subpart on May 2, 2006 (71 FR 25753). This subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Sierra Club* v. *EPA,* 479 F. 3d 875 (D.C. Cir. 2007). Because of the D.C. Court's holding, this subpart is not delegated to TCEQ at this time.

[7] Initial Final Rule. See 77 FR 9304 (February 16, 2012). Final on reconsideration of certain new source issues. See 78 FR 24073 (April 24, 2013). Portions of this subpart are in proposed reconsideration pending final action. See 78 FR 38001 (June 25, 2013).

* * * * *

[FR Doc. 2014–27909 Filed 11–24–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R07–RCRA–2014–0452; FRL–9919–72–Region–7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting the petition submitted by John Deere Des Moines Works (John Deere) of Deere & Company, in Ankeny, Iowa to exclude or ''delist'' up to 600 tons per calendar year of F006/F019 wastewater treatment sludge filter cake generated by John Deere's wastewater treatment system from the list of hazardous wastes. This final rule responds to a petition submitted by John Deere to delist up to 600 tons per calendar year of F006/F019 wastewater treatment sludge filter cake generated by John Deere's wastewater treatment system from the list of hazardous wastes.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. The F006/F019 exclusion is a conditional exclusion for 600 cubic yards per year of the F006/F019 wastewater treatment sludge.

Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: This final rule is effective on November 25, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–RCRA–2014–0452. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy by contacting the further information contact below. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: Kenneth Herstowski, Waste Remediation and Permits Branch, Air and Waste Management Division, EPA Region 7, 11201 Renner Blvd., Lenexa, KS 66219; telephone number (913) 551–7631; email address: *herstowski.ken@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information
A. What action is EPA finalizing?
B. Why is EPA approving this action?
C. What are the limits of this exclusion?
D. How will John Deere manage the waste, when delisted?
E. When is the final delisting exclusion effective?
F. How Does this final rule affect States?
II. Background
A. What is a delisting petition?
B. What regulations allow facilities to delist a waste?
C. What information must the generator supply?
III. EPA's Evaluation of the Waste Information and Data
A. What waste did John Deere petition EPA to delist?
B. How much waste did John Deere propose to delist?
C. How did John Deere sample and analyze the waste data in this petition?
IV. Public Comments Received on the Proposed Exclusions
V. Statutory and Executive Order Reviews

I. Overview Information

A. What action is EPA finalizing?

After evaluating the petition for John Deere, EPA proposed, on August 20, 2014 (79 FR 49252), to exclude the waste from the lists of hazardous waste under section 261.31. EPA is finalizing the decision to grant John Deere's delisting petition to have its F006/F019 wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste, once it is disposed in a Subtitle D landfill.

B. Why is EPA approving this action?

John Deere's petition requests a delisting from the F006/F019 waste listing under 40 CFR 260.20 and 260.22. John Deere does not believe that the petitioned waste meets the criteria for which EPA listed it. John Deere also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See Section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in Sec. 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. (If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the wastes to be hazardous. EPA considered whether the waste is acutely toxic, the concentrations of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's final decision to delist the waste from John Deere's facility is based on the information submitted in support of this rule, including a description of the waste and analytical data from the John Deere Des Moines, Ankeny, Iowa, facility.

C. What are the limits of this exclusion?

This exclusion applies to the waste described in John Deere's petition only if the requirements described in 40 CFR part 261, appendix IX, table 1 and the conditions contained herein are satisfied.

D. How will John Deere manage the waste, when delisted?

The delisted F006/F019 wastewater treatment sludge will be disposed of in a Subtitle D landfill which is permitted, licensed or otherwise authorized by a state to manage industrial waste.

E. When is the final delisting exclusion effective?

This rule is effective November 25, 2014. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA, 42 U.S.C. 6930(b)(1), allows rules to become effective in less than six months after the rule is published when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous waste. This reduction in existing requirements also provides a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How does this final rule affect States?

EPA is issuing this exclusion under the Federal RCRA delisting program. Thus, upon the exclusion being finalized, the wastes covered will be removed from Subtitle C control under the Federal RCRA program. This will mean, first, that the wastes will be delisted in any State or territory where the EPA is directly administering the RCRA program (*e.g.,* Iowa, Indian Country). However, whether the wastes will be delisted in states which have been authorized to administer the RCRA program will vary depending upon the authorization status of the States and the particular requirements regarding delisted wastes in the various states.

Some other generally authorized states have not received authorization for delisting. Thus, the EPA makes delisting determinations for such states. However, RCRA allows states to impose their own regulatory requirements that are more stringent than EPA's, under Section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the state, or that requires a state concurrence before the Federal exclusion takes effect, or that allows the state to add conditions to any Federal exclusion. We urge the petitioner to contact the state regulatory authority in each state to or through which it may wish to ship its wastes to establish the status of its wastes under the state's laws.

EPA has also authorized some states to administer a delisting program in place of the Federal program, that is, to make state delisting decisions. In such states, the state delisting requirements operate in lieu of the Federal delisting requirements. Therefore, this exclusion does not apply in those authorized states unless the state makes the rule part of its authorized program. If John Deere transports the federally excluded waste to or manages the waste in any state with delisting authorization, John

Deere must obtain a delisting authorization from that state before it can manage the waste as non-hazardous in that state.

II. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to EPA or to an authorized state to exclude or delist, from the RCRA list of hazardous wastes, waste the generator believes should not be considered hazardous under RCRA.

B. What regulations allow facilities to delist a waste?

Under Sec. 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste regulation by excluding them from the lists of hazardous wastes contained in Sec. 261.31 and 261.32. Specifically, Sec. 260.20 allows any person to petition the Administrator to modify or revoke any provision of 40 CFR parts 260 through 265 and 268. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste from a particular generating facility from the hazardous waste lists.

C. What information must the generator supply?

Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste and that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Information and Data

A. What waste did John Deere petition EPA to delist?

On January 28, 2014, John Deere (through its consultant) petitioned EPA to exclude from the lists of hazardous waste contained in Section 261.31 and 261.32, F006/F019 wastewater treatment sludge, generated from its John Deere Des Moines facility in Ankeny, Iowa.

B. How much waste did John Deere propose to delist?

John Deere requested that EPA grant an exclusion for 600 cubic yards per year of F006/F019 wastewater treatment sludge.

C. How did John Deere sample and analyze the waste data in this petition?

To support its petition, John Deere submitted: (1) Facility information on production processes and waste generation processes; (2) initial Filter Cake composite sample analytical results to determine constituents of concern (COC); and (3) Analytical results from six composite samples of Filter Cake for the COC. The initial sample was analyzed for EPA's list of hazardous constituents in 40 CFR part 261, Appendix VIII, pesticides, PCBs. The COC selected from the initial composite sample results are barium, chromium, hexavalent chromium, copper, lead, mercury, nickel, vanadium, zinc, cyanide, acetone and methyl ethyl ketone. Both total and leachable concentrations of the COC in the Filter Cake were determined.

John Deere generated the sampling data used in the Delisting Risk Assessment Software (DRAS) under a Sampling Plan and Quality Assurance Project Plan (June 2012 Revision). EPA believes that the sampling procedures used by John Deere satisfy EPA's criteria for collecting representative samples of the F006/F019 waste.

IV. Public Comments Received on the Proposed Exclusions

No comments were received during the comment period.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to Sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in Section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by Section 3 of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The Congressional Review Act, 5 U.S. C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from Section 801 the following types of rules (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect

the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under Section 801 because this is a rule of particular applicability. Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The Agency's risk assessment did not identify risks from management of this material in a Subtitle D landfill. Therefore, EPA believes that any populations in proximity of the landfills used by this facility should not be adversely affected by common waste management practices for this delisted waste.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f), RCRA, 42 U.S.C. 6921(f).

Dated: November 11, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons set out in the preamble, EPA amends 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S. C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX to part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
John Deere Des Moines Works of Deere & Company.	Ankeny, IA	Wastewater Treatment Sludge Filter Cake (WWTS Filter Cake) (Hazardous Waste No. F006/F019) generated from combined onsite wastewater treatment at the Ankeny, IA, facility wastewater treatment plant at a maximum annual rate of 600 tons per calendar year and disposed of in a Subtitle D Landfill which is licensed, permitted, or otherwise authorized by a state to accept the delisted WWTS Filter Cake. John Deere must implement a testing program that meets the following conditions for the exclusion to be valid: 1. Delisting Levels: (A) The WWTS Filter Cake shall not exhibit any of the ''Characteristics of Hazardous Waste in 40 CFR 261, Subpart C. (B) All TCLP leachable concentrations (40 CFR 261.24(a)) for the following constituents must not exceed the following levels (mg/L for TCLP): Arsenic—5.0; Barium—100.0; Cadmium—1.0; Chromium—5.0; Lead—5.0; Mercury 0.2; and Nickel—32.4. (C) EPA SW—846 Method 1313 Extraction at pH 2.88, 7 and 13 concentration of Chromium (hexavalent) must not exceed (mg/l) 0.087. (D) All total concentrations for the following constituents must not exceed the following levels (mg/kg): Antimony—103; Arsenic—52; Barium—965; Beryllium—21; Cadmium—10; Chromium (total)—22,500; Cobalt—11; Copper—1439; Lead—437; Nickel—1,515; Selenium—52; Silver—26; Thallium—52; Tin—68; Vanadium—380; Zinc—5,085; Mercury—1; Chromium (hexavalent)—20; Cyanide—3, Oil and Grease—32,250; Acetone—8; Methyl Ethyl Ketone (MEK)—0.3. 2. Waste Handling and Holding: (A) John Deere must manage as hazardous all WWTS Filter Cake generated until it has completed initial verification testing described in paragraph (3)(A) and valid analyses show that paragraph (1) is satisfied and written approval is received from EPA. (B) Levels of constituents measured in the samples of the WWTS Filter Cake that do not (1) exceed the levels set forth in paragraph (1) for two consecutive quarterly sampling events are non-hazardous. After approval is received from EPA, John Deere can manage and dispose of the non-hazardous WWTS Filter Cake according to all applicable solid waste regulations. (C) Not withstanding having received the initial approval from EPA, if constituent levels in a later sample exceed any of the Delisting Levels set in paragraph (1), from that point forward, John Deere must treat all the waste covered by this exclusion as hazardous until it is demonstrated that the waste again meets the levels in paragraph (1). John Deere must manage and dispose of the waste generated under Subtitle C of RCRA from the time that it becomes aware of any exceedance.

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		3. Verification Testing Requirements: John Deere must perform sample collection and analyses in accordance with the Quality Assurance Project Plan submitted with the ''John Deere Des Moines, Iowa, Sampling and Analysis Plan for Delisting of F006 and F019 Filter Cake, June 2012.'' All samples shall be representative composite samples according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B,1110A, 1310B, 1311, 1312, 1313, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the John Deere sludge are representative for all constituents listed in paragraph (1). To verify that the waste does not exceed the specified delisting concentrations, for one year after the final exclusion is granted, John Deere must perform quarterly analytical testing by sampling and analyzing the WWTP sludge as follows: (A) Quarterly Testing: (i) Collect two representative composite samples of the WWTS Filter Cake at quarterly intervals after EPA grants the final exclusion. The first composite samples must be taken within 30 days after EPA grants the final approval. The second set of samples must be taken at least 30 days after the first set. (ii) Analyze the samples for all constituents listed in paragraph (1). Any waste regarding which a composite sample is taken that exceeds the delisting levels listed in paragraph (1) for the sludge must be disposed as hazardous waste in accordance with the applicable hazardous waste requirements from the time that John Deere becomes aware of any exceedance. (iii) Within thirty (30) days after taking each quarterly sample, John Deere will report its analytical test data to EPA. If levels of constituents measured in the samples of the sludge do not exceed the levels set forth in paragraph (1) of this exclusion for two consecutive quarters, and EPA concurs with those findings, John Deere can manage and dispose the non-hazardous sludge according to all applicable solid waste regulations. (B) Annual Testing: (i) If John Deere completes the quarterly testing specified in paragraph (3) above and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), John Deere may begin annual testing as follows: John Deere must test two representative composite samples of the WWTS Filter Cake (following the same protocols as specified for quarterly sampling, above) for all constituents listed in paragraph (1) at least once per calendar year. (ii) The samples for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken. (iii) John Deere shall submit an annual testing report to EPA with its annual test results, within thirty (30) days after taking each annual sample. The annual testing report also shall include the total amount of waste in tons disposed during the calendar year. 4. Changes in Operating Conditions: If John Deere significantly changes the manufacturing or treatment process described in the petition, or the chemicals used in the manufacturing or treatment process, it must notify the EPA in writing and may no longer handle the WWTS Filter Cake generated from the new process as non-hazardous unless and until the WWTS Filter Cake is shown to meet the delisting levels set in paragraph(1), John Deere demonstrates that no new hazardous constituents listed in appendix VIII of part 261 have been introduced, and John Deere has received written approval from EPA to manage the wastes from the new process under this exclusion. While the EPA may provide written approval of certain changes, if there are changes that the EPA determines are highly significant, the EPA may instead require John Deere to file a new delisting petition. 5. Data Submittals and Recordkeeping: John Deere must submit the information described below. If John Deere fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (6). John Deere must: (A) Submit the data obtained through paragraph (3) to the Chief, Waste Remediation and Permits Branch, U.S. EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219, within the time specified. All supporting data can be submitted on CD–ROM or some comparable electronic media; (B) Compile, summarize, and maintain on site for a minimum of five years and make available for inspection records of operating conditions, including monthly and annual volumes of WWTS Filter Cake generated, analytical data, including quality control information and, copies of the notification(s) required in paragraph (7); (C) Submit with all data a signed copy of the certification statement in 40 CFR 260.22(i)(12).

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		6. Reopener: (A) If, any time after disposal of the delisted waste, John Deere possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other relevant data to the delisted waste indicating that any constituent is at a concentration in the leachate higher than the specified delisting concentration, then John Deere must report such data, in writing, to the Chief, Waste Remediation and Permits Branch, U.S. EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219 within 10 days of first possessing or being made aware of that data. (B) Based on the information described in paragraph (A) and any other information received from any source, the Regional Administrator, EPA Region 7, will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify John Deere in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing John Deere with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. John Deere shall have 30 days from the date of the Regional Administrator's notice to present the information. (D) If after 30 days John Deere presents no further information or after a review of any submitted information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise. 7. Notification Requirements: John Deere must do the following before transporting the delisted waste: (A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities (B) Update the one-time written notification if it ships the delisted waste into a different disposal facility. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision.
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[FR Doc. 2014–27780 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[WC Docket No. 10–90; DA 14–1569]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau adopts a specific methodology for calculating reasonable comparability benchmarks for fixed broadband services. The methodology the Commission adopts today establishes reasonable comparability broadband benchmarks that vary, depending on the supported service's download and upload bandwidths and usage allowance.

DATES: Effective December 26, 2014.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418–0626 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Wireline Competition Bureau's Report and Order in WC Docket No. 10–90; DA 14–1569, released October 29, 2014. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1569A1.pdf.*

I. Introduction

1. In this Report and Order (Order), the Wireline Competition Bureau (Bureau) adopts a specific methodology for calculating reasonable comparability benchmarks for fixed broadband services. In the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, the Commission required that as a condition of receiving high-cost support, eligible telecommunications carriers (ETCs) must offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas. The methodology we adopt today establishes reasonable comparability broadband benchmarks that vary, depending on the supported service's download and upload bandwidths and usage allowance. This approach recognizes that ETCs may choose to meet their broadband performance obligation with a service offering that exceeds the minimum requirements in one or more respects. The approach also is sufficiently flexible to account for any changes that the Commission may adopt regarding the required minimum performance characteristics.

2. The Bureau notes that because they are announcing the methodology late in the calendar year, the results for 2014 are illustrative and to inform parties that are potentially interested in bidding on Connect America funding for rural broadband experiments in the weeks ahead. The Bureau also will take into account the benchmarks published below when adjudicating Connect America Phase II challenges. The Bureau plans to announce the 2015 reasonable comparability benchmarks for fixed broadband services when the Bureau completes our analysis of the

data collected in the annual urban rate survey. The Bureau also waives on our own motion implementation of the reasonable comparability benchmarks for Alaska carriers for 2015 to allow further time to determine whether an alternative methodology should be adopted for Alaska.

II. Discussion

3. The Bureau now adopts a methodology that will be used annually to develop reasonable comparability benchmarks for fixed broadband services offered to residential and small business customers, using the data from the annual urban rate survey. The Bureau adopts its proposal to use a weighted linear regression to estimate the mean rate for a specific set of service characteristics and then to add two standard deviations to this mean to determine the benchmark for services meeting those defined service characteristics. Because broadband service has multiple characteristics (*i.e.,* download and upload bandwidth, usage allowance) that may affect its price, a regression is the most straightforward approach to developing an average urban rate that appropriately takes into account those varying service characteristics. The Bureau will annually develop an average urban rate through a regression approach, using data collected from the annual survey, and then determine reasonable comparability benchmarks that are two standard deviations above the average.

4. The Bureau adopts the Rural Associations' proposal to develop a single regression using a broader sample of observations, ranging in download speeds from 2 to 40 Mbps. Given that these benchmarks will be applicable to winning bidders in the rural broadband experiments, and those ETCs will be offering fixed broadband service to residential and small business locations significantly faster than the current 4/1 Mbps minimum, the Bureau concludes that it makes sense to include higher speed observations in the calculation. In addition, the Bureau calculates separate standard deviations for service offerings in the vicinity of 4/1 Mbps using observations where the download speed ranged from 2 up to 8 Mbps, and for services that exceed 8 Mbps downstream using observations with download speeds from 8 to 25 Mbps. The Bureau did so because they found that the standard deviation of rate differences from the average of services in the 8 to 25 Mbps range was higher than the standard deviation for services in the lower speed tier. The Bureau concludes that calculating two different standard deviations for the lower speed service and the higher speed service effectively addresses the Rural Associations' concern that these services are differentiated products. The Bureau incorporates this approach into the benchmark equations provided below.

5. In any given year, providers will need to determine the appropriate reasonable comparability benchmark based on the characteristics of the specific service offered to residential and small business customers that they are relying upon to meet their broadband performance obligations. To determine the applicable benchmark for a given service using the 2014 data, where a service is defined by its download, upload, and usage allowance, a provider would use equations developed based on the weighted regression methodology. For 2014, the equations are as follows:

For services with download speeds greater than or equal to 4 Mbps and less than or equal to 8 Mbps, the equation is

$$\text{Benchmark} = 69.5015 + 0.839703*\text{DOWNLOAD} + 1.44127*\text{UPLOAD} - 1710.68*K$$

For services with download speeds greater than 8 Mbps but less than or equal to 25 Mbps, the equation is

$$\text{Benchmark} = 75.6095 + 0.839703*\text{DOWNLOAD} + 1.44127*\text{UPLOAD} - 1710.68*K$$

6. In each equation, the variables *DOWNLOAD and UPLOAD* must be entered in units of Mbps. The variable *K* equals zero (0) if the service has an ''Unlimited'' monthly usage allowance, and the variable *K* equals (1/*USAGE ALLOWANCE*) if the usage allowance is not unlimited. The variable *USAGE ALLOWANCE* must be entered in the units of GB per month. Calculated benchmarks should be rounded up to the nearest cent. Examples of benchmark calculations for 2014 are provided below.

Upload speed/ download speed	Usage allowance	Reasonable comparability benchmark
4/1 Mbps	100 GB	$57.20
4/1 Mbps	Unlimited ...	74.31
10/1 Mbps ...	100 GB	68.35
10/1 Mbps ...	250 GB	78.61
10/1 Mbps ...	Unlimited ...	85.45
25/5 Mbps ...	250 GB	96.97
25/5 Mbps ...	Unlimited ...	103.81

7. To facilitate these calculations, the Bureau will post an Excel file and online tool in which providers can plug in the relevant variables to determine the benchmark for specific service characteristics at *http://www.fcc.gov/encyclopedia/urban-rate-survey-data.*

8. *Temporary Waiver of Benchmarks for Alaska.* On our own motion, the Bureau waives implementation of the reasonable comparability benchmarks for Alaska carriers for 2015 to allow further time to study this issue and determine whether an alternative methodology should be adopted for Alaska. The Bureau notes that the Commission has already relaxed the broadband public interest standards for carriers providing fixed broadband that rely upon satellite backhaul and has held that capacity requirements that generally apply will not apply to this subset of providers. The Bureau will consider in a future Public Notice whether and how to tailor our methodology to the unique circumstances of Alaska.

9. *Effect on the Connect America Phase II Challenge Process.* In the *Phase II Service Obligations Order,* 78 FR 70881, November 27, 2013, the Bureau adopted an interim presumption for rates to use in the Phase II challenge process, pending the publication of these reasonable comparability benchmarks. For situations where the potential competitor does not offer fixed wireline service in urban areas or does not serve an area where the incumbent itself offers broadband, the Bureau adopted interim benchmarks of $37 for voice service and $60 for broadband service to determine whether that competitor was offering reasonably comparable rates. The Bureau recognizes that challengers may have relied on the $60 interim figure in preparing their challenges, but note that parties replying to those challenges are free to present evidence that takes into account these announced benchmarks. For example, a price cap carrier may have been able to make a prima facie challenge that a potential competitor's price is over $60, but that competitor may now respond that its particular speed/usage combination is in fact reasonably comparable because it meets a benchmark the Bureau adopts. The Bureau will consider the totality of the evidence in adjudicating these Phase II challenges.

III. Procedural Matters

1. Paperwork Reduction Analysis

10. The Report and Order does not contain information collection requirements required by the Paperwork Reduction Act of 1995, Public Law 104–13.

2. Congressional Review Act

11. The Commission will not submit this Report and Order pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A) because the Commission has not yet defined the specific requirements associated with the standard adopted in this Report and Order. The Commission anticipates that when it does adopt the specific requirements applying the standard in this Report and Order, it will make all submissions required by the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

IV. Ordering Clause

12. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 5(c), 201(b), 214, and 254 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 154(i), 155(c), 201(b), 214, 254, 1302, sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91, 0.291, and the delegations of authority in paragraph 113 of the *USF/ICC Transformation Order,* FCC 11–161, this Report and Order *is adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**.

Federal Communications Commission.

Alexander A. Minard,

Deputy Chief, Telecommunications Access Policy Division Wireline Competition Bureau.

[FR Doc. 2014–27883 Filed 11–24–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2014–0082]

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of 2012 final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 2012 passenger motor vehicles that occurred in calendar year (CY) 2012. The final 2012 theft data indicated an increase in the vehicle theft rate experienced in CY/MY 2012. The final theft rate for MY 2012 passenger vehicles stolen in calendar year 2012 is 1.1294 thefts per thousand vehicles, an increase of 14.21 percent from the rate of 0.9889 thefts per thousand in 2011. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

DATES: *Effective date:* November 25, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the section 33104(b)(4) mandate, this document reports the final theft data for CY 2012, the most recent calendar year for which data are available.

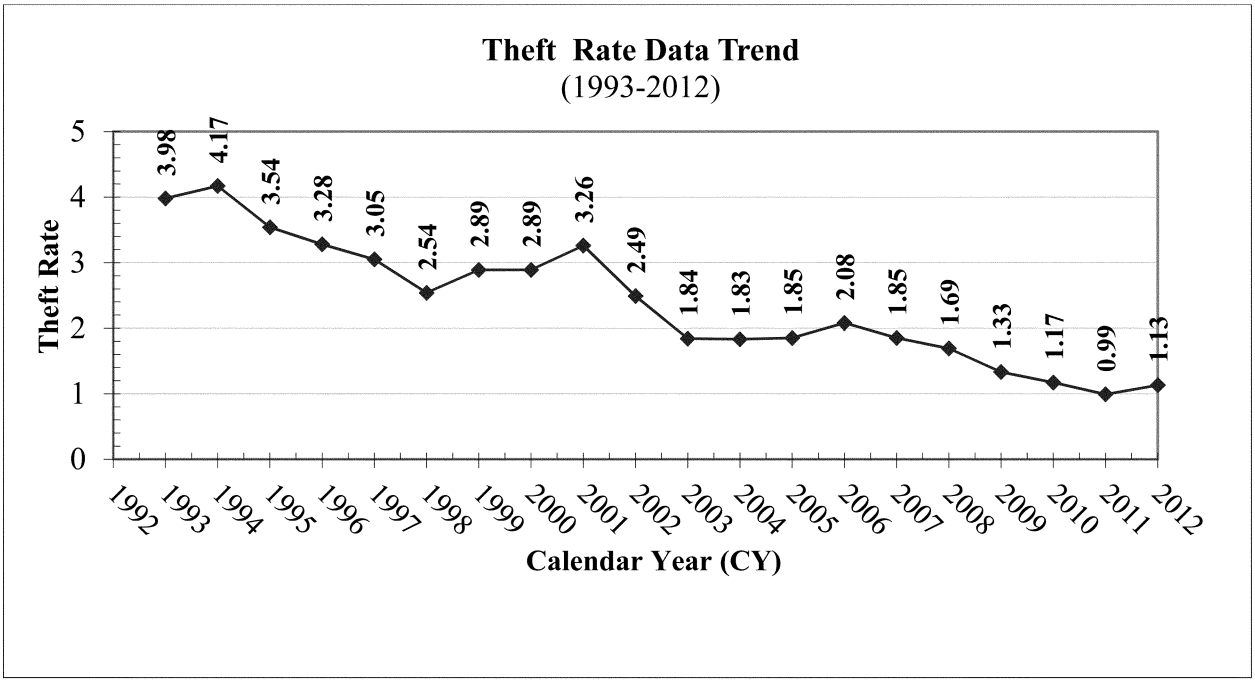
In calculating the 2012 theft rates, NHTSA followed the same procedures it used in calculating the MY 2011 theft rates. (For 2011 theft data calculations, see 79 FR 7090.) As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 2012 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2012 vehicles of that line stolen during calendar year 2012 by the total number of vehicles in that line manufactured for MY 2012, as reported to the Environmental Protection Agency (EPA).

The final 2012 theft data show a slight increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2011. The final theft rate for MY 2012 passenger vehicles stolen in calendar year 2012 increased to 1.1294 thefts per thousand vehicles produced, an increase of 14.21 percent from the rate of 0.9889 thefts per thousand vehicles experienced by MY 2011 vehicles in CY 2011. A similar increasing trend in vehicle thefts was reported in the Federal Bureau of Investigation's (FBI) 2012 Uniform Crime Report showing a 0.6% increase in motor vehicle thefts (automobiles, trucks, buses and other vehicles) from 2011 to 2012. Historically, the data has shown an overall decreasing trend in theft rates since CY 1993, with periods of increase from one year to the next. The agency welcomed public comment on the cause for the slight increase, but none were received.

For MY 2012 vehicles, out of a total of 211 vehicle lines, nine lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the nine vehicle lines with a theft rate higher than 3.5826, eight are passenger car lines, one is a multipurpose passenger vehicle line, and none are light-duty truck lines.

Figure 1: Theft Rate Data Trend (1993-2012)



Theft rate per thousand vehicles produced

On Tuesday, August 5, 2014, NHTSA published the preliminary theft rates for CY 2012 passenger motor vehicles in the **Federal Register** (79 FR 45412). The agency tentatively ranked each of the MY 2012 vehicle lines in descending order of theft rate. The public was requested to comment on the accuracy of the data and to provide final production figures for individual vehicle lines. The agency did not receive any comments from the public that would make adjustments to its data. As a result, the final theft rates and rankings of vehicle lines did not change from those published in the August 2014 notice.

Subsequent to the August 5, 2014, publication of preliminary theft data, BYD Motors, Inc. (BYD) submitted its EPA production data for the e6 vehicle line. NHTSA has corrected the final theft data to include an entry for the BYD e6 vehicle line. As a result of this correction, the final theft list has been revised accordingly. The BYD e6, previously omitted, is ranked No. 211 with a theft rate of 0.0000.

The following list represents NHTSA's final calculation of theft rates for all 2012 passenger motor vehicle lines. This list is intended to inform the public of calendar year 2012 motor vehicle thefts of model year 2012 vehicles and does not have any effect on the obligations of regulated parties under 49 U.S.C. Chapter 331, Theft Prevention.

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2012 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2012

	Manufacturer	Make/model (line)	Thefts 2012	Production (Mfr's) 2012	2012 Theft rate (per 1,000 vehicles produced)
1	MERCEDES-BENZ	CL–CLASS	17	827	20.5562
2	MITSUBISHI	ECLIPSE	34	6,186	5.4963
3	MAZDA	6	202	40,004	5.0495
4	CHRYSLER	DODGE CHARGER	316	66,432	4.7567
5	NISSAN	INFINITI FX35/FX50	35	8,902	3.9317
6	CHRYSLER	DODGE AVENGER	329	85,365	3.8540
7	CHRYSLER	300	232	60,287	3.8483
8	GENERAL MOTORS	CHEVROLET IMPALA	604	165,986	3.6389
9	MITSUBISHI	GALANT	67	18,600	3.6022
10	GENERAL MOTORS	CHEVROLET CAPTIVA	112	31,797	3.5223
11	BMW	6	19	5,609	3.3874
12	CHRYSLER	DODGE CHALLENGER	143	43,080	3.3194
13	GENERAL MOTORS	CHEVROLET CAMARO	249	80,707	3.0852
14	TOYOTA	YARIS	166	54,886	3.0245
15	NISSAN	PATHFINDER	47	15,765	2.9813
16	CHRYSLER	200	352	121,175	2.9049

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2012 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2012—Continued

	Manufacturer	Make/model (line)	Thefts 2012	Production (Mfr's) 2012	2012 Theft rate (per 1,000 vehicles produced)
17	MERCEDES-BENZ	S–CLASS	29	11,443	2.5343
18	NISSAN	ALTIMA	760	313,956	2.4207
19	GENERAL MOTORS	CHEVROLET MALIBU	509	225,791	2.2543
20	FORD MOTOR CO	MUSTANG	178	80,487	2.2115
21	AUDI	AUDI A8	10	4,538	2.2036
22	VOLVO	XC90	3	1,377	2.1786
23	NISSAN	INFINITI M35H/M37/M56	28	13,731	2.0392
24	BMW	B7	1	492	2.0325
25	NISSAN	MAXIMA	129	65,150	1.9800
26	MAZDA	2	32	16,169	1.9791
27	PORSCHE	PANAMERA	13	7,056	1.8424
28	NISSAN	VERSA	272	149,418	1.8204
29	HONDA	ACURA ZDX	2	1,122	1.7825
30	FORD MOTOR CO	TAURUS	69	39,314	1.7551
31	MERCEDES-BENZ	GLK–CLASS	45	26,554	1.6947
32	BMW	7	23	13,696	1.6793
33	NISSAN	SENTRA	229	139,585	1.6406
34	GENERAL MOTORS	GMC CANYON PICKUP	22	13,690	1.6070
35	MASERATI	GRANTURISMO	3	1,953	1.5361
36	GENERAL MOTORS	CHEVROLET CORVETTE	17	11,144	1.5255
37	JAGUAR LAND ROVER	XK/XKR	2	1,323	1.5117
38	NISSAN	INFINITI G25/G37	85	56,585	1.5022
39	KIA	FORTE	106	72,284	1.4664
40	VOLVO	C70	7	4,787	1.4623
41	TOYOTA	COROLLA	304	197,973	1.4257
42	MAZDA	CX–7	11	7,945	1.3845
43	CHRYSLER	DODGE CALIBER	15	10,953	1.3695
44	JAGUAR LAND ROVER	XJ	7	5,158	1.3571
45	KIA	RIO	34	25,441	1.3364
46	FORD MOTOR CO	FOCUS	413	318,556	1.2965
47	SUZUKI	SX4	20	15,617	1.2807
48	AUDI	AUDI A7	15	11,768	1.2746
49	KIA	OPTIMA	132	106,747	1.2366
50	AUDI	AUDI A3	9	7,287	1.2351
51	BMW	5	53	43,103	1.2296
52	FORD MOTOR CO	FUSION	371	308,520	1.2025
53	CHRYSLER	JEEP LIBERTY	124	104,184	1.1902
54	SUZUKI	GRAND VITARA	8	6,923	1.1556
55	HYUNDAI	SONATA	264	230,381	1.1459
56	TOYOTA	SCION TC	24	21,188	1.1327
57	VOLKSWAGEN	PASSAT	107	95,583	1.1194
58	GENERAL MOTORS	CHEVROLET CRUZE	297	270,622	1.0975
59	MERCEDES-BENZ	C–CLASS	84	76,638	1.0961
60	HYUNDAI	ACCENT	80	73,458	1.0891
61	HYUNDAI	GENESIS	41	37,741	1.0864
62	VOLVO	S80	4	3,748	1.0672
63	VOLVO	C30	3	2,841	1.0560
64	TOYOTA	CAMRY	547	523,846	1.0442
65	GENERAL MOTORS	BUICK REGAL	26	26,003	0.9999
66	VOLKSWAGEN	JETTA	176	178,153	0.9879
67	TOYOTA	LEXUS LS	8	8,102	0.9874
68	FIAT	500	60	60,935	0.9847
69	HONDA	PILOT	42	42,657	0.9846
70	BENTLEY MOTORS	CONTINENTAL	2	2,060	0.9709
71	GENERAL MOTORS	CADILLAC CTS	51	52,531	0.9709
72	MAZDA	5	31	32,530	0.9530
73	NISSAN	QUEST VAN	20	21,388	0.9351
74	KIA	SOUL	94	100,672	0.9337
75	MAZDA	3	129	142,875	0.9029
76	VOLKSWAGEN	CC	26	29,350	0.8859
77	TOYOTA	AVALON	18	20,938	0.8597
78	HONDA	ACCORD	275	325,034	0.8461
79	FORD MOTOR CO	FIESTA	50	59,978	0.8336
80	FORD MOTOR CO	ESCAPE	199	238,713	0.8336
81	HYUNDAI	SANTA FE	49	59,411	0.8248
82	GENERAL MOTORS	CHEVROLET SONIC	69	83,979	0.8216
83	GENERAL MOTORS	BUICK LACROSSE	50	60,891	0.8211
84	CHRYSLER	DODGE JOURNEY	62	77,471	0.8003

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2012 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2012—Continued

	Manufacturer	Make/model (line)	Thefts 2012	Production (Mfr's) 2012	2012 Theft rate (per 1,000 vehicles produced)
85	NISSAN	370Z	5	6,271	0.7973
86	JAGUAR LAND ROVER	XF	5	6,288	0.7952
87	KIA	SPORTAGE	33	41,590	0.7935
88	VOLKSWAGEN	GTI	14	18,586	0.7533
89	MERCEDES-BENZ	E–CLASS	38	50,591	0.7511
90	FORD MOTOR CO	LINCOLN MKZ	28	37,676	0.7432
91	HYUNDAI	ELANTRA	125	169,256	0.7385
92	FORD MOTOR CO	EDGE	56	75,972	0.7371
93	TOYOTA	VENZA	17	23,128	0.7350
94	HONDA	CIVIC	333	455,627	0.7309
95	FORD MOTOR CO	LINCOLN MKS	5	6,890	0.7257
96	KIA	SEDONA VAN	24	33,319	0.7203
97	HONDA	CR–Z	4	5,609	0.7131
98	GENERAL MOTORS	CHEVROLET COLORADO PICKUP	36	50,765	0.7092
99	HONDA	CROSSTOUR	19	26,934	0.7054
100	MITSUBISHI	I–MIEV	1	1,435	0.6969
101	CHRYSLER	JEEP COMPASS	30	43,360	0.6919
102	AUDI	AUDI Q7	6	8,951	0.6703
103	BMW	3	29	43,714	0.6634
104	MITSUBISHI	OUTLANDER	14	21,288	0.6576
105	HONDA	ACURA TSX	24	36,921	0.6500
106	MITSUBISHI	LANCER	11	16,958	0.6487
107	HYUNDAI	VELOSTER	20	30,980	0.6456
108	VOLVO	S60	22	34,378	0.6399
109	PORSCHE	911	5	8,114	0.6162
110	MAZDA	CX–9	20	32,980	0.6064
111	TOYOTA	SCION XB	27	44,722	0.6037
112	SUBARU	LEGACY	23	39,094	0.5883
113	FORD MOTOR CO	LINCOLN MKX	10	17,121	0.5841
114	HONDA	ACURA RDX	5	8,786	0.5691
115	CHRYSLER	JEEP PATRIOT	34	59,849	0.5681
116	KIA	SORENTO	60	107,269	0.5593
117	JAGUAR LAND ROVER	LAND ROVER EVOQUE	5	9,075	0.5510
118	BMW	X3	8	14,543	0.5501
119	NISSAN	FRONTIER PICKUP	39	71,502	0.5454
120	VOLVO	XC70	3	5,507	0.5448
121	NISSAN	ROGUE	76	140,561	0.5407
122	TOYOTA	LEXUS IS	17	31,725	0.5359
123	VOLKSWAGEN	TIGUAN	16	29,862	0.5358
124	SUBARU	IMPREZA	35	67,058	0.5219
125	AUDI	AUDI S4/S5	4	7,710	0.5188
126	TOYOTA	HIGHLANDER	68	132,822	0.5120
127	TOYOTA	TACOMA PICKUP	65	127,812	0.5086
128	NISSAN	XTERRA	11	22,343	0.4923
129	TOYOTA	SIENNA VAN	55	112,906	0.4871
130	SUBARU	TRIBECA	1	2,085	0.4796
131	AUDI	AUDI A4/A5	18	37,744	0.4769
132	HONDA	ACURA MDX	24	50,568	0.4746
133	HYUNDAI	TUCSON	27	57,218	0.4719
134	MAZDA	MX–5 MIATA	3	6,501	0.4615
135	BMW	M3	1	2,170	0.4608
136	TOYOTA	LEXUS RX	30	65,554	0.4576
137	BMW	1	4	8,770	0.4561
138	CHRYSLER	JEEP WRANGLER	64	141,387	0.4527
139	HONDA	ACURA TL	24	53,260	0.4506
140	HONDA	INSIGHT	3	6,723	0.4462
141	FORD MOTOR CO	FLEX	9	20,181	0.4460
142	GENERAL MOTORS	GMC TERRAIN	44	100,103	0.4395
143	SUBARU	FORESTER	27	64,142	0.4209
144	TOYOTA	FJ CRUISER	6	14,852	0.4040
145	MERCEDES-BENZ	SLK–CLASS	2	4,953	0.4038
146	MERCEDES-BENZ	SMART FORTWO	2	5,035	0.3972
147	VOLKSWAGEN	GOLF	10	25,207	0.3967
148	NISSAN	MURANO	23	58,188	0.3953
149	GENERAL MOTORS	CHEVROLET EQUINO$_X$	87	220,965	0.3937
150	VOLKSWAGEN	BEETLE	12	30,622	0.3919
151	TOYOTA	RAV4	62	170,414	0.3638
152	AUDI	AUDI Q5	12	33,880	0.3542

FINAL REPORT OF THEFT RATES FOR MODEL YEAR 2012 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 2012—Continued

	Manufacturer	Make/model (line)	Thefts 2012	Production (Mfr's) 2012	2012 Theft rate (per 1,000 vehicles produced)
153	HYUNDAI	EQUUS	1	2,848	0.3511
154	NISSAN	JUKE	13	37,933	0.3427
155	JAGUAR LAND ROVER	LAND ROVER LR2	1	2,921	0.3423
156	BMW	MINI COOPER	24	70,328	0.3413
157	TOYOTA	LEXUS ES	11	32,739	0.3360
158	NISSAN	CUBE	2	6,021	0.3322
159	AUDI	AUDI A6	6	18,374	0.3265
160	SUZUKI	KIZASHI	2	6,331	0.3159
161	VOLVO	XC60	5	16,144	0.3097
162	TOYOTA	SCION IQ	3	9,744	0.3079
163	TOYOTA	PRIUS	67	220,571	0.3038
164	SUBARU	OUTBACK WAGON	29	97,633	0.2970
165	HONDA	CR–V	68	230,293	0.2953
166	TOYOTA	LEXUS CT	6	21,668	0.2769
167	NISSAN	INFINITI EX35	1	3,734	0.2678
168	GENERAL MOTORS	CADILLAC SRX	18	67,705	0.2659
169	GENERAL MOTORS	BUICK VERANO	8	32,639	0.2451
170	HYUNDAI	VERACRUZ	2	8,560	0.2336
171	HONDA	FIT	11	50,757	0.2167
172	VOLKSWAGEN	EOS	2	11,140	0.1795
173	FORD MOTOR CO	TRANSIT CONNECT VAN	7	43,125	0.1623
174	HYUNDAI	AZERA	1	7,745	0.1291
175	GENERAL MOTORS	CHEVROLET VOLT	2	18,355	0.1090
176	ASTON MARTIN	DB9	0	47	0.0000
177	ASTON MARTIN	DBS	0	106	0.0000
178	ASTON MARTIN	RAPIDE	0	210	0.0000
179	ASTON MARTIN	V12 VANTAGE	0	85	0.0000
180	ASTON MARTIN	V8 VANTAGE	0	306	0.0000
181	ASTON MARTIN	VIRAGE	0	302	0.0000
182	BMW	M6	0	252	0.0000
183	BMW	Z4	0	2,203	0.0000
184	ROLLS ROYCE	GHOST	0	764	0.0000
185	ROLLS ROYCE	PHANTOM	0	53	0.0000
186	FERRARI	458	0	685	0.0000
187	FERRARI	CALIFORNIA	0	566	0.0000
188	FERRARI	FF	0	259	0.0000
189	MASERATI	QUATTROPORTE	0	519	0.0000
190	CODA AUTOMOTIVE	CODA	0	115	0.0000
191	SAAB	9–4X	0	26	0.0000
192	HONDA	ACURA RL	0	398	0.0000
193	LOTUS	EVORA	0	146	0.0000
194	MCLAREN	MP4–12C	0	697	0.0000
195	MERCEDES-BENZ	B–CLASS	0	25	0.0000
196	MERCEDES-BENZ	SL–CLASS	0	928	0.0000
197	MERCEDES-BENZ	SLS–CLASS	0	1,275	0.0000
198	NISSAN	GT–R	0	1,228	0.0000
199	NISSAN	LEAF	0	11,460	0.0000
200	PORSCHE	BOXSTER	0	754	0.0000
201	PORSCHE	CAYMAN	0	1,022	0.0000
202	SUZUKI	EQUATOR PICKUP	0	2,392	0.0000
203	TESLA	MODEL S	0	2,952	0.0000
204	TOYOTA	LEXUS HS	0	503	0.0000
205	AUDI	AUDI R8	0	1,272	0.0000
206	AUDI	AUDI TT	0	2,259	0.0000
207	BENTLEY MOTORS	MULSANNE	0	233	0.0000
208	BUGATTI	VEYRON	0	5	0.0000
209	LAMBORGHINI	AVENTADOR COUPE	0	252	0.0000
210	LAMBORGHINI	GALLARDO	0	285	0.0000
211	BYD	E6	0	11	0.0000
	Theft rate per 1,000 vehicles produced = Total theft ÷ Total production × 1000		12,172	10,777,418	1.1294

Under authority delegated in 49 CFR part 1.95.

R. Ryan Posten

Associate Administrator for Rulemaking.

[FR Doc. 2014–27885 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XD628

Snapper-Grouper Fishery of the South Atlantic; 2014 Recreational Accountability Measure and Closure for Gray Triggerfish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for recreational gray triggerfish in the exclusive economic zone (EEZ) of the South Atlantic. Because recreational landings for gray triggerfish in the 2013 fishing year exceeded the recreational annual catch limit (ACL) for the stock, NMFS monitored recreational landings in 2014 for a persistence in increased landings. Through this temporary rule, NMFS now closes the recreational sector for gray triggerfish in the South Atlantic EEZ on November 26, 2014, as NMFS has projected the recreational ACL to have been met for the 2014 fishing year. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, November 26, 2014, until 12:01 a.m., local time, January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, or email: *catherine.hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic, which includes gray triggerfish, is managed under the Fishery Management Plan for Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational ACL for gray triggerfish is 353,638 lb (160,407 kg), round weight. In accordance with regulations at 50 CFR 622.193(q)(2), if the recreational ACL is exceeded, the Assistant Administrator, NMFS (AA), will file a notification with the Office of the Federal Register to reduce the length of the following fishing season by the amount necessary to ensure landings do not exceed the recreational ACL in the following fishing year. In the 2013 fishing year, recreational landings were 373,983 lb (169,636 kg), round weight, and therefore, exceeded the recreational ACL by 20,345 lb (9,228 kg), round weight. NMFS received landings projections on November 12, 2014, that indicated the fishery has likely met the recreational ACL. Therefore, this temporary rule closes the recreational sector for gray triggerfish within the snapper-grouper fishery in 2014, effective 12:01 a.m., local time, November 26, 2014.

During the closure, the bag and possession limit for gray triggerfish in or from the South Atlantic EEZ is zero. The recreational sector for gray triggerfish will reopen on January 1, 2015, the beginning of the 2015 recreational fishing season. Upon reaching the commercial ACL, NMFS closed the commercial sector for gray triggerfish effective May 12, 2014 (79 FR 26375, May 8, 2014). Therefore, on November 26, 2014, no commercial or recreational harvest of gray triggerfish from the South Atlantic EEZ is permitted until January 1, 2015.

Classification

The Assistant Administrator (AA), Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic gray triggerfish within the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(q)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available recently obtained from the fishery. The AA finds that the need to immediately implement this action to close the recreational sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Additionally, such procedures are contrary to the public interest because there is a need to immediately notify the public of the recreational closure for gray triggerfish for the 2014 fishing year, to prevent recreational harvest of gray triggerfish from further exceeding the ACL, which will help protect this resource in the South Atlantic.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: November 20, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–27943 Filed 11–21–14; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 227
Tuesday, November 25, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 391

RIN 3064–AE24

Filing Requirements and Processing Procedures for Changes in Control With respect to State Nonmember Banks and State Savings Associations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend its filing requirements and processing procedures for notices filed under the Change in Bank Control Act (Notices). The proposed amendments are intended to accomplish several objectives. First, the proposed rule would consolidate into one subpart the current requirements and procedures for Notices filed with respect to State nonmember banks and certain parent companies thereof, and the requirements and procedures for Notices filed with respect to State savings associations and certain parent companies thereof. Second, the proposed rule would rescind the FDIC's separate regulation governing the requirements and procedures for Notices filed with respect to State savings associations and certain parent companies thereof and would rescind any guidance issued by the Office of Thrift Supervision (OTS) relating to changes in control of State savings associations that is inconsistent with the proposed rule. Third, the proposed rule would adopt the best practices of the related regulations of the Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (Board of Governors). Finally, the proposed rule would clarify the FDIC's requirements and procedures based on its experience interpreting and implementing the existing regulation. This proposed rule is also part of the FDIC's continuing review of its regulations under the Economic Growth and Regulatory Paperwork Reduction Act of 1996.

DATES: Comments must be received by January 26, 2015.

ADDRESSES: You may submit comments, identified by RIN 3064–AE24, by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow instructions for submitting comments on the Agency Web site.
- *Email: Comments@fdic.gov.* Include the RIN 3064–AE24 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: All comments received must include the agency name and RIN 3064–AE24 for this rulemaking. All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/,* including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 by telephone at 1 (877) 275–3342 or 1 (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Ann Johnson Taylor, Supervisory Counsel, *AJohnsonTaylor@fdic.gov;* Gregory S. Feder, Counsel, *GFeder@fdic.gov;* Rachel J. Ackmann, Senior Attorney, *RAckmann@fdic.gov;* Robert C. Fick, Senior Counsel, *RFick@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 7(j) of the Federal Deposit Insurance Act (FDI Act) generally provides that no person may acquire control of an insured depository institution unless the person has provided the appropriate Federal banking agency prior written notice of the transaction and the banking agency has not objected to the proposed transaction (the Change in Bank Control Act).[1] Subpart E of part 303 of the FDIC's rules and regulations[2] (subpart E of part 303) implements section 7(j) of the FDI Act and sets forth the filing requirements and processing procedures for Notices filed with respect to the proposed acquisition of State nonmember banks and certain parent companies thereof.[3]

The Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5301, *et seq.* (Dodd-Frank Act), among other things, provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. On July 21, 2011, (the transfer date established by section 311 of the Dodd-Frank Act), the powers, duties, and functions formerly assigned to, or performed by the OTS were transferred to the FDIC, as to State savings associations;[4] the OCC, as to Federal savings associations; and the Board of Governors, as to savings and loan holding companies.[5] Section 316(b) of the Dodd-Frank Act provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS.[6] The section provides that if such materials were in effect on the day before the transfer date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations which would be enforced by each agency.[7] On June 14, 2011, the Board approved a ''List of OTS Regulations to be Enforced by the OCC and the FDIC pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act''. This list was published

[1] 12 U.S.C. 1817(j).

[2] 12 CFR 303.80 *et seq.*

[3] A State nonmember bank that is either an industrial loan company, a trust company, or a credit card bank is not a ''bank'' under the Bank Holding Company Act (''BHC Act''). 12 U.S.C. 1841(c)(2). Therefore, a company that is not a bank holding company and that seeks to acquire one or more such State nonmember banks would not be subject to supervision by the Board of Governors. As a result, such a company would have to file a Notice with, and obtain the approval of, the FDIC.

[4] As of June 2014, there are 54 State savings associations insured by the FDIC.

[5] 12 U.S.C. 5411.

[6] 12 U.S.C. 5414(b).

[7] 12 U.S.C. 5414(c).

by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.[8]

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act granted the OCC rulemaking authority relating to savings associations, nothing in the Dodd-Frank Act affected the FDIC's existing authority to issue regulations under the FDI Act and other laws as the ''appropriate Federal banking agency'' or under similar statutory terminology.[9] Section 312(c) of the Dodd-Frank Act amended section 3(q) of the FDI Act and designated the FDIC as the ''appropriate Federal banking agency'' for State savings associations.[10] As a result, when the FDIC acts as the designated ''appropriate Federal banking agency'' (or under similar terminology) for State savings associations, as it does in the proposed rule, the FDIC is authorized to issue, modify, and rescind regulations involving such associations.[11]

As noted above, on June 14, 2011, operating pursuant to this authority, the Board reissued and redesignated certain regulations transferred from the former OTS. These regulations were adopted and issued as new FDIC regulations at parts 390 and 391 of title 12. When it republished these regulations as new FDIC regulations, the FDIC specifically noted that staff would evaluate the transferred regulations and might later recommend amending them, rescinding them, or incorporating the transferred regulations into other FDIC rules as appropriate.

Certain of the regulations transferred to the FDIC govern acquisitions of State savings associations under the Change in Bank Control Act (transferred CBCA regulation).[12] The FDIC is proposing to incorporate portions of those regulations into the FDIC's subpart E of part 303 and to rescind the transferred CBCA regulation. In addition to consolidating and conforming the change in control regulations for both State nonmember banks and State savings associations, the proposed rule would increase the consistency of subpart E of part 303 with the OCC's and the Board of Governors' related regulations by incorporating certain best practices of those regulations into subpart E of part 303.[13] Also, the FDIC is generally updating its subpart E of part 303 to provide greater transparency to its change in control regulation based on its experience interpreting and implementing the Change in Bank Control Act.

II. Proposed Rule

a. Section 303.80 Scope

The scope of the proposed rule makes it clear that subpart E of part 303 would apply to acquisitions of control of State nonmember banks, State savings associations, and certain companies that control one or more State nonmember banks and/or State savings associations (parent companies). The FDIC believes that expanding the scope of subpart E of part 303 to include State savings associations and certain parent companies[14] and rescinding the transferred CBCA regulation would both streamline its rules and procedures and increase regulatory consistency for all FDIC-supervised institutions. To that end, the proposed rule defines the term ''covered institution'' to include an insured State nonmember bank, an insured State savings association, and certain companies that control, directly or indirectly, an insured State nonmember bank or an insured State savings association.

In addition, the proposed rule would amend the scope of subpart E of part 303 to state that the subpart implements the Change in Bank Control Act[15] to clarify that the subpart includes the procedures for filing and processing a Notice and also sets forth the circumstances that require the filing of a Notice.

b. Section 303.81 Definitions

1. Acting in Concert

The proposed rule would define ''acting in concert'' as ''knowing participation in a joint activity or parallel action towards a common goal of acquiring control of a covered institution whether or not pursuant to an agreement.'' This definition is not substantively different from the definition of ''acting in concert'' in the existing subpart E of part 303.[16] The only proposed modification is updated terminology. Specifically, the modification is to replace ''insured state nonmember bank or a parent company'' with ''covered institution'' to reflect that the FDIC is also the appropriate Federal banking agency for State savings associations. The FDIC does not believe any further modifications are necessary. The FDIC is not adopting the comparable definition from the transferred CBCA regulation because the definition in the existing subpart E of part 303 is broad enough to include the specific circumstances described in the transferred CBCA regulation and is clear and easy to understand.[17]

The FDIC notes that a group of persons acting in concert becomes a different group of persons acting in concert when a member of the group leaves or a new member joins. For example, if certain members of a family have previously filed a Notice with, and received a non-objection from, the FDIC as a group acting in concert, each member of the group must file a new Notice and obtain the FDIC's non-objection when a member of the group ceases participation in the group and the group continues to hold sufficient shares to constitute ''control.''

The FDIC also notes that if a person who is a member of a group acting in concert proposes to acquire voting securities that result in that person holding 25 percent or more of the voting securities in his/her/its own right, then the person must file a Notice with the FDIC because that person will have acquired control as defined by the Change in Bank Control Act. Such a person must file a Notice even if that person had already filed and been approved as a member of the group acting in concert.

The FDIC further notes that it will look closely at transactions where a lead investor has a material role in organizing a bank's capital offering. The presence of a lead investor(s) who solicits persons that the lead investor has a pattern of co-investing with suggests that the solicited investors, together with the lead investor, may constitute a group acting in concert. The FDIC will analyze the facts and circumstances of each case to determine whether such persons constitute a group acting in concert.

2. Company

As discussed in section II.c.3 below, the proposed rule would add certain rebuttable presumptions of acting in concert, including presumptions relating to companies. The proposed rule would define the term company by reference to section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) (BHC Act) and by including a catch-all for any

[8] 76 FR 39246 (July 6, 2011).

[9] 12 U.S.C. 5412(b)(2)(B)(i)(II).

[10] 12 U.S.C. 1813(q).

[11] 12 U.S.C. 1819(a)(Tenth).

[12] 12 CFR part 391, subpart E, entitled *Acquisitions of Control of State Savings Associations.*

[13] 12 CFR 5.50 *et seq.* (OCC) and 12 CFR 225.41–43 (Board of Governors).

[14] A company that is not a bank holding company nor a savings and loan holding company and that seeks to acquire a State savings association that operates solely in a fiduciary capacity would not be subject to supervision by the Board of Governors. Such a company would have to file a Notice with, and obtain the approval of, the FDIC.

[15] The proposed rule uses language adopted from the transferred CBCA regulation.

[16] *See* 12 CFR 303.81(b).

[17] *See* 12 CFR 391.41 for the definition of acting in concert in the transferred CBCA regulation.

person that is not an individual or group of individuals acting in concert.

3. Control

The proposed rule would define ''control'' as ''the power, directly or indirectly, to direct the management or policies of a covered institution or to vote 25 percent or more of any class of voting securities of a covered institution.'' This definition is not substantively different from the definition of ''control'' in the existing subpart E of part 303.[18] The only proposed modification is updated terminology, *i.e.,* replacing ''voting shares'' with ''voting securities'' and replacing ''insured state nonmember bank or a parent company'' with ''covered institution'' to reflect that the FDIC is also the appropriate Federal banking agency for State savings associations. The proposed rule would not adopt the enumerated conditions in the definition of control from the transferred CBCA regulation because the definition of ''control'' in the proposed rule is broad enough to include such conditions and enumerating some of the conditions that are probative of control could be read to exclude others.[19]

4. Convertible Securities

As discussed in section II.c.4, the proposed rule includes a presumption relating to convertible securities. The proposed rule would define convertible securities as debt or equity interests that may be converted into voting securities. The definition is not in the existing subpart E of part 303 or the transferred CBCA regulation, but convertible securities are not uncommon in the industry, and the FDIC's regulations need to recognize the influence they carry.[20]

5. Covered Institution

The proposed rule would define the term ''covered institution'' as ''an insured State nonmember bank, an insured State savings association, and any company that controls, directly or indirectly, an insured State nonmember bank or an insured State savings association other than a holding company that is the subject of an exemption described in either section 303.84(a)(3) or (a)(8).'' Therefore, the proposed rule could apply to an individual's acquisition of voting securities of a bank holding company or savings and loan holding company, provided the transaction is not otherwise exempted under 303.84(a)(3) or (a)(8). Subsections (a)(3) and (a)(8) would exempt transactions that are subject to Section 3 of the BHC Act and transactions for which the Board of Governors reviews a Notice. The 303.84(a)(3) and (a)(8) exemptions are discussed in section II.e.3 and 8.

The Board of Governors is not the primary regulator of all companies that control State nonmember banks since some State nonmember banks are not ''banks'' under the BHC Act.[21] Also, the Board of Governors is not the primary regulator of all companies that control State savings associations. Under the Home Owners' Loan Act,[22] ''a company that controls a savings association that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956'' is not a savings and loan holding company.[23] As a result, a company that is not otherwise a bank holding company or a savings and loan holding company and that seeks to acquire control of either a State nonmember bank that is not a ''bank'' under the BHC Act or a State savings association that functions solely in a trust or fiduciary capacity is subject to the proposed rule and would not be eligible for the exceptions from Notice in 303.84(a)(3) and (a)(8).

6. Immediate Family

As discussed in section II.c.3 below, the proposed rule would add certain rebuttable presumptions of acting in concert, including a presumption relating to a person's immediate family. The proposed rule would define ''immediate family'' as ''a person's parents, mother-in-law, father-in-law, children, step-children, siblings, step-siblings, brothers-in-law, sisters-in-law, grandparents, and grandchildren, whether biological, adoptive, adjudicated, contractual, or de facto; the spouse of any of the foregoing; and the person's spouse.'' This definition is similar to the definitions of ''immediate family'' in the OCC's and the Board of Governors' related regulations.[24] The FDIC would interpret the term ''spouse'' to include any formalized domestic relationship, for example, through civil union or marriage. The proposed rule would not adopt the definition of ''immediate family'' in the transferred CBCA regulation because that definition does not include an acquirer's grandparents or step-relatives.[25] The FDIC believes that these relations typically have a natural tendency to engage in joint or parallel action to preserve or enhance the value of the family's investment.

The FDIC would interpret the term ''sibling'' as one of two or more individuals having at least one common parent.

Question 1: Is there a more appropriate definition of ''immediate family''? For instance, should there be a facts and circumstance element to include situations in which persons were raised by an individual that is not otherwise a member of their immediate family?

7. Person

The proposed rule would define ''person'' as ''an individual, corporation, limited liability company (LLC), partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, voting trust, or any other form of entity; and includes each party to a voting agreement and any group of persons acting in concert.'' The proposed rule would not adopt the definition of ''person'' in the transferred CBCA regulation and instead includes an amended version of the definition from the existing subpart E of part 303 because the definition from the existing subpart E of part 303 more closely tracks the definition of person in the Change in Bank Control Act.[26] The proposed rule amends the definition from the existing subpart E of part 303 to explicitly include limited liability companies as persons. The FDIC believes that limited liability companies are more common in the industry than when the statute was enacted in 1978 and therefore merit express recognition as ''persons.'' The proposed rule also would make a number of technical edits. For example, to be grammatically correct the proposed rule would move ''voting trust'' to the enumerated list of entities.

8. Management Official

As discussed in section II.c.3 below, the proposed rule includes a new presumption of acting in concert relating to a company and its controlling shareholder or management official. The proposed rule would define management official as ''any officer, LLC manager, director, partner, or trustee of an entity, or other person with policy-making functions.'' This definition is substantively identical to the definition previously adopted by the

[18] *See* 12 CFR 303.81(c).

[19] See 12 CFR 391.43(a)(1).

[20] *See* 12 CFR 225.31(d)(1).

[21] 12 U.S.C. 1841(c)(2).

[22] 12 U.S.C. 1467a.

[23] 12 U.S.C. 1467a(a)(1)(D)(ii)(II).

[24] *See* 12 CFR 5.50(d)(4) (OCC) and 12 CFR 225.41(b)(3) (Board of Governors).

[25] *See* 12 CFR 391.41.

[26] *Compare* 12 CFR 391.41 and 12 CFR 303.81(e) *with* 12 U.S.C. 1817(j)(8)(A).

Board of Governors;[27] the only modification beyond updated terminology is the inclusion of the term ''LLC manager'' to recognize the prevalence of limited liability companies in the industry.[28] Generally, the proposed rule would treat members of an LLC who are not managers similar to shareholders in a corporation. The proposed rule does not adopt the definition of ''management official'' from the transferred CBCA regulation because the proposed definition is a more accurate description of the persons intended to be covered by the presumption.

9. Voting Securities

Unlike the existing subpart E of part 303, the proposed rule includes a definition of ''voting securities.'' Including a definition of ''voting securities'' makes the proposed rule more consistent with the OCC's and the Board of Governors' related regulations. The proposed rule would define ''voting securities'' as shares of common or preferred stock, general or limited partnership shares or interests, membership interests, or similar interests if the shares or interests, by statute, charter, or in any manner, entitle the holder: (i) To vote for, or to select, directors, trustees, managers of an LLC, partners, or other persons exercising similar functions of the issuing entity; or (ii) to vote on, or to direct, the conduct of the operations or significant policies of the issuing entity. The proposed rule further states that shares of common or preferred stock, limited partnership shares or interests, membership interests, or similar interests are not ''voting securities'' if: (i) Any voting rights associated with the shares or interests are limited solely to the type customarily provided by State statute with regard to matters that would significantly and adversely affect the rights or preference of the security or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing entity, or the payment of dividends by the issuing entity when preferred dividends are in arrears; (ii) the shares or interests represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuing entity; and (iii) the shares or interests do not entitle the holder, by statute, charter, or in any manner, to select, or to vote for the selection of, directors, trustees, managers of an LLC, partners, or persons exercising similar functions of the issuing entity. The proposed definition of ''voting securities'' also states that shares of stock or other interests issued by a single issuer are deemed to be the same class of voting shares, regardless of differences in dividend rights or liquidation preference, if the shares are voted together as a single class on all matters for which the shares have voting rights that affect solely the rights or preferences of the shares.

The proposed definition derives from the Board of Governors' definition of ''voting securities'' with a few minor modifications.[29] For example, unlike the Board of Governors' definition, the proposed definition explicitly references LLCs and managers thereof. Additionally, the proposed definition would provide for the existence of nonvoting common stock in addition to nonvoting preferred stock. Similar to the Board of Governors, the FDIC would exclude nonvoting preferred stock that includes the right to elect or appoint directors upon failure of the covered institution to pay preferred dividends from the definition of voting securities until the time the right to vote or appoint directors arises. Once the right to vote for, or appoint, directors arises, any newly controlling person would be required to file Notice with the FDIC. Again, the proposed rule would not adopt the definition of ''voting securities'' from the transferred CBCA regulation because the definition in the proposed rule is a more accurate definition of the securities that could trigger application of the Change in Bank Control Act.

10. Other Definitions

The proposed rule would not define ''acquisition'' as does existing subpart E of part 303. The proposed rule also would not adopt several other definitions in the transferred CBCA regulation. For example, the terms ''State savings association'' and ''affiliate'' are also not defined in the proposed rule as those terms are defined in the FDI Act. The FDIC is not proposing to adopt these definitions because they were determined to be unnecessary or statutorily defined by the FDI Act.

Question 2: Are there more appropriate definitions for any of the defined terms in the proposed rule? Are there any terms not defined in the proposed rule for which a definition is required? If so, in each case, provide an appropriate definition.

c. Section 303.82 Transactions That Require Prior Notice

1. Section 303.82(a) Prior Notice Requirement

Generally, the proposed rule would require any person, whether acting directly or indirectly, alone or in concert with others, to give the FDIC prior written notice before the acquisition of control of a covered institution, unless the acquisition is exempt.[30] This requirement is substantively similar to the prior notice requirement in the existing subpart E of part 303 and the transferred CBCA regulation.[31]

2. Section 303.82(b)(1) Rebuttable Presumption of Control

The proposed rule includes a rebuttable presumption of control whenever a person acquires the power to vote 10 percent or more of a class of voting securities of a covered institution, if either (1) the institution has issued any class of securities subject to the registration requirements of section 12 of the Securities Exchange Act of 1934, or (2) immediately after the transaction, no other person will own a greater proportion of that class of voting securities. One change in the proposed rule from existing subpart E of part 303 is the removal of the provision that if two or more persons, not acting in concert, each propose to acquire simultaneously equal percentages of 10 percent or more of a class of voting securities of a covered institution, each such person shall file prior notice with the FDIC. The proposed rule clarifies the FDIC's policy by removing the implication that the largest shareholders only have to file a Notice if they simultaneously acquire the voting securities. By removing that provision,

[27] *See* 12 CFR 225.2(i).

[28] The updated terminology includes replacing ''a bank or other company'' with the term ''entity'' and replacing the term ''employee'' with the term ''person''. The OCC recently also proposed a definition of management official although it is not substantially identical to the Board of Governors' definition. 79 FR 33260 (June 10, 2014).

[29] *See* 12 CFR 225.2(q)(1).

[30] *See* 12 CFR 303.82(a) and 12 CFR 391.42(a). The FDIC notes that section 391.42(a) of the transferred CBCA regulation includes two specific exceptions (one for certain persons affiliated with a savings and loan holding company and one for mergers with interim companies) that are not explicitly stated in this section of the proposed rule. These exceptions are statutory and included in the rule in section 303.84.

[31] The changes in this provision as compared to subpart E of part 303 include updated terminology, *i.e.,* replacing ''voting shares'' with ''voting securities'' and replacing ''insured state nonmember bank or a parent company'' with ''covered institution'' to reflect that the FDIC is also the appropriate Federal banking agency for State savings associations. The proposed rule also restructured the provision as compared to Subpart E of Part 303 for clarity.

the proposed rule makes it clear that if two or more shareholders own the greatest proportion of a class of voting securities, then each such shareholder must file a Notice. The timing of each shareholder's acquisition is irrelevant.

The transferred CBCA regulation also includes a rebuttable presumption of control, but the presumption is triggered only if there exists one of the enumerated control factors.[32] The enumerated control factors include factors such as that the acquirer would be one of the two largest holders of any class of voting stock; the acquirer would hold 25 percent or more of the total stockholders' equity; the acquirer would hold more than 35 percent of the combined debt securities and stockholders' equity; or the acquirer and/or the acquirer's representatives or nominees would constitute more than one member of the institution's board of directors.[33] The proposed rule does not include any control factors as additional elements to the rebuttable presumption of control. The FDIC notes that the enumerated control factors represent only some of the circumstantial factors that the FDIC would analyze when determining whether a person has acquired the ability to direct the management or policies of a covered institution. The FDIC believes that the determination of whether a person will acquire the power to direct the management or policies of an institution is dependent on the facts and circumstances of the case and that it is impractical and potentially misleading to attempt to list all such factors.

It is also noted that the Board of Governors has issued a policy statement entitled *Policy Statement on Equity Investments in Banks and Bank Holding Companies* regarding the interpretation of the BHC Act.[34] The policy statement generally established certain guidance regarding the amount of total equity a person can control without the Board of Governors determining that the person has the ability to exercise a controlling influence over the management or policies of a banking organization. A person who acquires total equity in excess of that guidance would likely have to file an application under the BHC Act. The FDIC has found the logic of the policy statement useful in analyzing fact patterns under the Change in Bank Control Act, but has not adopted that policy statement pending further consideration.

Question 3: To what extent and under what circumstances does the control of one-third or more of a covered institution's total equity give such person the power to direct the management or policies of a covered institution? Is there a combination of voting and non-voting securities that gives a person the power to direct the management or policies of a covered institution?

The existing subpart E of part 303 states that ownership interests other than those set forth in the rebuttable presumption of control and that represent less than 25 percent of a class of an institution's voting shares do not constitute control for purposes of the Change in Bank Control Act.[35] The proposed rule does not include this provision because the provision has been a source of confusion regarding the meaning of the term ''control''. The FDIC has occasionally addressed questions regarding this provision and now seeks to clarify in the proposed rule that the definition of control would include both the amount of voting securities controlled by a person and a facts-and-circumstance analysis to determine whether a person directs the management or policies of a covered institution. The FDIC notes that the proposed change would not expand the thresholds in the rebuttable presumption of control, and would only remove ambiguity regarding whether the facts and circumstances alone could support a conclusion that a person will have the power to direct the management or policies of a covered institution and therefore will control the institution. Such a facts and circumstance analysis is consistent with the statutory definition of ''control'' in the Change in Bank Control Act and FDIC's long-standing practices.

3. Section 303.82(b)(2) Rebuttable Presumptions of Acting in Concert

The proposed rule includes new rebuttable presumptions of acting in concert. The acting in concert presumptions included in the proposed rule are generally derived from the rebuttable presumptions of acting in concert in the Board of Governors' regulations.[36] The OCC recently proposed adopting presumptions consistent with the Board of Governors' presumptions of acting in concert.[37]

The proposed rule includes an acting in concert presumption with respect to a company and any controlling shareholder or management official of that company. If both the company and controlling shareholder or management official own or control voting securities of a covered institution, then the FDIC would presume that the company and the controlling shareholder or management official are acting in concert.

Second, the proposed rule includes an acting in concert presumption between an individual and the individual's immediate family. If two or more members of an immediate family own or control voting securities of a covered institution, then the FDIC would presume that those persons are acting in concert. The definition of immediate family is discussed in section II.b.5 above.

The proposed rule also includes presumptions of acting in concert between (i) two or more companies under common control or a company and each other company it controls; (ii) persons that have made or propose to make a joint filing under sections 13 or 14 of the Securities Exchange Act of 1934;[38] and (iii) a person and any trust for which the person serves as trustee or any trust for which the person is a beneficiary.

Question 4: Is a rebuttable presumption of acting in concert between persons who both own stock of a covered institution and are management officials or controlling shareholders of an unaffiliated company appropriate? Please support your answer with any relevant data or information.

Question 5: Should the FDIC explicitly exempt certain kinds of trustees from the presumptions of acting in concert, such as a trustee that must vote shares as directed by the beneficiaries? Explain any potential burden or benefit if the FDIC instead relies on trustees to provide a trust document demonstrating that the trustee does not have voting discretion on a case-by-case basis? Also, please discuss whether the proposed rule should include a presumption of acting in concert between a person and any trust for which the person is a beneficiary? Please discuss the rationale

[32] 12 CFR 391.43(b).

[33] 12 CFR 391.43(c).

[34] *See http://www.federalreserve.gov/newsevents/press/bcreg/20080922c.htm.*

[35] 12 CFR 303.82(d).

[36] 12 CFR 225.41(d).

[37] 79 FR33260 (June 10, 2014).

[38] Section 13 of the Securities Exchange Act of 1934 (the Exchange Act) requires the filing of timely and accurate annual and periodic reports, and Section 14 of the Exchange Act requires the filing of proxy materials. For purposes of the reporting provisions of section 13(g), section 13(g)(3) provides that two or more persons acting ''as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a ''person'' for the purposes of'' section 13(g)''. Section 14 has a similar reporting provision for such persons.

for your answer and include any supporting data or information.

The proposed rule also includes a presumption that persons that are parties to any agreement, contract, understanding, relationship, or other arrangement, whether written or otherwise, regarding the acquisition, voting, or transfer of control of voting securities of a covered institution, other than through revocable proxies as described in 303.84(a)(5), are presumed to be acting in concert. The FDIC believes these presumptions should be included in the proposed rule because the interests of such parties are so aligned that there exists a natural tendency to act together towards a common goal.

The transferred CBCA regulation includes a presumption of acting in concert for a company that provides certain financial assistance to a controlling shareholder or management official of such company to enable the purchase of a State saving association's stock.[39] The FDIC believes that situations in which companies that acquire or hold stock of a covered institution and that provide financial assistance to the company's controlling shareholders or managing officials are included within the presumption between a company and any controlling shareholder or management official. The transferred CBCA regulation also includes a presumption of acting in concert when one person provides credit to, or is instrumental in obtaining financing for, another person to purchase stock of a covered institution.[40] The FDIC does not believe this situation by itself aligns persons' interests as to warrant a presumption of acting in concert. Accordingly, the proposed rule does not include that presumption. However, the FDIC notes that providing or facilitating the financing for another person to purchase stock would be evidence of acting in concert that in combination with other facts and circumstances may result in a determination that those persons are acting in concert.

4. Section 303.82(b)(3) Convertible Securities, Options, and Warrants

The proposed rule includes a rebuttable presumption that an acquisition of convertible securities, options, and warrants is presumed to constitute the acquisition of voting securities as if the conversion already occurred or the options or warrants were already exercised. The existing subpart E of part 303 does not explicitly include such a presumption; however, the transferred CBCA regulation, and the related regulations of the Board of Governors, treat such securities in a similar manner. The FDIC's longstanding position is that the acquisition of an option or warrant constitutes the acquisition of the underlying voting securities notwithstanding that they may only be exercised after a period of time. The FDIC also believes that nonvoting interests that may be converted into voting securities at the election of the holder of the convertible securities, or that convert after the passage of time, should be considered voting securities at all times for purposes of the Change in Bank Control Act. However, the FDIC recognizes that nonvoting securities that are convertible into voting securities carry less influence when the nonvoting securities may not be converted into voting securities in the hands of the investor and may only be converted after transfer by the investor: (i) In a widespread public distribution; (ii) in transfers in which no transferee (or group of associated transferees) would receive 2 percent or more of any class of voting securities of the banking organization; or (iii) to a transferee that would control more than 50 percent of the voting securities of the banking organization without any transfer from the investor. The FDIC would generally consider such convertible securities as nonvoting equity.

Question 6: Should convertible securities be conclusively considered voting securities, or should the FDIC allow investors to rebut the presumption that an acquisition of convertible securities constitutes the acquisition of voting securities?

5. Section 303.82(b)(4) Rebuttal of Presumptions

The proposed procedures for rebutting a presumption of control would remain unchanged from the existing subpart E of part 303.[41] The procedures for rebutting a presumption of acting in concert would be the same as rebutting a presumption of control. The proposed rule does not include the detailed procedures for rebutting the presumptions included in the transferred CBCA regulation because the FDIC believes that the variety of the facts and circumstances often encountered dictate the more flexible process embodied in the existing subpart E of part 303.[42]

6. Section 303.82(c) Acquisition of Loans in Default

The proposed rule includes an irrebuttable presumption that an acquisition of a loan in default secured by voting securities of a covered institution is deemed to be an acquisition of the underlying voting securities. This treatment would not be substantively different from the treatment of a loan in default secured by voting securities in the existing subpart E of part 303;[43] however, the proposed rule is not identical to existing subpart E of part 303. The FDIC has received questions about the use of the term ''presumes'' in subpart E of part 303 and whether the presumption is rebuttable. As the presumption is not rebuttable, the proposed rule would clarify this issue by stating that such acquisitions are ''deemed'' to be an acquisition of the underlying voting securities for purposes of the Change in Bank Control Act.

7. Transferred CBCA Regulation's Safe Harbor

Notwithstanding any other provisions in the transferred CBCA regulation, the ''Safe Harbor'' provision permits an acquirer of an otherwise controlling interest in a State savings association that has no intention of participating in, or seeking to exercise control over, a State savings association's management or policies to avoid filing a Notice.[44] To qualify for the safe harbor, the acquirer must make certifications to the FDIC. The proposed rule does not include this regulatory safe harbor. The FDIC believes that any certifications or passivity commitments executed in connection with an acquisition of voting securities must be tailored to the facts and circumstances of each situation and a fixed set of certifications would not likely capture the variety of circumstances presented in such situations.

d. Section 303.83 Transactions That Require Notice, but Not Prior Notice

Existing subpart E of part 303 and the transferred CBCA regulation do not require prior notice for the acquisition of voting securities for certain types of acquisitions. For example, both regulations permit a person acquiring voting securities through inheritance or bona fide gift to provide notice within 90 calendar days of the acquisition. Existing subpart E of part 303 and the transferred CBCA regulation, however, differ materially in what transactions are eligible for an after-the-fact notice

[40] 12 CFR 391.43(d)(3)(ii).

[41] *See* 12 CFR 303.82(e).

[42] *See* 12 CFR 391.43(e).

[43] *See* 12 CFR 303.82(c).

[44] 12 CFR 391.43(f).

and the limitations imposed on the acquirer before receiving a non-objection. As discussed in detail below, the proposed rule would materially amend existing subpart E of part 303 by incorporating several aspects of the transferred CBCA regulation.[45]

1. Section 303.83(a)(1)

The proposed rule, like the existing subpart E of part 303 and the transferred CBCA regulation, provides that acquisitions through bona fide gift that result in control of an institution would require the acquirer to provide notice to the FDIC within 90 days after the acquisition.

2. Section 303.83(a)(2)

The proposed rule, as does the existing subpart E of part 303, provides that the acquisition of voting securities in satisfaction of a debt previously contracted for in good faith that would otherwise require prior notice requires the acquirer to provide notice to the FDIC within 90 days after the acquisition (note that the acquisition of a defaulted loan secured by an amount of a covered institution's voting securities that would result in the acquirer holding a controlling amount of the institution's voting securities requires prior notice).[46] The transferred CBCA regulation creates separate notice requirements for such acquisitions based on whether the loan was made in the ordinary course of business for the lender; however, the FDIC does not believe that distinction warrants separate notice procedures and therefore the FDIC has not adopted such separate notice requirements.

3. Section 303.83(a)(3)

The proposed rule, as does existing subpart E of part 303, would permit an acquirer to provide notice to the FDIC within 90 days after the acquisition of voting securities through an inheritance where the acquisition would result in the acquirer holding a controlling amount of the institution's voting securities. The proposed rule would provide a slightly longer period for filing a notice than the transferred CBCA regulation. The transferred CBCA regulation provides a sixty-day notice period for State savings associations.[47] In the proposed rule, acquirers of State savings associations or parent companies of State savings associations would have the same timeframe (90 days after the acquisition) as acquirers of State nonmember banks or parent companies of State nonmember banks.

4. Section 303.83(b)(1)

The proposed rule, like the existing subpart E of part 303 and the transferred CBCA regulation, would permit the filing of a Notice within 90 days after being notified of a redemption of voting securities that results in the acquisition of control of the covered institution. The proposed rule is substantively the same as existing subpart E of part 303. The difference relates to a change in regulatory language to reflect that a person might acquire control without acquiring additional voting securities when a covered institution redeems voting securities. For example, if the two largest shareholders hold 23 and 21 percent of a covered institution's voting securities and the covered institution redeems all of the voting securities held by the person with 23 percent, the person with 21 percent would have to file a Notice. As such, the proposed rule uses the term ''acquisition of control'' instead of ''a percentage increase in voting securities''. The transferred CBCA regulation provides different notice procedures for redemptions based on whether the redemption is pro rata or is not pro rata.[48] The FDIC does not believe the distinction between types of redemptions merits varying notice procedures. Accordingly, the proposed rule provides that if a person acquires control of a covered institution as a result of a redemption, that person would have 90 days after receiving notice of the transaction to provide notice to the FDIC.

5. Section 303.83(b)(2)

Existing subpart E of part 303 permits a person to provide the FDIC notice within 90 days after receiving notice of a sale of shares by any shareholder that is not within the control of a person and which results in that person becoming the largest shareholder.[49] The proposed rule would revise this provision. Under the proposed rule, if a person gains control as a result of any third-party event or action that is not within the control of the person acquiring control, that person must file a Notice within 90 days of receiving notice of such action. This provision, similar to the catch-all in the transferred CBCA regulation, is intended to provide a broader exemption from prior notice requirements than solely an acquisition of control arising from the sale of securities which results in the acquirer becoming the largest shareholder.[50] The FDIC would also interpret the proposed catch-all to include any transfer that results from the operation of law. For example, some trustees are appointed by operation of law, such as a trustee in bankruptcy. Under the proposed rule, the trustees would have to provide the FDIC with a Notice within 90 days after the person receives notice of the acquisition. This provision codifies long-standing FDIC policy. The FDIC notes that if the person acquiring control causes the third-party event or action, then prior notice is required.

6. Section 303.83(c)

The proposed rule would expressly provide that the FDIC may disapprove a Notice filed after-the-fact and that nothing in section 303.83 limits the FDIC's authority to disapprove a Notice. Existing subpart E of part 303 includes this provision with respect to acquisitions of control of State nonmember banks and certain parent companies of State nonmember banks; the proposed rule would also apply this provision to acquisitions of control of State savings associations and certain parent companies of State savings associations.

7. Section 303.83(d)

The proposed rule explicitly states that the relevant information that the FDIC may require under this section may include all of the information typically required for a prior notice; the relevant information may include, without limitation, all the information requested by the Interagency Notice of Change in Control form and the Interagency Biographical and Financial Report. This provision is not in existing subpart E of part 303, but is included in the proposed rule for transparency and to codify long-standing FDIC policy.

8. Section 303.83(e)

The proposed rule expressly states that if the FDIC disapproves a Notice, then the notificant must divest control of the covered institution which may include, without limitation, disposing of some or all of the voting securities so that the notificant(s) is no longer in control of the covered institution. This provision is not in existing subpart E of part 303, but is included in the proposed rule for clarity and to codify long-standing FDIC policy.

9. Additional Transferred CBCA Regulation Provisions Not Included

In addition to the provisions discussed above, the proposed rule does

[45] *See* 12 CFR 303.83(b) and 12 CFR 391.42(d).

[46] See proposed section 303.82(c).

[47] 12 CFR 391.42(d)(1)(v).

[48] 12 CFR 391.42(d)(1)(iii).

[49] 12 CFR 303.83(b)(2)(ii).

[50] *See* 12 CFR 391.42(d)(1)(iv).

not include the express caveat that transactions eligible for after-the-fact notice are only eligible for after-the-fact notice provided that the timing of the transaction is outside the control of the notificant. The FDIC does not believe that it is necessary to state explicitly such a restraint on eligibility for an after-the-fact notice because failure to comply with the statutory or regulatory provisions may subject the acquirer to liability. As a result, the FDIC has historically interpreted the exceptions to prior notice as including this restraint.

e. Section 303.84 Transactions That Do Not Require Notice

1. Section 303.84(a)(1)

Section 303.84(a)(1) includes grandfather provisions for long-held control interests in covered institutions. Under section 303.84(a)(1)(i), notice would not be required when a person acquires additional voting securities of covered institution if the person held the power to vote 25 percent or more of any class of voting securities continuously since the later of March 9, 1979, or the date the institution commenced business. This exemption from notice requirements is not substantively different from the exemption in the existing subpart E of part 303 and only updates terminology.[51]

The transferred CBCA regulation has a substantively identical exemption to 303.84(a)(1)(i) in the proposed rule for persons that have previously held the power to vote 25 percent or more of any class of voting securities continuously since March 9, 1979; however, it does not exempt persons who held the power to vote 25 percent or more of any class of voting securities since the date the savings association commenced business.[52] The proposed rule, however, would exempt such an acquisition. As such, compared to the transferred CBCA regulation, the proposed rule would expand the notice exemptions for persons who held the power to vote 25 percent or more of any class of voting securities since the date the savings association commenced business. The FDIC feels this expansion would serve to make the change in control requirements more uniform and consistent between State savings associations, State nonmember banks, and certain parent companies of either. In general, the FDIC does not believe significant reasons exist to treat acquisitions of control of State savings associations or parent companies thereof differently, in this respect, than acquisitions of control of State nonmember banks and parent companies thereof, and has tried to make their treatment as uniform as possible under the proposed rule. Furthermore, because shareholders who have held over 25 percent of the voting securities since the commencement of a State savings association were likely reviewed when the institution acquired its charter and deposit insurance, the FDIC does not believe the same shareholders need to be reviewed a second time when they acquire additional voting securities.

Under section 303.84(a)(1)(ii), notice is not required when a person who is presumed to have controlled a covered institution continuously since March 9, 1979, acquires additional voting securities of an institution provided that the aggregate amount of voting securities held does not exceed 25 percent or more of any class of voting securities, or the FDIC has determined that the person has continuously controlled the institution since March 9, 1979.[53] The proposed rule would not amend this exemption for State nonmember banks or certain parent companies thereof. The transferred CBCA regulation included a similar provision, except with a grandfather date of December 26, 1985.[54] The proposed rule would not include the grandfather date from the transferred CBCA regulation; rather it would adopt the same grandfather provisions for State savings associations as are applicable for State nonmember banks. This treatment generally reflects the FDIC's position that State savings associations should be treated in a similar manner to State nonmember banks. In addition, this treatment is consistent with the OCC's proposed treatment of Federal savings associations.[55]

2. Section 303.84(a)(2)

The proposed rule would also exempt from notice requirements a person who has controlled a covered institution in compliance with the procedures of the Change in Bank Control Act or the repealed Change in Savings and Loan Control Act, or any regulations issued under either act, and who acquires additional voting securities.[56] Existing subpart E of part 303 and the transferred CBCA have substantially similar provisions.[57]

Question 7: Should the FDIC continue to exempt all future acquisitions of voting securities of an institution once a person has acquired control in compliance with the procedures from the Change in Bank Control Act? Or, should the FDIC limit this exemption to a certain percentage of a class of voting securities of a covered institution? For example, should only acquisitions of up to 50 percent of a class of voting securities be exempt once a person has acquired control in compliance with the procedures from the Change in Bank Control Act? If such a policy is adopted, and a person acquires over 50 percent of a class of voting securities, then a second Notice would be required.

3. Section 303.84(a)(3)

Under the Change in Bank Control Act, and both the existing Subpart E of Part 303 and the transferred CBCA regulation, acquisitions of voting securities that are subject to approval under section 3 of the BHC Act,[58] section 18(c) of the FDI Act,[59] or section 10 of the Home Owners' Loan Act[60] are exempt from notice requirements. These are statutory exemptions.[61]

4. Section 303.84(a)(4)

The existing subpart E of part 303 exempts from notice requirements those transactions that are exempt under the BHC Act, foreclosures by institutional lenders, fiduciary acquisitions by banks, and increases of majority holdings by bank holding companies described in sections 2(a)(5), 3(a)(A), or 3(a)(B), respectively, of the BHC Act, 12 U.S.C. 1841(a)(5), 1842(a)(A), and 1842(a)(B).[62] The proposed rule includes these exemptions, but does not include the text preceding the statutory references. The text, ''foreclosures by institutional lenders, fiduciary acquisitions by banks, and increases of majority holdings by bank holding companies'' is removed for clarity only; no substantive change is intended or effected. Intended as shorthand reference to the subject matter of the statutory provisions, the text has generated confusion regarding

[51] *See* 12 CFR 303.83(a)(1)(i).

[52] 12 CFR 391.42(c)(2)(v)(A) and (B).

[53] 12 CFR 303.83(a)(1)(ii).

[54] The difference in the grandfather date is due to a difference in when the presumptions in the transferred CBCA regulation and existing subpart E of part 303 became effective. The FDIC does not anticipate many persons, if any, would be affected by the proposed March 9,1979 grandfather date for State savings associations.

[55] 12 CFR 5.50(c)(2).

[56] See 12 CFR 391.42(c)(2)(v)(B) for a similar provision in the transferred CBCA regulation.

[57] 12 CFR 303.83(a)(2) and 391.42(c)(2)(v).

[58] 12 U.S.C. 1842 *et seq.*

[59] 12 U.S.C. 1828(c).

[60] 12 U.S.C. 1467b.

[61] 12 U.S.C. 1817(j)(17).

[62] 12 CFR 303.83(a)(4). The transferred CBCA regulation includes references to exempt transactions in 12 CFR 391.42(c)(2)(i)(A), (ii), (iii), and (iv) that are substantially similar to the exempt transactions included in the proposed rule.

its proper interpretation in that it could be interpreted as limiting the scope of those statutory references. In order to eliminate that confusion, the FDIC proposes to delete the text. Consequently, the proposed rule provides that any transaction described in sections 2(a)(5), 3(a)(A), or 3(a)(B) of the BHC Act by a person described in those provisions is exempt from notice requirements.

5. Section 303.84(a)(5)

The existing subpart E of part 303 exempts a customary one-time proxy solicitation from the notice requirements.[63] The proposed rule would only technically modify this exemption by expressly limiting its applicability to revocable proxies, which is in line with long-standing FDIC interpretation. This exemption would be applicable any time revocable proxies are solicited for a single meeting of a covered institution. This exemption would not cover irrevocable proxies or revocable proxies that do not terminate within a reasonable period after the meeting. The transferred CBCA regulation does not include a similar exemption for the one-time solicitation of revocable proxies.

Question 8: To what extent would the holding of such a proxy allow the holder to significantly influence an institution? In what manner should this exemption be limited, if any?

6. Section 303.84(a)(6)

The existing subpart E of part 303 also exempts from notice requirements the receipt of voting shares through a pro rata stock dividend.[64] The transferred CBCA regulation has a similar exemption, but extends the exemption to stock splits, if the proportional interests of the recipients remain substantially the same.[65] This language is similar to language contained in the Board of Governors' change in control regulation.[66] The FDIC believes the effect of a stock split is substantially similar to the effect of a pro rata stock dividend and has incorporated this exemption. Thus, the proposed rule would permit an exemption for an increase in voting securities through both a pro rata stock dividend or a stock split, provided the proportional interests of the recipients remain the same.

7. Section 303.84(a)(7)

The proposed rule, like the existing subpart E of part 303, exempts the acquisition of voting securities in a foreign bank that has an insured branch in the United States.

8. Section 303.84(a)(8)

The existing subpart E of part 303 exempts from notice requirements the acquisition of voting shares of a depository institution holding company that either the Board of Governors or the former OTS reviews under the Change in Bank Control Act.[67] The purpose of this exemption is to avoid duplicate regulatory review of the same acquisition of control by both the Board of Governors and the FDIC. The proposed rule includes this exemption, but removes the reference to the former OTS. The proposed rule also would continue the FDIC's longstanding practice that this exemption is only applicable when the Board of Governors actually reviews a Notice under the Change in Bank Control Act and not when the Board of Governors has jurisdiction but does not require a Notice. Accordingly, if the Board of Governors determines to accept passivity commitments in lieu of a Notice, the FDIC will evaluate the facts and circumstances of the case to determine whether a Notice is required to be filed with the FDIC for the indirect acquisition of control of an FDIC-supervised institution. This revision to the existing subpart E of part 303 is consistent with the language in the transferred CBCA regulation, which states that transactions for which ''a change of control notice must be submitted'' to the Board of Governors are exempt from notice requirements.[68] This revision is also consistent with the purpose of the exemptions and the FDIC's long-standing practice.

9. Other CBCA Exemptions

The transferred CBCA regulation also includes an exemption for acquisitions of up to twenty-five percent of a class of stock by a tax-qualified employee stock benefit plan as defined in 12 CFR 192.25.[69] The proposed rule does not include this provision because such plans are treated in the same manner as any trust. To the extent that a trustee does not have voting rights or the power to direct how the votes will be cast, typically the FDIC would not determine that the trustee has control.

f. 303.85 Filing Procedures

The filing procedures in the proposed rule would be identical to the filing procedures in the existing subpart E of part 303.[70] The FDIC is not proposing substantial modifications to the filing procedures in the existing subpart E of part 303 because these procedures are well-understood by the industry and have historically been easy to implement by both the FDIC and the industry. The proposed rule would change the filing procedures specified in the transferred CBCA regulation such that acquirers of State savings associations and certain parent companies thereof do not need to file a Notice using the OTS's Notice Form 1393.[71] Under the proposed rule, a specific notice form would not be required, however, all of the information required by the FFIEC forms would need to be submitted.[72] However, the FDIC encourages the use of the FFIEC Interagency Notice of Change in Control form as well as the Interagency Biographical and Financial Report.

Additionally, the proposed rule would not specifically state that the notificant may amend the Notice, as in the transferred CBCA regulation, but it is current FDIC policy that notificants can amend a Notice at their own initiative or upon the request of the FDIC.

g. 303.86 Processing and Disapproval of Notices

The procedural requirements in the proposed rule are substantively identical to the procedural requirements in the existing subpart E of part 303.[73] Similar to the reasoning for not proposing substantial modifications to the filing procedures in the existing subpart E of part 303, the FDIC is not proposing any substantive changes to the processing procedures in the proposed rule. Relative to the procedural requirements in the existing subpart E of part 303, the only modification proposed would be to state explicitly that the Change in Bank Control Act permits the FDIC to extend the notice period.[74] Material changes for State savings associations, as compared

[63] 12 CFR 303.83(a)(5).

[64] 12 CFR 303.83(a)(6).

[65] 12 CFR 391.42(c)(2)(i)(C).

[66] *See* 12 CFR 225.42(a)(6).

[67] 12 CFR 303.83(a)(8). This fact pattern would arise, for example, when an individual investor, rather than a company, seeks to acquire control of a bank holding company.

[68] 12 CFR 391.42(c)(2)(iv).

[69] 12 CFR 391.42(c)(2)(i)(E).

[70] *See* 12 CFR 303.84.

[71] 12 CFR 391.45(a) and (b).

[72] A notificant may choose to use an interagency form requested from an FDIC Regional Director.

[73] *See* 12 CFR 303.85.

[74] *See* 12 CFR 303.86(b)(1).

to the transferred CBCA regulation, are discussed below.[75]

First, the proposed rule does not include the provision in the transferred CBCA regulation that failure by a State savings association to respond to a written request for information or documents within 30 calendar days would be deemed a withdrawal of the Notice or rebuttal filing.[76] Instead, any written request for information from the FDIC may include a time-limit within which the institution must respond before the Notice or rebuttal filing would be considered abandoned or withdrawn. This procedure provides more flexibility depending on the depth and amount of information requested.

Second, the limitation in the transferred CBCA regulation restricting the FDIC's additional information requests, after the initial information request, to only information regarding matters derived from the initial information request or Notice, or information of a material nature that was not reasonably available for the acquirer, was concealed, or pertained to developments after the time of the initial information request is not included in the proposed rule.[77] The proposed rule does not include such a restriction because the FDIC believes it should have the flexibility to investigate all material information throughout the notice review period.

Additionally, the transferred CBCA regulation includes a list of factors that give rise to a rebuttable presumption that an acquirer may fail the integrity and financial condition statutory factors.[78] For example, if during the 10-year period immediately preceding the filing of the Notice, certain judgments, consents, orders, or administrative proceedings terminated in any agreements or orders issued against the acquirer, or affiliates of the acquirer, by any governmental entity, which involve: (A) Fraud, moral turpitude, dishonesty, breach of trust or fiduciary duties, organized crime or racketeering; (B) violation of securities or commodities laws or regulations; (C) violation of depository institution laws or regulations; (D) violation of housing authority laws or regulations; or (E) violation of the rules, regulations, codes of conduct or ethics of a self-regulatory trade or professional organization, there is a rebuttable presumption that the notificant cannot meet the statutory integrity factor. For the financial condition factor, for instance, if the notificant failed to furnish a business plan or furnished a business plan projecting activities which are inconsistent with economical home financing, then there is a rebuttable presumption the notificant cannot meet the financial condition statutory factor. As discussed above, the proposed rule would not adopt the presumption regarding disqualification factors. Nevertheless, the FDIC notes that these are the sort of facts that it considers when evaluating the financial or integrity factors.

h. 303.87 Public Notice Requirement

The proposed rule would not substantively amend the public notice requirements in the existing subpart E of part 303.[79] The proposed rule includes minor revisions to the public notice requirements for Notices that are not filed in accordance with the CBCA and this subpart within the time periods specified. The proposed rule harmonizes the public notice requirements for such Notices with the requirements for Notices filed in accordance with the CBCA and this subpart. Material changes for State savings associations, as compared to the transferred CBCA regulation, are discussed below.[80]

First, the transferred CBCA regulation does not explicitly permit the FDIC to delay publication requirements. The proposed rule, like the existing subpart E of part 303, would permit the FDIC to delay the publication required if the FDIC determines, for good cause, that it is in the public interest to grant a delay.

The proposed rule also permits the FDIC to shorten the public comment period to a period of not less than 10 days, or waive the public comment or newspaper publication requirements, or act on a Notice before the expiration of a public comment period, if it determines that an emergency exists or that disclosure of the Notice, solicitation of public comment, or delay until expiration of the public comment period would seriously threaten the safety and soundness of the institution to be acquired. The transferred CBCA regulation permits the FDIC to waive the public notice period and submission of comments for supervisory reasons.[81] The proposed rule includes the language from the existing subpart E of part 303 and not the broader language from the transferred CBCA regulation because the FDIC believes that such a waiver should be rare and granted only as specified in the existing subpart E of part 303. The FDIC believes that public comment is an important right and should only be waived for an emergency or serious threats to an institution's safety and soundness.

The transferred CBCA regulation provides for a 30-day comment period, but the existing subpart E of part 303 and the proposed rule include a 20-day comment period.[82] The proposed rule includes a 20-day comment period because in the FDIC's experience the 20-day comment period in the existing subpart E of part 303 has provided potential commenters sufficient time to comment. In addition, a 20-day comment period is preferable because it gives the FDIC sufficient time to review any comments during the limited statutory review period (60-days unless extended further). Finally, a 20-day comment period provides consistency among the Federal banking agencies with respect to State savings associations, State nonmember banks, national banks, and State member banks.

The proposed rule would also require that if a Notice was not filed in accordance with the CBCA and this subpart within the time periods specified, the notificant must publish an announcement of the acquisition of control in a newspaper of general circulation in the community in which the home office of the FDIC-supervised institution acquired is located within 10 days after being directed to file a Notice by the FDIC. This express requirement is not included in the transferred CBCA regulation.

The transferred CBCA regulation includes a provision regarding how an applicant can request that information submitted in connection with a Notice be treated as confidential.[83] The proposed rule does not include these procedures because the FDIC has comparable disclosure and confidentiality regulations in 12 CFR part 309 that already cover such requests.

Finally, the transferred CBCA regulation explicitly states that the FDIC will notify the State savings association's State supervisor of the filing of a Notice.[84] As this is a statutory requirement, the FDIC does not believe its inclusion in the proposed rule is necessary.

[75] See 12 CFR 391.45(c) and 391.46 for relevant provisions of the transferred CBCA regulation.

[76] *See* 12 CFR 391.45(c)(1).

[77] *See* 12 CFR 391.45(c)(3).

[78] 12 CFR 391.46(g).

[79] *See* 12 CFR 303.86.

[80] *See* 12 CFR 391.45.

[81] 12 CFR 391.45(g).

[82] 12 CFR 303.86(d) and 12 CFR 391.45(e).

[83] 12 CFR 391.45(f).

[84] 12 CFR 391.45(h).

i. 303.88 Reporting of Stock Loans and Changes in Chief Executive Officers and Directors

The proposed rule includes two longstanding statutory reporting requirements that are not included in existing subpart E of part 303 or the transferred CBCA regulation. The first statutory reporting requirement relates to any foreign bank, or any affiliate thereof, that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by 25 percent or more of any class of voting securities of a covered institution.[85] The second statutory reporting requirement included in the proposed rule relates to changes in chief executive officers and directors of a bank within 12 months of a change in control being consummated.[86] The proposed rule does not add to, or modify, the existing statutory requirements and only includes the longstanding statutory requirements to enhance transparency for covered institutions.

j. Other Transferred CBCA Regulation Provisions

The proposed rule does not include similar language to that in 12 CFR 391.45(i)–(j), which outline additional procedures for Notices that involve other filings to the FDIC. Notificants should review other applicable regulatory sections, such as 12 CFR 303.60 *et seq.* concerning merger applications or mutual-to-stock conversions for further information on related filings. The FDIC generally prefers not to cross-reference filings that a particular transaction may require. The FDIC notes that acquisitions of voting securities subject to approval under section 18(c) of the FDI Act are exempt from notice requirements.

The transferred CBCA regulation also contains a rebuttal of control agreement.[87] The proposed rule does not include this agreement because the FDIC believes that a rebuttal of control should be tailored to the facts and circumstances of each situation, and a standard agreement would not typically capture the various circumstances present in some situations. The FDIC prefers to make any potential rebuttal of control decision only after reviewing the facts and circumstances of the particular acquisition.[88]

The proposed rule also excludes the requirement in the transferred CBCA regulation that certain acquirers of beneficial ownership exceeding 10 percent of any class of stock of a State savings association file a certification of ownership. The FDIC believes that the regulatory burden of these filings exceeds the benefits derived from them.

k. Existing OTS Guidance

All guidance issued by the OTS that would otherwise apply to changes in control of State savings associations and that is inconsistent with the provisions of any final rule issued by the FDIC on the subject would be rescinded on the effective date of an FDIC final rule regarding changes in control of State savings associations.

In addition to the questions presented above, the FDIC requests comment on all aspects of the proposed rule, including the potential cost and benefits of the proposed rule.

III. Regulatory Analyses

A. Paperwork Reduction Act (PRA)

In accordance with the requirements of the Paperwork Reduction Act of 1995, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (''OMB'') control number.[89] The *Interagency Notice of Change in Control* has previously been approved by the OMB under Control No. 3064–0019 for all covered institutions, including State nonmember banks and State savings associations. This proposed rule would not revise the *Interagency Notice of Change in Control* form for covered institutions. As such, the proposed rule does not include an information collection as defined under the PRA.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to $550 million). A regulatory flexibility analysis, however, is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the proposed rule. For the reasons provided below, the FDIC certifies that the proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

The proposed rule only affects persons acquiring control of covered small banking entities. As such, the rule would not have a significant economic impact on a substantial number of small banking entities as the proposed rule would not impose any new requirements or prohibitions on small banking entities and would not impose any direct costs on small banking entities. As discussed in the preamble, the proposed rule primarily revises the circumstances that require the filing of a Notice for persons acquiring control of a small banking entity. Any impact of the proposed rule would be borne by the persons acquiring a controlling interest in a covered institution and not by the covered institution directly. Furthermore, for State nonmember banks and certain of their parent companies, the proposal generally codifies existing FDIC practice and should only marginally affect the number of persons subject to notice requirements. While the changes for State savings associations are more material, the changes generally simplify the requirements under the transferred CBCA regulation and should not materially increase the number of change in control Notices that must be filed. Currently, the FDIC receives approximately 35 change in control Notices each year and the FDIC does not expect the proposed rule to increase the number of Notices received by more than one or two Notices annually. As such, the proposed rule should not have a significant economic impact on a substantial number of small banking entities.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the FDIC to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites comment on how to make this proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the FDIC present the rule more clearly?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation

[85] 12 U.S.C. 1817(j)(9).

[86] 12 U.S.C. 1817(j)(12).

[87] 12 CFR 391.48.

[88] *See also* discussion at II.c.7, *supra.*

[89] 44 U.S.C. 3501 *et seq.*

easier to understand? If so, what changes would achieve that?

• Is this section format adequate? If not, which of the sections should be changed and how?

• What other changes can the agencies incorporate to make the regulation easier to understand?

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, banks, banking, savings associations, change in bank control.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend parts 303 and 391 of chapter III of Title 12, Code of Federal Regulations as follows:

PART 303—FILING PROCEDURES

■ 1. Revise the authority citation for part 303 to read as follows:

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819 (Seventh and Tenth), 1820, 1823, 1828, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414; 15 U.S.C. 1601–1607.

■ 2. Revise Subpart E to read as follows:

* * * * *

Subpart E—Change in Bank Control Act

303.80 Scope.
303.81 Definitions.
303.82 Transactions that require prior notice.
303.83 Transactions that require notice, but not prior notice.
303.84 Transactions that do not require notice.
303.85 Filing procedures.
303.86 Processing.
303.87 Public notice requirements.
303.88 Reporting of stock loans and changes in chief executive officers and directors.
303.89–303.99 [Reserved]

* * * * *

■ 3. Revise Subpart E of part 303 to read as follows:

Subpart E—Change in Bank Control

§ 303.80 Scope.

This subpart implements the provisions of the Change in Bank Control Act of 1978, section 7(j) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1817(j)) (CBCA), and sets forth the filing requirements and processing procedures for a notice of change in control with respect to the acquisition of control of a State nonmember bank, a State savings association, or certain parent companies of either a State nonmember bank or a State savings association.

§ 303.81 Definitions.

For purposes of this subpart:

(a) *Acting in concert* means knowing participation in a joint activity or parallel action towards a common goal of acquiring control of a covered institution whether or not pursuant to an express agreement.

(b) *Company* means a company as defined in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) and any person that is not an individual.

(c) *Control* means the power, directly or indirectly, to direct the management or policies of a covered institution or to vote 25 percent or more of any class of voting securities of a covered institution.

(d) *Convertible securities* mean debt or equity interests that may be converted into voting securities.

(e) *Covered institution* means an insured State nonmember bank, an insured State savings association, and any company that controls, directly or indirectly, an insured State nonmember bank or an insured State savings association other than a holding company that is the subject of an exemption described in either section 303.84(a)(3) or (a)(8).

(f) *Immediate family* means a person's parents, mother-in-law, father-in-law, children, step-children, siblings, step-siblings, brothers-in-law, sisters-in-law, grandparents, and grandchildren, whether biological, adoptive, adjudicated, contractual, or *de facto;* the spouse of any of the foregoing; and the person's spouse.

(g) *Person* means an individual, corporation, limited liability company (LLC), partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, voting trust, or any other form of entity; and includes each party to a voting agreement and any group of persons acting in concert.

(h) *Management official* means any officer, LLC manager, director, partner, or trustee of an entity, or other person with policy-making functions.

(i)(1) *Voting securities* means shares of common or preferred stock, general or limited partnership shares or interests, membership interests, or similar interests if the shares or interests, by statute, charter, or in any manner, entitle the holder:

(i) To vote for, or to select, directors, trustees, managers of an LLC, partners, or other persons exercising similar functions of the issuing entity; or

(ii) To vote on, or to direct, the conduct of the operations or significant policies of the issuing entity.

(2) Nonvoting shares. Shares of common or preferred stock, limited partnership shares or interests, membership interests, or similar interests are not ''voting securities'' if:

(i) Any voting rights associated with the shares or interests are limited solely to the type customarily provided by State statute with regard to matters that would significantly and adversely affect the rights or preference of the security or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing entity, or the payment of dividends by the issuing entity when preferred dividends are in arrears;

(ii) The shares or interests represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuing entity; and

(iii) The shares or interests do not entitle the holder, by statute, charter, or in any manner, to select, or to vote for the selection of, directors, trustees, managers of an LLC, partners, or persons exercising similar functions of the issuing entity.

(3) Class of voting securities. Shares of stock or other interests issued by a single issuer are deemed to be the same class of voting shares, regardless of differences in dividend rights or liquidation preference, if the shares are voted together as a single class on all matters for which the shares have voting rights other than matters described in paragraph (i)(2)(i) of this section that affect solely the rights or preferences of the shares.

§ 303.82 Transactions that require prior notice.

(a) *Prior notice requirement.* Except as provided in Sections 303.83 and 303.84, no person, acting directly or indirectly, or through or in concert with one or more persons, shall acquire control of a covered institution unless the person shall have given the FDIC prior notice of the proposed acquisition as provided in the CBCA and this subpart, and the FDIC has not disapproved the acquisition within 60 days or such longer period as may be permitted under the CBCA.

(b) *Rebuttable presumptions.*

(1) *Rebuttable presumptions of control.* The FDIC presumes that an acquisition of voting securities of a covered institution constitutes the acquisition of the power to direct the management or policies of that institution requiring prior notice to the FDIC, if, immediately after the transaction, the acquiring person will

own, control, or hold with power to vote 10 percent or more of any class of voting securities of the institution, and if:

(i) The institution has registered securities under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or

(ii) No other person will own, control or hold the power to vote a greater percentage of that class of voting securities immediately after the transaction.

(2) *Rebuttable Presumptions of Acting in Concert.* The following persons who own or control, or propose to own or control voting securities in a covered institution, shall be presumed to be acting in concert for purposes of this subpart:

(i) A company and any controlling shareholder or management official of the company;

(ii) An individual and the individual's immediate family;

(iii) Companies under common control or a company and each company it controls;

(iv) Two or more persons that have made, or propose to make, a joint filing related to the proposed acquisition under sections 13 or 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78n), and the rules promulgated thereunder by the Securities and Exchange Commission;

(v) A person and any trust for which the person serves as trustee or any trust for which the person is a beneficiary; and

(vi) Persons that are parties to any agreement, contract, understanding, relationship, or other arrangement, whether written or otherwise, regarding the acquisition, voting, or transfer of control of voting securities of a covered institution, other than through revocable proxies as described in 303.84(a)(5).

(3) *Convertible securities, Options, and Warrants.* The acquisition of convertible securities, options, or warrants is presumed to constitute the acquisition of voting securities.

(4) *Rebuttal of presumptions.* The FDIC will afford any person seeking to rebut a presumption in this paragraph (b) an opportunity to present views in writing.

(c) *Acquisition of loans in default.* An acquisition of a loan in default that is secured by voting securities of a covered institution is deemed to be an acquisition of the underlying securities for purposes of this subpart. Before acquiring a loan in default that would result in the acquiring person owning, controlling, or holding with the power to vote a controlling amount of a covered institution's voting securities, the potential acquirer must give the FDIC prior written notice as specified in this subpart.

§ 303.83 Transactions that require notice, but not prior notice.

(a) *Notice within 90 days after the acquisition.* The following acquisitions of voting securities of a covered institution, which otherwise would require prior notice under this subpart, instead require the acquirer to provide to the appropriate FDIC office within 90 calendar days after the acquisition all relevant information requested by the FDIC:

(1) The acquisition of voting securities as a bona fide gift;

(2) The acquisition of voting securities in satisfaction of a debt previously contracted in good faith, except as provided in § 303.82(c); and

(3) The acquisition of voting securities through inheritance.

(b) *Notice within 90 days after receiving notice of the event giving rise to the acquisition of control.* The following acquisitions of control of a covered institution, which otherwise would require prior notice under this subpart, instead require the person acquiring control to provide to the appropriate FDIC office, within 90 calendar days after receiving notice of the event giving rise to the acquisition of control, all relevant information requested by the FDIC:

(1) The acquisition of control resulting from a redemption of voting securities by the issuing covered institution; and

(2) The acquisition of control as a result of any event or action (including without limitation the sale of securities) by any third party that is not within the control of the person acquiring control.

(c) The FDIC may disapprove a notice filed after an acquisition of control, and nothing in this section limits the authority of the FDIC to disapprove a notice pursuant to § 303.86(c).

(d) The relevant information that the FDIC may require under this section may include all information and documents routinely required for a prior notice as provided in section 303.85.

(e) If the FDIC disapproves a Notice filed under this § 303.83, the notificant(s) must divest control of the covered institution which may include, without limitation, disposing of some or all of the voting securities so that the notificant(s) is no longer in control of the covered institution, within such period of time and in the manner that the FDIC may determine.

§ 303.84 Transactions that do not require notice.

(a) Exempt transactions. The following transactions do not require notice to the FDIC under this subpart:

(1) The acquisition of additional voting securities of a covered institution by a person who:

(i) Held the power to vote 25 percent or more of any class of voting securities of the institution continuously since the later of March 9, 1979, or the date that the institution commenced business; or

(ii) Is presumed, under § 303.82(b) to have controlled the institution continuously since March 9, 1979, if the aggregate amount of voting securities held does not exceed 25 percent or more of any class of voting securities of the institution or, in other cases, where the FDIC determines that the person has controlled the institution continuously since March 9, 1979;

(2) The acquisition of additional voting securities of a covered institution by a person who has lawfully acquired and maintained control of the institution (for purposes of § 303.82) after complying with the procedures, and received the non-objection of the FDIC, of this subpart or the repealed Change in Savings and Loan Control Act, 12 U.S.C. 1730(q), and the regulations thereunder then in effect, to acquire control of the institution;

(3) Acquisitions of voting securities subject to approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842(a)), section 18(c) of the FDI Act (12 U.S.C. 1828(c)), or section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a);

(4) Any transaction described in sections 2(a)(5), 3(a)(A), or 3(a)(B) of the Bank Holding Company Act (12 U.S.C. 1841(a)(5), 1842(a)(A), or 1842(a)(B)) by a person described in those provisions;

(5) A customary one-time solicitation of a revocable proxy;

(6) The receipt of voting securities of a covered institution through a pro rata stock dividend or stock split if the proportional interests of the recipients remain substantially the same;

(7) The acquisition of voting securities in a foreign bank that has an insured branch in the United States. (This exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the CBCA (12 U.S.C. 1817(j)(9), (10), and (12)); and

(8) The acquisition of voting securities of a depository institution holding company for which the Board of Governors of the Federal Reserve System reviews a notice pursuant to the CBCA (12 U.S.C. 1817(j)).

§ 303.85 Filing procedures.

(a) *Filing notice.*

(1) A notice required under this subpart shall be filed with the appropriate FDIC office and shall contain all the information required by paragraph 6 of the CBCA, section 7(j) of the FDI Act, (12 U.S.C. 1817(j)(6)), or prescribed in the designated interagency forms which may be obtained from any FDIC regional director.

(2) The FDIC may waive any of the informational requirements of the notice if the FDIC determines that it is in the public interest.

(3) A notificant shall notify the appropriate FDIC office immediately of any material changes in the information contained in a notice submitted to the FDIC, including changes in financial or other conditions.

(4) When the acquiring person is an individual, or group of individuals acting in concert, the requirement to provide personal financial data may be satisfied by a current statement of assets and liabilities and an income summary, as required in the designated interagency form, together with a statement of any material changes since the date of the statement or summary. The FDIC may require additional information if appropriate.

(b) *Other laws.* Nothing in this subpart shall affect any obligation which the acquiring person(s) may have to comply with the federal securities laws or other laws.

§ 303.86 Processing.

(a) *Acceptance of notice, additional information.* The FDIC shall notify the person or persons submitting a notice under this subpart in writing of the date the notice is accepted as substantially complete. The FDIC may request additional information at any time.

(b) *Commencement of the 60-day notice period: consummation of acquisition.*

(1) The 60-day notice period specified in § 303.82 shall commence on the day after the date of acceptance of a substantially complete notice by the appropriate regional director. The notificant(s) may consummate the proposed acquisition after the expiration of the 60-day notice period, unless the FDIC disapproves the proposed acquisition or extends the notice period as provided in the CBCA.

(2) The notificant(s) may consummate the proposed transaction before the expiration of the 60-day period, including any extensions, if the FDIC notifies the notificant(s) in writing of its intention not to disapprove the acquisition.

(c) *Disapproval of acquisition of control.* Subpart D of 12 CFR part 308 sets forth the rules of practice and procedure for a notice of disapproval.

§ 303.87 Public notice requirements.

(a) *Publication*—

(1) Newspaper announcement. Any person(s) filing a notice under this subpart shall publish an announcement soliciting public comment on the proposed acquisition. The announcement shall be published in a newspaper of general circulation in the community in which the home office of the covered institution to be acquired is located.

(2) Timing of Publication. The announcement shall be published as close as is practicable to the date the notice is filed with the appropriate FDIC office, but in no event more than 10 calendar days before or after the filing date. *If the filing is n*ot filed in accordance with the CBCA and this subpart within the time periods specified herein, the acquiring person(s) shall, within 10 days of being so directed by the FDIC to file a Notice, publish an announcement of the acquisition of control.

(3) Contents of newspaper announcement. The newspaper announcement shall conform to the public notice requirements set forth in § 303.7. *If the filing is n*ot filed in accordance with the CBCA and this subpart within the time periods specified herein, the announcement shall also include the date of the acquisition and contain a statement indicating that the FDIC is currently reviewing the acquisition of control.

(b) *Delay of publication.* The FDIC may permit delay in the publication required by this section if the FDIC determines, for good cause, that it is in the public interest to grant such a delay. Requests for delay of publication may be submitted to the appropriate FDIC office.

(c) *Shortening or waiving public comment period, waiving publications; acting before close of public comment period.* The FDIC may shorten the public comment period to a period of not less than 10 days, or waive the public comment or newspaper publication requirements of paragraph (a) of this section, or act on a notice before the expiration of a public comment period, if it determines in writing either that an emergency exists or that disclosure of the notice, solicitation of public comment, or delay until expiration of the public comment period would seriously threaten the safety and soundness of the State nonmember bank or State savings association to be acquired.

(d) *Consideration of public comments.* In acting upon a notice filed under this subpart, the FDIC shall consider all public comments received in writing within 20 days following the required newspaper publication or, if the FDIC has shortened the public comment period pursuant to paragraph (c) of this section, within such shorter period.

§ 303.88 Reporting of stock loans and changes in chief executive officers and directors.

(a) Requirements of reporting stock loans.

(1) Any foreign bank or affiliate of a foreign bank that has credit outstanding to any person or group of persons, in the aggregate, which is secured, directly or indirectly, by 25 percent or more of any class of voting securities of a covered institution, shall file a consolidated report with the appropriate FDIC office.

(2) Any voting securities of the covered institution held by the foreign bank or any affiliate of the foreign bank as principal must be included in the calculation of the number of voting securities in which the foreign bank or its affiliate has a security interest for purposes of paragraph (a) of this section.

(b) Definitions. For purposes of paragraph (a) of this section:

(1) Foreign bank shall have the same meaning as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(2) Affiliate shall have the same meaning as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(3) Credit outstanding includes any loan or extension of credit; the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit; and any other type of transaction that extends credit or financing to the person or group of persons.

(4) Group of persons includes any number of persons that the foreign bank or any affiliate of a foreign bank has reason to believe:

(i) Are acting together, in concert, or with one another to acquire or control voting securities of the same covered institution, including an acquisition of voting securities of the same covered institution at approximately the same time under substantially the same terms; or

(ii) Have made, or propose to make, a joint filing under section 13 or 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78n), and the rules promulgated thereunder by the Securities and Exchange Commission

regarding ownership of the voting securities of the same covered institution.

(c) Exceptions. Compliance with paragraph (a) of this section is not required if:

(1) The person or group of persons referred to in paragraph (a) has disclosed the amount borrowed and the security interest therein to the appropriate FDIC office in connection with a notice filed under the CBCA, an application filed under either 12 U.S.C. 1841, *et seq.* or 12 U.S.C. 1467a, or any other application filed to the FDIC as a substitute for a notice under § 303.82 of this subpart, including an application filed under section 18(c) of the FDI Act (Bank Merger Act, 12 U.S.C. 1828(c)) or section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815); or

(2) The transaction involves a person or group of persons that has been the owner or owners of record of the stock for a period of one year or more; or, if the transaction involves stock issued by a newly chartered bank, before the bank is opened for business.

(d) Report requirements for purposes of paragraph (a) of this section.

(1) The consolidated report must indicate the number and percentage of voting securities securing each applicable extension of credit, the identity of the borrower, the number of voting securities held as principal by the foreign bank and any affiliate thereof, and any additional information that the FDIC may require in connection with a particular report.

(2) A foreign bank, or any affiliate of a foreign bank, shall file the consolidated report in writing within 30 days of the date on which the foreign bank or affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of voting securities of a covered institution.

(e) If the foreign bank, or any affiliate thereof, is not supervised by the FDIC, it shall file a copy of the report filed under paragraph (a) of this section with its appropriate Federal banking agency.

(f) Reporting requirement. After the consummation of a change in control, a covered institution must notify the FDIC in writing of any changes or replacements of its chief executive officer or of any director occurring during the 12-month period beginning on the date of consummation. This notice must be filed within 10 days of such change or replacement and must include a statement of the past and current business and professional affiliations of the new chief executive officers or directors.

§§ 303.89–303.99 [Reserved]

* * * * *

PART 391—FORMER OFFICE OF THRIFT SUPERVISION REGULATIONS

■ 4. The authority for part 391 is revised to read as follows:

Authority: 12 U.S.C. 1819 (Tenth).; Subpart A also issued under 12 U.S.C. 1462a; 1463; 1464; 1828; 1831p–1; 1881–1884; 15 U.S.C. 1681w; 15 U.S.C. 6801; 6805.; Subpart B also issued under 12 U.S.C. 1462a; 1463; 1464; 1828; 1831p–1; 1881–1884; 15 U.S.C. 1681w; 15 U.S.C. 6801; 6805.; Subpart C also issued under 12 U.S.C. 1462a; 1463; 1464; 1828; 1831p–1; and 1881–1884; 15 U.S.C. 1681m; 1681w.; Subpart D also issued under 12 U.S.C. 1462; 1462a; 1463; 1464; 42 U.S.C. 4012a; 4104a; 4104b; 4106; 4128.

Subpart E—[Removed and Reserved]

■ 5. Remove and reserve part 391 subpart E consisting of §§ 391.40 through 391.48.

By order of the Board of Directors.

Dated at Washington, DC, this 18th day of November, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–27609 Filed 11–24–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 312

RIN 3084–AB20

Children's Online Privacy Protection Rule: AgeCheq Application for Parental Consent Method

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comment.

SUMMARY: The Federal Trade Commission publishes this request for public comment concerning a proposed parental consent method submitted by AgeCheq Inc. (''AgeCheq'') under the Voluntary Commission Approval Processes provision of the Children's Online Privacy Protection Rule. This is the second proposed new method submitted by AgeCheq.

DATES: Written comments must be received on or before December 29, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''AgeCheq Application for Parental Consent Method, Project No. P–155400'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/FTC/coppaagecheqapp2/* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''AgeCheq Application for Parental Consent Method, Project No. P–155400 on your comment and on the envelope and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex K), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex K), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Miry Kim, Attorney, (202) 326–3622, Kandi Parsons, Attorney, (202) 326–2369, or Peder Magee, Attorney, (202) 326–3538, Division of Privacy and Identity Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Section A. Background

On October 20, 1999, the Commission issued its final Rule [1] pursuant to the Children's Online Privacy Protection Act, 15 U.S.C. 6501 *et seq.,* which became effective on April 21, 2000.[2] On December 19, 2012, the Commission amended the Rule, and these amendments became effective on July 1, 2013.[3] The Rule requires certain Web site operators to post privacy policies and provide notice, and to obtain verifiable parental consent, prior to collecting, using, or disclosing personal information from children under the age of 13. The Rule enumerates methods for obtaining verifiable parental consent, while also allowing an interested party to file a written request for Commission approval of parental consent methods not currently enumerated.[4] To be considered, the party must submit a detailed description of the proposed parental consent method, together with an analysis of how the method meets the requirements for parental consent described in 16 CFR 312.5(b)(1). When a party requests approval of a proposed new method, the Rule states that the Commission ''will publish in the **Federal Register** a document seeking public comment on the request.'' [5] Seeking public comment on a proposed new method does not indicate that the

[1] 64 FR 59888 (1999).

[2] 16 CFR part 312.

[3] 78 FR 3972 (2013).

[4] 16 CFR 312.12(a); 78 FR at 3991–3992, 4013.

[5] 16 CFR 312.12.

Commission has taken a position, positive or negative, on the merits of the application.

Pursuant to § 312.12(a) of the Rule, AgeCheq has submitted a proposed parental consent method to the Commission for approval. The full text of its application is available on the Commission's Web site at *www.ftc.gov.* (To be clear, this is the second such application submitted by AgeCheq. The first is available at *http://www.ftc.gov/news-events/press-releases/2014/08/ftc-seeks-public-comment-agecheq-inc-proposal-parental.* The comment period on the first application has now closed.)

Section B. Questions on the Parental Consent Method

The Commission is seeking comment on the proposed parental consent method, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the Commission's consideration of the petition and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the number of the question being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Does the proposed method, both with respect to the process for obtaining consent for an initial operator and any subsequent operators, constitute a new methodology or is it already covered by existing methods enumerated in § 312.5(b)(1) of the Rule?

2. If this is a new method, provide comments on whether the proposed parental consent method, both with respect to an initial operator and any subsequent operators, meets the requirements for parental consent laid out in 16 CFR 312.5(b)(1). Specifically, the Commission is looking for comments on whether the proposed parental consent method is reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent.

3. Does this proposed method pose a risk to consumers' personal information? If so, is that risk outweighed by the benefit to consumers and businesses of using this method?

Section C. Invitation To Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 29, 2014. Write ''AgeCheq Application for Parental Consent Method, Project No. P–155400'' on your comment and file your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, including medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[5] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/FTC/coppaagecheqapp2/,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''AgeCheq Application for Parental Consent Method, Project No. P–155400'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex K), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex K), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 29, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–27803 Filed 11–24–14; 8:45 am]

BILLING CODE 6750–01–P

[5] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 232

[DOD–2013–OS–0133]

RIN 0790–AJ10

Limitations on Terms of Consumer Credit Extended to Service Members and Dependents

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Department of Defense has proposed an amendment to its regulation that implements the Military Lending Act. The proposed amendment was published on September 29, 2014, with comments due on November 28, 2014. This document extends the date for the receipt of comments until December 26, 2014.

DATES: The comment period for the proposed rule published on September 29, 2014 (79 FR 58601), is extended. Comments must be submitted not later than December 26, 2014.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) 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, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Marcus Beauregard, 571–372–5357.

SUPPLEMENTARY INFORMATION: The Department is extending the comment period after receiving requests from several organizations. These organizations expressed that they would not have sufficient time to adequately cover their concerns. The Department believes this extension will allow the public the additional time they have requested to be able to review the proposal and provide feedback on the questions asked in the proposal.

Dated: November 19, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–27716 Filed 11–24–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–BRCA–16897; PA.PD191235A.00.3]

RIN 1024–AE23

Special Regulations, Areas of the National Park System, Bryce Canyon National Park, Bicycling

AGENCY: National Park Service, Interior

ACTION: Proposed rule.

SUMMARY: The National Park Service is proposing to construct a paved, multi-use visitor path in Bryce Canyon National Park. The path would be approximately 6.2 miles long and be open to several uses, including running, walking, and bicycling. National Park Service regulations require promulgation of a special regulation to designate new routes for bicycle use off park roads and outside developed areas.

DATES: Comments must be received by January 26, 2015.

ADDRESSES: You may submit your comments, identified by Regulation Identifier Number (RIN) 1024–AE23, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Bryce Canyon National Park, P.O. Box 640201, Bryce Canyon, UT 84764–0201.
- *Hand Deliver to:* Superintendent's Office, Bryce Canyon National Park Visitor Center.

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: Daniel J. Cloud, Chief of Facility Management, Bryce Canyon National Park, at 435–834–4720 or at the address listed in the **ADDRESSES** section.

SUPPLEMENTARY INFORMATION:

Background

Bryce Canyon National Park (BRCA or park) is in south-central Utah. The park encompasses approximately 35,835 acres and ranges between 6,600 and 9,100 feet in elevation. BRCA was originally established as a national monument by presidential proclamation in 1923. The park was renamed Utah National Park in 1924, and the name was changed to Bryce Canyon National Park in 1928.

The park's most noted feature is the eroded landscape below the east rim of the Paunsaugunt Plateau. The erosional force of frost-wedging and the dissolving power of rainwater have worn away the colorful and weak limestone rock into bizarre shapes, including slot canyons, windows, fins, and spires called ''hoodoos.'' Because the park transcends 2,500 feet of elevation, the park exists in three distinct climatic zones characterized by spruce/fir forest, ponderosa pine forest, and pinyon pine/juniper woodlands. The diversity of forest and meadow habitats provides a high degree of plant and animal diversity. BRCA is also one of the best places to experience a truly dark night sky.

The park's purpose statement, which provides the foundation for park management, administration, and use decisions, states that ''Bryce Canyon National Park protects and conserves resources integral to a landscape of unusual scenic beauty exemplified by highly colored and fantastically eroded geological features, including rock fins and spires, for the benefit and enjoyment of the people.'' (May 2014 Foundation Document). The park's Foundation Document identifies ''increased use of alternative transportation (*e.g.,* biking, hiking) within and surrounding the park'' as an opportunity to protect clean air—one of the fundamental resources of the park. The proposal to construct a multi-use path in the park would support the park's purpose statement by providing a new opportunity for safe enjoyment and protection of the fundamental resources in the park.

Purpose of the Multi-Use Path

The primary purpose of the multi-use path is to relieve safety problems for visitors of all ages who choose to use non-motorized transportation to experience the park and adjacent United States Forest Service (USFS) areas near Bryce Canyon City. Increases in visitation of the park (30% increase between 2008 and 2012) are leading to transportation system capacity problems and traffic congestion. Cyclists and pedestrians need a way to travel to and within the park that is safer, provides a better visitor experience, and promotes non-motorized travel between nearby communities and the park as well as between key destinations in the park.

The path would enhance the park's transportation system by connecting the park's gateway communities with high visitor use areas along the canyon rim in the Bryce Amphitheater and other key features of the park. The proposed path would also connect to the existing transportation system, including visitor shuttle buses, hiking trails and walking paths, parking lots, and roads. This would link major visitor attractions and facilities with both non-motorized and motorized transportation modes. Visitor safety would be improved by separating motor vehicles from bicyclists, pedestrians, and other non-motorized user groups where possible.

The multi-use path would consist of two contiguous sections constructed in two phases. The first segment would be approximately 3.9 miles long. This segment would begin at the park boundary near the main park road to/from Bryce Canyon City. The path

would roughly parallel the main park road and continue to the visitor center and North Campground area. The path would then run southeast toward the canyon rim, behind the General Store and Lodge area, and to the Sunset Point parking lot where it would turn back to parallel the main park road. The path would then leave the main park road and branch toward Inspiration Point parking area. The NPS intends to complete construction of the first segment by the fall 2015.

The second segment would be approximately 2.3 miles long and would mostly follow Bryce Point road to a terminus at a trailhead just below the Bryce Point parking area. The NPS would construct the second segment as resources become available.

In total, the path would be approximately 6.2 miles long within the boundary of the park. No portion of the proposed path would be constructed below the canyon rim on park lands, nor in proposed wilderness areas inside the park. For most locations, the path would consist of a 10-foot wide paved asphalt surface. The path would generally parallel the main park road to provide separation between users and vehicles to reduce the likelihood of related safety problems. Spurs from the main path alignment would be designed to provide visitor access to key viewpoints and other landscape features. The path would continue outside of the boundary of the park through Bryce Canyon City and Dixie National Forest. This would provide a safe, efficient, and family-friendly way to access these connected areas.

Environmental Assessment

In September 2014, the NPS published the Multi-use Visitor Path Environmental Assessment (EA). The proposed rule would implement the preferred alternative (Alternative Alignment A) as described in the EA. The EA, which contains a full description of the purpose and need for taking action, scoping, the alternatives considered, maps of the proposed multi-use path, and the environmental impacts associated with the project, may be viewed on the park's planning Web site at *http://parkplanning.nps.gov/brca,* by clicking on the link entitled ''Bryce Canyon National Park Multi-Use Path'' and then clicking on the link entitled ''Document List.''

Proposed Rule

This proposed rule complies with the requirement of 36 CFR 4.30, which requires a special regulation to designate new bicycle routes off park roads and outside of developed areas. The EA addresses bicycle use on the multi-use path and evaluates (i) the suitability of the trail surface for bicycle use; and (ii) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, methods to protect natural and cultural resources and mitigate impacts, and integration with commercial services and alternative transportation systems in compliance with 36 CFR 4.30(d)(1)–(2).

The proposed rule would add a new section 7.94 to 36 CFR part 7—Special Regulations, Areas of the National Park Service for Bryce Canyon National Park. The proposed rule would authorize the superintendent to designate all or a portion of two segments of the proposed 6.2-mile-long multi-use path as a route for bicycle use. The Superintendent would notify the public of any such designation through one or more of the methods outlined in 36 CFR 1.7, and place the designation on maps that are available in the office of the Superintendent and other places convenient to the public.

The proposed rule would also authorize the superintendent to establish closures or restrictions for bicycle use on designated routes after considering public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

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 in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs 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. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. 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 Analysis: Proposed Regulations to Designate New Routes for Bicycle Use in Bryce Canyon National Park'' which is available online at *http://parkplanning.nps.gov/brca* by clicking on the link entitled ''Bryce Canyon National Park Multi-Use Path'' and then clicking on the link entitled ''Document List.''

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.

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. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have takings 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, the rule does not have sufficient federalism

implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas. 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.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation 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. During the environmental assessment process, we consulted with the 10 Native American groups associated with BRCA and determined that there are no substantial direct effects on federally recognized Indian tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. 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

We have prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. A copy of the EA can be found online at *http://parkplanning.nps.gov/brca* by clicking on the link entitled ''Bryce Canyon National Park Multi-Use Path'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 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 Rule

We are required by Executive Orders 12866 (section 1(b)(12)) and 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 sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information: The primary author of this regulation is Jay P. Calhoun, Regulations Program Specialist, National Park Service.

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 one of the methods listed 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, 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.

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201 (2001).

■ 2. Add § 7.94 to read as follows:

§ 7.94 Bryce Canyon National Park.

(a) The Superintendent may designate for bicycle use routes or portions of routes on the following sections of the park's multi-use recreational path:

(1) A section between the park boundary near Bryce Canyon City and Inspiration Point parking area (approximately 3.9 miles).

(2) A section between the intersection of Bryce Point road and Inspiration Point road and a trailhead near Bryce Point parking area (approximately 2.3 miles).

(b) The Superintendent will provide notice of all bicycle route designations through one or more of the methods listed in § 1.7 of this chapter, and place the designations on maps that are available in the office of the Superintendent and other places convenient to the public.

(c) The Superintendent may open or close designated bicycle routes, or portions thereof, or establish conditions or restrictions for bicycle use after considering public health and safety, natural and cultural resource protection, carrying capacity, and other management activities and objectives.

(1) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(2) Violating a closure, condition, or restriction is prohibited.

Dated: November 17, 2014.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–27911 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0690; FRL–9919–47–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland. The revisions incorporate by reference (IBR) the requirements of the Federal Prevention of Significant Deterioration (PSD) program into the Maryland SIP. Additionally, the revisions will allow Maryland's PSD program to automatically update with any revisions to the Federal regulations. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 26, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0690 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Email: kreider.andrew@epa.gov*

C. *Mail:* EPA–R03–OAR–2014–0690, Andrew Kreider, Acting Associate Director, Office of Permits and Air Toxics Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0690. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title (''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration''), that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: November 5, 2014.

W.C. Early,

Acting, Regional Administrator, Region III.

[FR Doc. 2014–27748 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–R06–OAR–2008–0074; FRL–9919–73-Region 6]

National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Texas Commission on Environmental Quality (TCEQ) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAP promulgated by the Environmental Protection Agency (EPA) at 40 CFR part 63, as amended between May 25, 2005 and April 24, 2013. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is providing notice proposing to approve the delegation of certain NESHAPs to TCEQ.

DATES: Written comments on this proposed rule must be received on or before December 26, 2014.

ADDRESSES: Comments may be mailed to Mr. Rick Barrett, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett, (214) 665–7227; email: *barrett.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving TCEQ's request for delegation of authority to implement and enforce certain NESHAP for all sources (both part 70 and non-part 70 sources). TCEQ has adopted certain NESHAP by reference into Texas's state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to TCEQ.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this proposed approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. If EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: November 12, 2014.

Bill Luthans,

Acting Director, Multimedia Planning and Permitting Division, Region 6.

[FR Doc. 2014–27910 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 25, 26, 28, 32, 42, 50, 52, and 53

[FAR Case 2014–022; Docket No. 2014–0022; Sequence No. 1]

RIN 9000–AM80

Federal Acquisition Regulation; Inflation Adjustment of Acquisition-Related Thresholds

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to further implement the inflation adjustment of acquisition-related dollar thresholds. A statute requires an adjustment every five years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD, GSA, and NASA are also proposing to use the same methodology to adjust nonstatutory FAR acquisition-related thresholds in 2015.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before January 26, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2014–022 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2014–022''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2014–022.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2014–022'' on your attached document.
- Fax: 202–501–4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–022, in all correspondence related to this case. 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. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2014–022.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend multiple FAR parts to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see FAR 1.109). As a matter of policy, DoD, GSA, and NASA are also proposing to use the same methodology to adjust nonstatutory FAR acquisition-related thresholds on October 1, 2015.

This is the third review of FAR acquisition-related thresholds since the statute was passed on October 28, 2004 (section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005). The last review was conducted under FAR Case 2008–024 during FY 2010. The final rule was published in the **Federal Register** at 75 FR 53129 on August 30, 2010, and was effective October 1, 2010.

II. Analysis.

A. What is an acquisition-related threshold?

This case builds on the review of FAR thresholds in FY 2005 and FY 2010, using the same interpretation of an acquisition-related threshold. 41 U.S.C. 1908 is applicable to ''a dollar threshold that is specified *in law* as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided *in that law* to the procurement of property or services by an executive agency, as the FAR Council determines.''

There are other thresholds in the FAR that, while not specified in law, nevertheless meet all the other criteria. These thresholds may have their origin in Executive order or regulation.

Therefore, the FAR Council has determined, that in this case, ''acquisition-related threshold'' has a broader meaning, *i.e.,* a threshold that is specified *in law, Executive order, or regulation* as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided *in that law, Executive order, or regulation* to the procurement of property or services by an Executive agency. DoD, GSA, and NASA conclude that acquisition-related thresholds are generally tied to the value of a contract, subcontract, or modification.

Examples of thresholds that are not ''acquisition-related,'' as defined in this case, are thresholds relating to claims, penalties, withholding, payments, required levels of insurance, small business size standards, liquidated damages, etc. This rule does not address thresholds that are not acquisition-related.

B. What acquisition-related thresholds are not subject to escalation adjustment under this case?

41 U.S.C. 1908 does not permit escalation of acquisition-related thresholds established by the Construction Wage Rate Requirements statute (Davis Bacon Act), the Service Contract Labor Standards statute, or the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979.

Also, the statute does not authorize the FAR to escalate thresholds originating in Executive order or the implementing agency (such as the Department of Labor or the Small Business Administration), unless the Executive order or agency regulations are first amended.

C. How do the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council (the Councils) analyze a statutory acquisition-related threshold?

If an acquisition-related threshold is based on statute, the matrix at *http://acquisition.gov/far/facsframe.html* identifies the statute and the statutory threshold, including the original threshold and any FAR revisions.

With the exception of thresholds set by the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979, 41 U.S.C. 1908 requires that the FAR Council adjust the acquisition-related thresholds for inflation using the CPI for all urban consumers. Acquisition-related thresholds in statutes that were in effect on October 1, 2000, are only subject to escalation from that date forward. For purposes of this proposed rule, the matrix includes calculation of escalation based on the estimated CPI value for March 2015 (currently estimated at 243.0) divided by the CPI for the date of enactment of the statute or regulation (October 2000, for statutes enacted prior to October 1, 2000). The Councils will subsequently adjust as necessary before issuance of the final rule.

Once the escalation factor is applied to the acquisition-related threshold, then the threshold must be rounded as follows:

<$10,000	Nearest $500.
$10,000–<$100,000	Nearest $5,000.
$100,000–<$1,000,000 ..	Nearest $50,000.
$1,000,000 or more	Nearest $500,000.

The calculations in this proposed rule are all based on the base year amount, because escalated amounts in the 2010 rule were subject to rounding and using those amounts as the base would distort future calculations.

In 2010, some thresholds (*e.g.,* $3,000), although subject to inflation calculation, did not actually change, because the inflation in 2010 was insufficient to overcome the rounding requirements *i.e.,* the escalation factor, when applied, did not cause the escalated values to be high enough to round to the next higher value. However, in FY 2015, thresholds that did not escalate in 2010 will now escalate because of five additional years of inflation. Likewise, some thresholds that were escalated in 2010 (*e.g.,* $150,000) will not escalate in 2015.

The thresholds for defining a major system were previously stated in FY 1990 constant dollars for DoD and in FY 1980 constant dollars for civilian agencies. The 2005 rule converted the base year for these major system thresholds to 2004 dollars, that were then adjusted in October 2005 and also adjusted in October 2010. Although the FAR will continue to escalate the major systems threshold for the civilian agencies, DoD has determined that for DoD, the major systems thresholds in the FAR must be consistent with the major systems thresholds in DoD Instruction 5000.02, established in accordance with the authority in 10 U.S.C. 2302d(c)(1). This allows the Secretary of Defense to adjust the amounts (and the base fiscal year) provided in subsection (a) on the basis of DoD escalation rates (rather than the CPI for all urban consumers). The revised figures were calculated by the DoD Comptroller, and coordinated with the Cost Assessment and Program Evaluation (CAPE) Office and the DoD General Counsel. In accordance with 10 U.S.C. 2302d(c)(3), DoD reported these thresholds to Congress in December 2013.

This proposed rule has been coordinated with the Department of Labor and the Small Business Administration in areas of the regulation for which they are the lead agency. As appropriate, any changes to cost accounting standards (CAS) thresholds will be coordinated with the CAS Board and addressed under a separate case.

D. How do the Councils analyze a nonstatutory acquisition-related threshold?

No statutory authorization is required to escalate thresholds that are policy-based within the FAR. For consistency, escalation of the FAR policy acquisition-related thresholds is recommended using the same formula applied to the statutory thresholds, unless there is a valid reason for not doing so.

E. What is the effect of this proposed rule on the most heavily-used thresholds?

This rule includes the following proposed changes to heavily-used thresholds:

- The micro-purchase threshold of $3,000 (FAR 2.101) will increase to $3,500. The Title 41 recodification (Pub. L. 111–350, enacted January 4, 2011) relocated the micro-purchase authorization to 41 U.S.C. 1902, and raised the micro-purchase threshold to $3,000 (equivalent to the escalated value in the FAR). However, as Congress stated in House Report 111–42, the recodification statute did not intend to make any substantive changes, therefore the inflation calculation will continue to be calculated based on the October 2000 amount of $2,500, not the January 2011 value of $3,000.
- The simplified acquisition threshold (FAR 2.101) of $150,000 will not change.
- The FedBizOpps preaward and post-award notices (FAR Part 5) remain at $25,000 because of trade agreements.
- Commercial items test program ceiling (FAR 13.500) will increase from $6.5 million to $7 million.
- The cost or pricing data threshold (FAR 15.403–4) will increase from $700,000 to $750,000.
- The prime contractor subcontracting plan (FAR 19.702) floor will increase from $650,000 to $700,000,

but the construction threshold of $1.5 million will not change.

• The threshold for reporting first-tier subcontract information including executive compensation will increase from $25,000 to $30,000 (FAR subpart 4.14 and section 52.204–10).

This proposed rule is based on a projected CPI of 243 for March 2015. If the actual CPI for March 2015 is higher than 243, then additional statutory thresholds may be subject to escalation in the final rule, even though not included in the proposed rule.

F. Other Changes in the Rule

• FAR 12.102(g) is being deleted as obsolete.

• The $30,000 threshold at FAR 13.106–2(c)(2) and (d) returns to $25,000 to harmonize with the 5.101(a)(1) threshold for synopsizing preaward notices in FedBizOpps.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule maintains the status quo by adjusting thresholds for actual inflationary increases in the CPI. However, an Initial Regulatory Flexibility Analysis has been performed and is summarized as follows:

This rule will amend the Federal Acquisition Regulation to implement 41 U.S.C. 1908 and to amend other acquisition-related dollar thresholds that are based on policy rather than statute in order to adjust for the changing value of the dollar. 41 U.S.C. 1908 requires adjustment every five years of statutory acquisition-related dollar thresholds, except for Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. While reviewing all statutory acquisition-related thresholds, this case presented an opportunity to also review all nonstatutory acquisition-related thresholds in the FAR that are based on policy.

The objective of the case is to maintain the status quo, by adjusting acquisition-related thresholds for inflation. The legal basis is 41 U.S.C. 1908. The statute does not authorize the FAR to escalate thresholds originating in Executive orders or the implementing agency (such as the Department of Labor or the Small Business Administration), unless the Executive order or agency regulations are first amended.

This rule will have a minimal impact on small business concerns that submit offers or are awarded contracts by the Federal Government. However, most of the threshold changes proposed in this rule are not expected to have any significant economic impact on small business concerns because the threshold changes are intended to maintain the status quo by adjusting for changes in the value of the dollar. Often any impact will be beneficial, by preventing burdensome requirements from applying to more and more acquisitions, as the dollar loses value.

One threshold change in this rule which may temporarily impact small business concerns is the increase in the micro-purchase threshold (FAR 2.101) from $3,000 to $3,500. This will temporarily narrow the dollar range within which acquisitions are automatically set aside for small business concerns, because the simplified acquisition threshold of $150,000 will not increase at this time. To assess the impact of the increase in the micro-purchase threshold from $3,000 to $3,500, data was requested from FPDS–NG. For FY 2013, there were 83,951 contracts and calls/orders between $3,000 and $3,500, with a value of $272,567,926. Of these actions, 34,828 (value of $113,280,333) were awarded to small business concerns. DoD, GSA, and NASA expect that many of these awards will still go to small business concerns, even if there is no longer a requirement to automatically set the procurement aside for small business concerns.

The rule does not impose any new reporting, recordkeeping, or compliance requirements. Changes in thresholds for approved information collection requirements are intended to maintain the status quo and prevent those requirements from increasing over time.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the statute.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2014–022), in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act does apply. The proposed changes to the FAR do not impose new information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.* By adjusting the thresholds for inflation, the status quo for the current information collection requirements are maintained under the following OMB clearance numbers: 9000–0006, titled: Subcontracting Plans/Individual Subcontract Report (SF 294); 9000–0007, titled: Summary Subcontract Report; 9000–0094, titled: Debarment and Suspension; 9000–0164, titled: Contractor Business Ethics Compliance Program and Disclosure Requirements; 9000–0177, titled: Reporting Executive Compensation and First-tier Subcontract Awards; 1250–0004, titled: OFCCP Recordkeeping and Reporting Requirements—38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; and 1293–0005, titled: Federal Contractor Veterans Employment Report, VETS–100/VETS–100A.

List of Subjects in 48 CFR Parts 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 25, 26, 28, 32, 42, 50, 52, and 53

Government procurement.

Dated: November 13, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 25, 26, 28, 32, 42, 50, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 25, 26, 28, 32, 42, 50, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.109 [Amended]

■ 2. Amend section 1.109 by removing from paragraph (d) ''FAR Case 2008–024'' and adding ''FAR Case 2014–022'' in its place.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101, in paragraph (b)(2) by:
■ a. Revising paragraph (1) of the definition ''Major System'';
■ b. In the definition ''Micro-purchase threshold'' by removing from the introductory text ''$3,000'' and adding ''$3,500'' in its place, and removing from paragraph (3)(i) ''$15,000'' and adding ''$20,000'' in its place;
■ c. In the definition ''Simplified acquisition threshold'' by removing from the introductory text ''$150,000,'' and adding ''$150,000 (41 U.S.C. 134),'' in its place; removing from paragraph (1) ''$300,000'' and adding ''$350,000'' in its place; and removing from paragraph (2) ''$1 million'' and adding ''$1.5 million'' in its place; and
■ d. In the definition ''Small business subcontractor'' by removing from paragraphs (1) and (2) ''$10,000'' and adding ''$15,000'' in their places.

The revised text reads as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Major system * * *

(1) The Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $185 million based on Fiscal Year 2014 constant dollars or the eventual total expenditure for the acquisition exceeds $835 million based on Fiscal Year 2014 constant dollars (or any update of these thresholds based on a more recent fiscal year, as specified in the DoD Instruction 5000.02, ''Operation of the Defense Acquisition System'');

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.1004 [Amended]

■ 4. Amend section 3.1004 by removing from paragraphs (a), (b)(1)(i), and (b)(3) ''$5,000,000'' and adding ''$5.5 million'' in their places.

PART 4—ADMINISTRATIVE MATTERS

4.605 [Amended]

■ 5. Amend section 4.605 by removing from paragraphs (c)(2)(i) and (ii) ''$25,000'' and adding $30,000'' in their places.

4.1102 [Amended]

■ 6. Amend section 4.1102 by removing from paragraph (a)(6) ''$25,000'' and adding ''$30,000'' in its place.

4.1401 [Amended]

■ 7. Amend section 4.1401 by removing from paragraph (a) ''$25,000'' and adding ''$30,000'' in its place.

■ 8. Amend section 4.1403 by revising paragraph (a) to read as follows:

4.1403 Contract clause.

(a) Except as provided in paragraph (b) of this section, the contracting officer shall insert the clause at 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards, in all solicitations and contracts of $30,000 or more.

* * * * *

PART 6—COMPETITION REQUIREMENTS

6.204 [Amended]

■ 9. Amend section 6.204 by removing from paragraph (b) ''$20 million'' and adding ''$22.5 million'' in its place.

6.302–5 [Amended]

■ 10. Amend section 6.302–5 by removing from paragraphs (b)(4) and (c)(2)(iii) ''$20 million'' and adding ''$22.5 million'' in their places.

6.303–1 [Amended]

■ 11. Amend section 6.303–1 by removing from paragraph (b), introductory text, ''$20 million'' and adding ''$22.5 million'' in its place.

6.303–2 [Amended]

■ 12. Amend section 6.303–2 by removing from the introductory text of paragraphs (b) and (d) ''$20 million'' and adding ''$22.5 million'' in their places.

6.304 [Amended]

■ 13. Amend section 6.304 by:
■ a. Removing from paragraph (a)(1) ''$650,000'' and adding ''$700,000'' in its place;
■ b. Removing from paragraph (a)(2) ''$650,000'' and ''$12.5 million'' and adding ''$700,000'' and ''$14 million'' in their places, respectively;
■ c. Removing from the introductory text of paragraph (a)(3) ''$12.5 million'', ''$62.5 million'', and ''85.5 million'' and adding ''$14 million'', ''$70 million'', and ''$95.5 million'' in their places, respectively; and
■ d. Removing from paragraph (a)(4) ''$62.5 million'' and ''$85.5 million'' and adding ''$70 million'' and ''$95.5 million'' in their places, respectively.

PART 7—ACQUISITION PLANNING

7.104 [Amended]

■ 14. Amend section 7.104 by:
■ a. Removing from paragraph (d)(2)(i)(A) ''$8 million'' and adding ''$9 million'' in its place; and
■ b. Removing from paragraph (d)(2)(i)(B) ''$6 million'' and adding ''$6.5 million'' in its place.

7.107 [Amended]

■ 15. Amend section 7.107 by removing from paragraph (b)(1) ''$94 million'' and adding ''$104.5 million'' in its place; and removing from paragraph (b)(2) ''$9.4 million'' and ''$94 million'' and adding ''$10.45 million'' and ''$104.5 million'' in their places, respectively.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.404 [Amended]

■ 16. Amend section 8.404 by removing from paragraph (b)(2) ''$500,000'' and adding ''$550,000'' in its place.

8.405–3 [Amended]

■ 17. Amend section 8.405–3 by
■ a. Removing from paragraphs (a)(3)(ii) and (iii) ''$103 million'' and adding ''$115 million'' in their places; and
■ b. Revising paragraph (a)(7)(v).

The revision reads as follows:

(a) * * *

(7) * * *

(v) Determination for a single-award BPA exceeding $115 million, if applicable (see paragraph (a)(3)(ii) of this section);

8.405–6 [Amended]

■ 18. Amend section 8.405–6 by:
■ a. Removing from paragraph (d)(1) ''$650,000'' and adding ''$700,000'' in its place;
■ b. Removing from paragraph (d)(2) ''$650,000'' and ''$12.5 million'' and adding ''$700,000'' and ''$14 million'' in their places, respectively;
■ c. Removing from the introductory text of paragraph (d)(3) ''$12.5 million'', ''$62.5 million'', and ''$85.5 million'', and adding ''$14 million'', ''$70 million'' and ''$95.5 million'' in their places, respectively; and
■ d. Removing from paragraph (d)(4) ''$62.5 million'' and ''$85.5 million'' and adding ''$70 million'' and ''$95.5 million'' in their places, respectively.

PART 9—CONTRACTOR QUALIFICATIONS

9.104–5 [Amended]

■ 19. Amend section 9.104–5 by removing from paragraph (a)(2) ''$3,000'' and adding ''$3,500'' in its place.

9.104–7 [Amended]

■ 20. Amend section 9.104–7 by removing from paragraphs (b) and (c)(1) ''$500,000'' and adding ''$550,000'' in their places.

9.405–2 [Amended]

■ 21. Amend section 9.405–2 by removing from paragraph (b) ''$30,000'' and adding ''$35,000'' in their places (twice).

9.406–2 [Amended]

■ 22. Amend section 9.406–2 by removing from paragraph (b)(1)(v) ''$3,000'' and adding ''$3,500'' in its place.

9.407–2 [Amended]

■ 23. Amend section 9.407–2 by removing from paragraph (a)(7) ''$3,000'' and adding ''$3,500'' in its place.

9.409 [Amended]

■ 24. Amend section 9.409 by removing ''$30,000'' and adding ''$35,000'' in its place.

PART 10—MARKET RESEARCH

10.001 [Amended]

■ 25. Amend section 10.001 by removing from paragraph (d) ''$5 million'' and adding ''$6 million'' in its place.

10.003 [Amended]

■ 26. Amend section 10.003 by removing ''$5 million'' and adding ''$6 million'' in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.102 [Amended]

■ 27. Amend section 12.102 by removing from the introductory text of paragraph (f)(2) ''$17.5 million'' and adding ''$20 million'' in its place; and removing paragraph (g).

12.203 [Amended]

■ 28. Amend section 12.203 by removing ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.000 [Amended]

■ 29. Amend section 13.000 by removing ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively.

13.003 [Amended]

■ 30. Amend section 13.003 by:
■ a. Removing from paragraph (b)(1) ''$3,000'', ''$15,000'', and ''$300,000'' and adding ''$3,500'', ''$20,000'' and ''$350,000'' in their places, respectively;
■ b. Removing from paragraph (c)(1)(ii) ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively; and
■ c. Removing from paragraph (g)(2) ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively.

13.005 [Amended]

■ 31. Amend section 13.005 by removing from paragraph (a)(2) ''$30,000'' and adding ''$35,000'' in its place.

13.106–1 [Amended]

■ 32. Amend section 13.106–1 by removing from paragraphs (c)(2) and (d) ''$30,000'' and adding ''$25,000'' in their places.

13.201 [Amended]

■ 33. Amend section 13.201 by removing from paragraph (g)(1)(i) ''$15,000'' and adding ''$20,000'' in its place.

13.303–5 [Amended]

■ 34. Amend section 13.303–5 by:
■ a. Removing from paragraph (b)(1) ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively; and
■ b. Removing from paragraph (b)(2) ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively.

13.402 [Amended]

■ 35. Amend section 13.402 by removing from paragraph (a) ''$30,000'' and adding ''$35,000'' in its place.

13.500 [Amended]

■ 36. Amend section 13.500 by—
■ a. Removing from paragraph (a) ''$6.5 million'' and ''$12 million'' and adding ''$7 million'' and ''$13 million'' in their places, respectively; and
■ b. Removing from the introductory text of paragraph (e) ''$12 million'' and adding ''$13 million'' in its place.

13.501 [Amended]

■ 37. Amend section 13.501 by:
■ a. Removing from paragraph (a)(2)(i) ''$650,000'' and adding ''$700,000'' in its place;
■ b. Removing from paragraph (a)(2)(ii) ''$650,000'' and ''$12.5 million'' and adding ''$700,000'' and ''$14 million'' in their places, respectively;
■ c. Removing from paragraph (a)(2)(iii) ''$12.5 million'', ''$62.5 million'', and ''$85.5 million'' and adding ''$14 million'', ''$70 million'', and ''$95.5 million'' in their places, respectively; and
■ d. Removing from paragraph (a)(2)(iv) ''$62.5 million'' and ''$85.5 million'' and adding ''$70 million'' and ''$95.5 million'' in their places, respectively.

PART 15—CONTRACTING BY NEGOTIATION

15.403–1 [Amended]

■ 38. Amend section 15.403–1 by removing from paragraph (c)(3)(iv) ''$17.5 million'' and adding ''$20 million'' in its place.

15.403–4 [Amended]

■ 39. Amend section 15.403–4 by removing from the introductory text of paragraph (a)(1) and paragraph (a)(1)(iii) ''$700,000'' and adding ''$750,000'' in its place.

15.404–3 [Amended]

■ 40. Amend section 15.404–3 by removing from paragraph (c)(1)(i) ''$12.5 million'' and adding ''$14 million'' in its place.

15.407–2 [Amended]

■ 41. Amend section 15.407–2 by removing from paragraph (c)(1) and the introductory text of paragraph (c)(2) ''$12.5 million'' and adding ''$14 million'' in their places.

15.408 [Amended]

■ 42. Amend section 15.408 in Table 15–2, ''II. Cost Elements'' which follows paragraph (n)(2)(iii), by removing from paragraph ''A(2)'' ''$12.5 million'' and adding ''$14 million'' in its place.

PART 16—TYPES OF CONTRACTS

16.503 [Amended]

■ 43. Amend section 16.503 by removing from paragraph (b)(2) ''$103 million'' and adding ''$115 million'' in its place; and removing from paragraph (d)(1) ''$12.5 million'' and adding ''$14 million'' in its place.

16.504 [Amended]

■ 44. Amend section 16.504 by:
■ a. Removing from the introductory text of paragraph (c)(1)(ii)(D)(*1*) ''$103 million'' and adding ''$115 million'' in its place;
■ b. Removing from the introductory text of paragraph (c)(1)(ii)(D)(*3*) ''$103 million'' and adding ''$115 million'' in its place; and removing from the end of the paragraph the colon and adding an em dash in its place;
■ c. Removing from the end of paragraph (c)(1)(ii)(D)(*3*)(*i*) the period and adding ''; and'' in its place; and
■ d. Removing from the introductory text of paragraph (c)(2)(i) ''$12.5 million'' and adding ''$14 million'' in its place.

16.505 [Amended]

■ 45. Amend section 16.505 by:
■ a. Removing from the introductory text of paragraph (a)(4)(iii)(A) ''$25,000'' and adding ''$30,000'' in its place;

■ b. Removing from paragraph (b)(1)(i) ''$3,000'' and adding ''$3,500'' in its place;
■ c. Removing from the paragraph (b)(1)(iv) ''*$5 million''* and ''$5 million'' and adding ''*$5.5 million''* and ''$5.5 million'' in their places, respectively;
■ d. Removing from paragraph (b)(2)(i) ''$3,000'' and adding ''$3,500'' in its place;
■ e. Removing from the heading of paragraph (b)(2)(ii)(A) ''*$3,000''* and adding ''*$3,500''* in its place;
■ f. Removing from the paragraph (b)(2)(ii)(C)(*1*) ''$650,000'' and adding ''$700,000'' in its place;
■ g. Removing from paragraph (b)(2)(ii)(C)(*2*) ''$650,000'' and ''$12.5 million'' and adding ''$700,000'' and ''14 million'' in their places, respectively;
■ h. Removing from paragraph (b)(2)(ii)(C)(*3*) ''$12.5 million'', ''$62.5 million'', and ''$85.5 million'' and adding ''14 million'', ''70 million'', and ''95.5 million'' in their places, respectively;
■ i. Removing from paragraph (b)(2)(ii)(C)(*4*) ''$62.5 million'' and ''$85.5 million'' and adding ''70 million'' and ''95.5 million'' in their places, respectively; and
■ j. Removing from the heading of paragraph (b)(6) ''*$5 million''* and adding ''*$5.5 million''* in its place; and removing from the introductory text ''$5 million'' and adding ''$5.5 million'' in its place.

16.506 [Amended]

■ 46. Amend section 16.506 by removing from paragraphs (f) and (g) ''$12.5 million'' and adding ''$14 million'' in their places; and removing from paragraph (h) ''$5 million'' and adding ''$6 million'' in its place.

PART 17—SPECIAL CONTRACTING METHODS

17.108 [Amended]

■ 47. Amend section 17.108 by removing from paragraph (a) ''$12.5 million'' and adding ''$14 million'' in its place; and removing from paragraph (b) ''$125 million'' and adding ''$139.5 million'' in its place.

17.500 [Amended]

■ 48. Amend section 17.500 by removing from paragraph (c)(2) ''$500,000'' and adding ''$550,000'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.203 [Amended]

■ 49. Amend section 19.203 by removing from paragraph (b) ''$3,000'', ''$15,000'', and ''$300,000'' and adding ''$3,500'', ''$20,000'', and ''$350,000'' in their places, respectively.

19.502–1 [Amended]

■ 50. Amend section 19.502–1 by removing from paragraph (b) ''$3,000'' and ''$15,000'' and adding ''$3,500'' and ''$20,000'' in their places, respectively.

19.502–2 [Amended]

■ 51. Amend section 19.502–2 by:

■ a. Removing from paragraph (a) ''$3,000'', ''$15,000'', and ''$300,000'' and adding ''$3,500'', ''$20,000'', and ''$350,000'' in their places, respectively; and

■ b. Removing from the end of paragraph (b) ''that:'' and adding ''that—'' in its place.

19.702 [Amended]

■ 52. Amend section 19.702 by removing from paragraphs (a)(1) and (2) ''$650,000'' and adding ''$700,000'' in their places.

19.704 [Amended]

■ 53. Amend section 19.704 by removing from paragraph (a)(9) ''$650,000'' and adding ''$700,000'' in its place.

19.708 [Amended]

■ 54. Amend section 19.708 by removing from paragraph (b)(1) ''$650,000'' and adding ''$700,000'' in its place.

19.805–1 [Amended]

■ 55. Amend section 19.805–1 by removing from paragraph (a)(2) ''$6.5 million'' and adding ''$7 million'' in its place.

19.808–1 [Amended]

■ 56. Amend section 19.808–1 by removing from paragraph (a) ''$20 million'' and adding ''$22.5 million'' in its place.

19.1306 [Amended]

■ 57. Amend section 19.1306 by removing from paragraph (a)(2)(i) ''$6.5 million'' and adding ''$7 million'' in its place.

19.1406 [Amended]

■ 58. Amend section 19.1406 by removing from paragraph (a)(2)(i) ''$6 million'' and adding ''$6.5 million'' in its place; and removing from paragraph (a)(2)(ii) ''$3.5 million'' and adding ''$4 million'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT

22.1103 [Amended]

■ 59. Amend section 22.1103 by removing ''$650,000'' and adding ''$700,000'' in its place.

22.1303 [Amended]

■ 60. Amend section 22.1303 by removing from paragraphs (a) and (c) ''$100,000'' and adding ''$150,000'' in their places.

22.1310 [Amended]

■ 61. Amend section 22.1310 by removing from paragraph (a)(1) ''$100,000'' and adding ''$150,000'' in its place.

PART 25—FOREIGN ACQUISITION

25.703–2 [Amended]

■ 62. Amend section 25.703–2 by removing from paragraph (a)(2) ''$3,000'' and adding ''$3,500'' in its place.

25.703–4 [Amended]

■ 63. Amend section 25.703–4 by removing from paragraphs (c)(5)(ii), (c)(7)(iii), and (c)(8)(iii) ''$3,000'' and adding ''$3,500'' in their places.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.404 [Amended]

■ 64. Amend section 26.404 by removing ''$25,000'' and adding ''$30,000'' in its place.

PART 28—BONDS AND INSURANCE

28.102–1 [Amended]

■ 65. Amend section 28.102–1 by removing from paragraph (b)(1) ''$30,000'' and adding ''$35,000'' in its place.

28.102–2 [Amended]

■ 66. Amend section 28.102–2 by removing from paragraph (c) ''*$30,000''* and adding ''*$35,000''* in its place.

28.102–3 [Amended]

■ 67. Amend section 28.102–3 by removing from paragraph (b) ''$30,000'' and adding ''$35,000'' in its place.

PART 32—CONTRACT FINANCING

32.104 [Amended]

■ 68. Amend section 32.104 by removing from paragraphs (d)(2)(i) and (ii) ''$2.5 million'' and adding ''$3 million'' in their places.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.709 [Amended]

■ 69. Amend section 42.709 by removing from paragraph (b) ''$700,000'' and adding ''$750,000'' in its place.

42.709–6 [Amended]

■ 70. Amend section 42.709–6 by removing ''$700,000'' and adding ''$750,000'' in its place.

42.1502 [Amended]

■ 71. Amend section 42.1502 by removing from paragraph (e) ''$650,000'' and adding ''$700,000'' in its place (twice); and removing from paragraph (f) ''$30,000'' and adding ''$35,000'' in its place (twice).

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

50.102–1 [Amended]

■ 72. Amend section 50.102–1 by removing from paragraph (b) ''$65,000'' and adding ''$70,000'' in its place.

50.102–3 [Amended]

■ 73. Amend section 50.102–3 by removing from paragraph (b)(4) ''$31.5 million'' and adding ''$35 million'' in its place; and removing from paragraphs (e)(1)(i) and (ii) ''$65,000'' and adding ''$70,000'' in their places.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 74. Amend section 52.203–13 by revising the date of clause; and removing from paragraph (d)(1) ''$5,000,000'' and adding ''$5.5 million'' in its place.

The revised text reads as follows:

52.203–13 Contractor Code of Business Ethics and Conduct

* * * * *

Contractor Code of Business Ethics and Conduct (Date)

* * * * *

■ 75. Amend section 52.203–14 by revising the date of the clause; and removing from the introductory text of paragraph (d) ''$5,000,000'' and adding ''$5.5 million'' in its place.

The revised text reads as follows:

52.203–14 Display of Hotline Poster(s).

* * * * *

Display of Hotline Poster(s) (Date)

* * * * *

■ 76. Amend section 52.204–10 by revising the date of the clause; removing from paragraphs (d)(2) and (3) ''$25,000'' and adding ''$30,000'' in their places; and revising paragraph (e).

The revised text reads as follows:

52.204–10 Reporting Executive Compensation and First-Tier Subcontract Awards.

* * * * *

Reporting Executive Compensation and First-Tier Subcontract Awards (Date)

* * * * *

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than $30,000 to avoid the reporting requirements in paragraph (d) of this clause.

* * * * *

■ 77. Amend section 52.209–5 by revising the date of the provision; and removing from paragraph (a)(1)(i)(D) ''$3,000'' and adding ''$3,500'' in its place.

The revised text reads as follows:

52.209–5 Certification Regarding Responsibility Matters.

* * * * *

Certification Regarding Responsibility Matters (Date)

* * * * *

■ 78. Amend section 52.209–6 by revising the date of the clause; and removing from paragraphs (b), (c), and (e)(1) ''$30,000'' and adding ''$35,000'' in their places.

The revised text reads as follows:

52.209–6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

* * * * *

Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (Date)

* * * * *

■ 79. Amend section 52.212–1 by revising the date of the provision; and removing from paragraph (j) ''$3,000'' and adding ''$3,500'' in its place (twice).

The revised text reads as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (Date)

* * * * *

■ 80. Amend section 52.212–3 by revising the date of the provision; and removing from paragraphs (h)(4) and (o)(2)(iii) ''$3,000'' and adding ''$3,500'' in their places. The revised text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Date)

* * * * *

■ 81. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Revising paragraphs (b)(2), (b)(4), (b)(8), (b)(17)(i), adding paragraph (b)(17)(iv), and revising paragraphs (b)(29), (b)(31), and (b)(33);

■ c. Revising paragraph (c)(8);

■ d. Revising paragraph (e)(1)(i);

■ e. Removing from paragraph (e)(1)(ii) ''$650,000'' and adding ''$700,000'' in its place;

■ f. Revising paragraphs (e)(1)(v), (vii), (xiii), and (xv); and

■ g. Amending Alternate II by revising the date of Alternate II and paragraphs (e)(1)(ii)(A), (C), (E), (L) and (M).

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Date)

* * * * *

(b) * * *

__(2) 52.203–13, Contractor Code of Business Ethics and Conduct (**Date**) (41 U.S.C. 3509).

* * * * *

__(4) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (**Date**) (Pub. L. 109–282) (31 U.S.C. 6101 note).

* * * * *

__(8) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (**Date**) (31 U.S.C. 6101 note).

* * * * *

__(17)(i) 52.219–9, Small Business Subcontracting Plan (**Date**) (15 U.S.C. 637(d)(4)).

* * * * *

(iv) Alternate III (**Date**) of 52.219–9.

* * * * *

__(29) 52.222–35, Equal Opportunity for Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

__(31) 52.222–37, Employment Reports on Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

__(33) 52.222–54, Employment Eligibility Verification (**Date**). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

* * * * *

(c) * * *

(8) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**Date**) (42 U.S.C. 1792).

* * * * *

(e)(1)

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (**Date**) (41 U.S.C. 3509).

* * * * *

(v) 52.222–35, Equal Opportunity for Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

(vii) 52.222–37, Employment Reports on Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

(xiii) 52.222–54, Employment Eligibility Verification (**Date**) (Executive Order 12989).

* * * * *

(xv) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**Date**) (42 U.S.C. 1792).

Flow down required in accordance with paragraph (e) of FAR clause 52.226–6.

* * * * *

Alternate II (**Date**).

* * * * *

(e)(1) * * *

(ii) * * *

(A) 52.203–13, Contractor Code of Business Ethics and Conduct (**Date**) (41 U.S.C. 3509).

* * * * *

(C) 52.219–8, Utilization of Small Business Concerns (**Date**) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $700,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

(E) 52.222–35, Equal Opportunity for Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

(L) Employment Eligibility Verification (**Date**) (Executive Order 12989).

(M) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations. (**Date**) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226–6.

* * * * *

■ 82. Amend section 52.213–4 by—

■ a. Revising the date of the clause; and

■ b. Revising paragraphs (a)(2)(viii), (b)(1)(i), (iv), (vi), (xi), and (b)(2)(i).

The revised text reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Date)

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (**Date**).

* * * * *

(b) * * *

(1) * * *

(i) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (**Date**) (Pub. L. 109–282) (31 U.S.C. 6101 note) (Applies to contracts valued at $30,000 or more).

* * * * *

(iv) 52.222–35, Equal Opportunity for Veterans (**Date**) (38 U.S.C. 4212) (applies to contracts of $150,000 or more).

* * * * *

(vi) 52.222–37, Employment Reports on Veterans (**Date**) (38 U.S.C. 4212) (applies to contracts of $150,000 or more).

* * * * *

(xi) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**Date**) (42 U.S.C. 1792) (Applies to contracts greater than $30,000 that provide for the provision, the service, or the sale of food in the United States).

* * * * *

(2) * * *

(i) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (**Date**) (Applies to contracts over $35,000).

* * * * *

■ 83. Amend section 52.219–9 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (d)(9) and paragraph (l)(2)(i)(C) ''$650,000'' and adding ''$700,000'' in their places;

■ c. Amend Alternate III by—

■ 1. Revising the date of Alternate III;

■ 2. Removing from paragraph (l)(2)(C) ''$550,000'' and ''$1,000,000'' and adding ''$700,000'' and ''$1.5 million'' in their places, respectively.

The revised text reads as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Date)

* * * * *

Alternate III (**Date**).

* * * * *

■ 84. Amend section 52.222–35 by revising the date of the clause; and removing from paragraph (c) ''$100,000'' and adding ''$150,000'' in its place.

The revised text reads as follows:

52.222–35 Equal Opportunity for Veterans.

* * * * *

Equal Opportunity for Veterans (Date)

* * * * *

■ 85. Amend section 52.222–37 by revising the date of the clause; and removing from paragraph (g) ''$100,000'' and adding ''$150,000'' in its place. The revised text reads as follows:

52.222–37 Employment Reports on Veterans.

* * * * *

Employment Reports on Veterans (Date)

* * * * *

■ 86. Amend section 52.222–54 by revising the date of the clause; and removing from paragraph (e)(2) ''$3,000'' and adding ''$3,500'' in its place. The revised text reads as follows:

52.222–54 Employment Eligibility Verification.

* * * * *

Employment Eligibility Verification (Date)

* * * * *

■ 87. Amend section 52.225–25 by revising the date of the provision; and removing from paragraph (c)(3) ''$3,000'' and adding ''$3,500'' in its place.

The revised text reads as follows:

52.225–25 Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.

* * * * *

Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (Date)

* * * * *

■ 88. Amend section 52.226–6 by revising the date of the clause; and removing from paragraph (e) ''$25,000'' and adding ''$30,000'' in its place.

The revised text reads as follows:

52.226–6 Promoting Excess Food Donation to Nonprofit Organizations.

* * * * *

Promoting Excess Food Donation to Nonprofit Organizations (Date)

* * * * *

■ 89. Amend section 52.244–6 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (c)(1)(i);

■ c. Removing from paragraph (c)(1)(iii) ''$650,000'' and adding ''$700,000'' in its place; and

■ d. Revising paragraphs (c)(1)(v) and (vii).

The revised text reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Date)

* * * * *

(c)(1) * * *

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (**Date**) (41 U.S.C. 3509), if the subcontract exceeds $5.5 million and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

* * * * *

(v) 52.222–35, Equal Opportunity for Veterans (**Date**) (38 U.S.C. 4212(a));

* * * * *

(vii) 52.222–37, Employment Reports on Veterans (**Date**) (38 U.S.C. 4212).

* * * * *

■ 90. Amend section 52.248–3 by revising the date of the clause; and removing from paragraph (h) ''$65,000'' and adding ''$70,000'' in its place. The revised text reads as follows:

52.248–3 Value Engineering—Construction.

* * * * *

Value Engineering—Construction (Date)

* * * * *

PART 53—FORMS

53.301–294 Subcontracting Report for Individual Contracts.

■ 91. Revise section 53.301–294 to read as follows:

BILLING CODE 6820–14–P

SUBCONTRACTING REPORT FOR INDIVIDUAL CONTRACTS
(See instructions on reverse)

OMB Control Number: 9000-0006
Expiration Date: 04/30/2016

Public reporting burden for this collection of information is estimated to average 55.34 hours per response, including 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Acquisition Policy Division, Regulatory Secretariat, GSA, Washington, DC 20405.

1. CORPORATION, COMPANY, OR SUBDIVISION COVERED

a. COMPANY NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

2. CONTRACTOR IDENTIFICATION NUMBER

3. DATE SUBMITTED

4. REPORTING PERIOD FROM INCEPTION OF CONTRACT THRU:

☐ MAR 31 ☐ SEPT 30 | YEAR

5. TYPE OF REPORT

☐ REGULAR ☐ FINAL ☐ REVISED

6. ADMINISTERING ACTIVITY *(Please check applicable box)*

☐ ARMY
☐ NAVY
☐ AIR FORCE
☐ GSA
☐ DOE
☐ DEFENSE CONTRACT MANAGEMENT AGENCY
☐ NASA
☐ OTHER FEDERAL AGENCY *(Specify)*

7. REPORT SUBMITTED AS *(Check one and provide appropriate number)*

☐ PRIME CONTRACTOR — PRIME CONTRACT NUMBER

☐ SUBCONTRACTOR — SUBCONTRACT NUMBER

8. AGENCY OR CONTRACTOR AWARDING CONTRACT

a. AGENCY'S OR CONTRACTOR'S NAME

b. STREET ADDRESS

c. CITY | d. STATE | e. ZIP CODE

9. DOLLARS AND PERCENTAGES IN THE FOLLOWING BLOCKS:

☐ DO INCLUDE INDIRECT COSTS ☐ DO NOT INCLUDE INDIRECT COSTS

SUBCONTRACT AWARDS

TYPE	CURRENT GOAL		ACTUAL CUMULATIVE	
	WHOLE DOLLARS	PERCENT	WHOLE DOLLARS	PERCENT
10a. SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10b. LARGE BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
10c. TOTAL *(Sum of 10a and 10b.)*		100.0%		100.0%
11. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
12. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
13. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) *(If applicable) (Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
14. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
15. VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c.)* (SEE SPECIFIC INSTRUCTIONS)				
16. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS *(Dollar Amount and Percent of 10c)* (SEE SPECIFIC INSTRUCTIONS)				
17. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT HAVE NOT BEEN CERTIFIED BY THE SMALL BUSINESS ADMINISTRATION AS SMALL DISADVANTAGED BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				
18. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT ARE NOT SMALL BUSINESSES *(Dollar Amount)* (SEE SPECIFIC INSTRUCTIONS)				

Previous Edition is Not Usable

STANDARD FORM 294 (REV. 10/2014)
Prescribed by GSA-FAR (48 CFR 53.219(a))

19. REMARKS

20a. NAME OF INDIVIDUAL ADMINISTERING SUBCONTRACTING PLAN	20b. TELEPHONE NUMBER	
	AREA CODE	NUMBER

GENERAL INSTRUCTIONS

1. This report is not required for small businesses.

2. This report is not required for commercial items for which a commercial plan has been approved, nor from large businesses in the Department of Defense (DOD) Test Program for Negotiation of Comprehensive Subcontracting plans. The Summary Subcontract Report (SSR) is required for contractors operating under one of these two conditions and should be submitted to the Government in accordance with the instructions on that form.

3. This form collects subcontract award data from prime contractors/subcontractors that : (a) hold one or more contracts over $700,000 (over $1,500,000 for construction of a public facility); and (b) are required to report subcontracts awarded to Small Business (SB), Small Disadvantaged Business (SDB), Women-Owned Small Business (WOSB), HUBZone Small Business (HUBZone SB), Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business concerns under a subcontracting plan. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, this form also collects subcontract award data for Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs).

4. This report is required for each contract containing a subcontracting plan and must be submitted to the administrative contracting officer (ACO) or contracting officer if no ACO is assigned, semi-annually, during contract performance for the periods ended March 31st and September 30th. A separate report is required for each contract at contract completion. Reports are due 30 days after the close of each reporting period unless otherwise directed by the contracting officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report.

5. Only subcontracts involving performance in the United States or its outlying areas should be included in this report with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

6. Purchases from a corporation, company, or subdivision that is an affiliate of the prime/subcontractor are not included in this report.

7. Subcontract award data reported on this form by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors unless you have been designated to receive an SB and SDB credit from an Alaska Native Corporation (ANC) or Indian tribe.

8. FAR 19.703 sets forth the eligibility requirements for participating in the subcontracting program.

9. Actual achievements must be reported on the same basis as the goals set forth in the contract. For example, if goals in the plan do not include indirect and overhead items, the achievements shown on this report should not include them either.

SPECIFIC INSTRUCTIONS

BLOCK 2: For the Contractor Identification Number, enter the nine-digit Data Universal Numbering System (DUNS) number that identifies the specific contractor establishment. If there is no DUNS number available that identifies the exact name and address entered in Block 1, contact Dun and Bradstreet Information Services at 1-866-705-5711 or via the Internet at http://www.dnb.com. The contractor should be prepared to provide the following information: (i) Company legal business name. (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized. (iii) Company physical street address, city, state and ZIP Code. (iv) Company mailing address, city, state and ZIP Code (if separate from physical). (v) Company telephone number. (vi) Date the company was started. (vii) Number of employees at your location. (viii) Chief executive officer/key manager. (ix) Line of business (industry). (x) Company Headquarters name and address (reporting relationship within your entity).

BLOCK 4: Check only one. Note that all subcontract award data reported on this form represents activity since the inception of the contract through the date indicated on this block.

BLOCK 5: Check whether this report is a "Regular," "Final," and/or "Revised" report. A "Final" report should be checked only if the contractor has completed the contract or subcontract reported in Block 7. A "Revised" report is a change to a report previously submitted for the same period.

BLOCK 6: Identify the department or agency administering the majority of subcontracting plans.

BLOCK 7: Indicate whether the reporting contractor is submitting this report as a prime contractor or subcontractor and the prime contract or subcontract number.

BLOCK 8: Enter the name and address of the Federal department or agency awarding the contract or the prime contractor awarding the subcontract.

BLOCK 9: Check the appropriate block to indicate whether indirect costs are included in the dollar amounts in blocks 10a through 16. To ensure comparability between the goal and actual columns, the contractor may include indirect costs in the actual column only if the subcontracting plan included indirect costs in the goal.

BLOCKS 10a through 18: Under "Current Goal," enter the dollar and percent goals in each category (SB, SDB, WOSB, VOSB, service-disabled VOSB, and HUBZone SB) from the subcontracting plan approved for this contract. (If the original goals agreed upon at contract award have been revised as a result of contract modifications, enter the original goals in Block 19. The amounts entered in Blocks 10a through 16 should reflect the revised goals.) There are no goals for Blocks 17 and 18. Under "Actual Cumulative," enter actual subcontract achievements (dollars and percent) from the inception of the contract through the date of the report shown in Block 4. In cases where indirect costs are included, the amounts should include both direct awards and an appropriate prorated portion of indirect awards. However, the dollar amounts reported under "Actual Cumulative" must be for the same period of time as the dollar amounts shown under "Current Goal." For a contract with options, the current goal should represent the aggregate goal since the inception of the contract. For example, if the contractor is submitting the report during Option 2 of a multiple year contract, the current goal would be the cumulative goal for the base period plus the goal for Option 1 and the goal for Option 2.

BLOCK 10a: Report all subcontracts awarded to SBs including subcontracts to SDBs, WOSB, VOSB, service-disabled VOSB, and HUBZone SBs. For DOD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs. Include subcontracts awarded to ANCs and Indian tribes that are not small businesses and that are not certified by the SBA as SDBs where you have been designated to receive their SB and SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive SB and SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company.

BLOCK 10b: Report all subcontracts awarded to large businesses (LBs) and any other-than-small businesses. Do not include subcontracts awarded to ANCs and Indian tribes that have been reported in 10a above.

BLOCK 10c: Report on this line the total of all subcontracts awarded under this contract (the sum of lines 10a and 10b).

BLOCKS 11 - 16: Each of these items is a subcategory of Block 10a. Note that in some cases the same dollars may be reported in more than one block (e.g., SDBs owned by women or veterans).

BLOCK 11: Report all subcontracts awarded to SDBs (including WOSB, VOSB, service-disabled VOSBs, and HUBZone SB SDBs). Include subcontracts awarded to ANCs and Indian tribes that have not been certified by SBA as SDBs where you have been designated to receive their SDB credit. Where your company and other companies have been designated by an ANC or Indian tribe to receive their SDB credit for a subcontract awarded to the ANC or Indian tribe, report only the portion of the total amount of the subcontract that has been designated to your company. For DoD, NASA, and Coast Guard contracts, include subcontracting awards to HBCUs and MIs.

BLOCK 12: Report all subcontracts awarded to WOSBs (including SDBs, VOSBs (including service-disabled VOSBs), and HUBZone SBs that are also WOSBs).

BLOCK 13: (For contracts with DoD, NASA, and Coast Guard): Report all subcontracts with HBCUs/MIs. Complete the column under "Current Goal" only when the subcontracting plan establishes a goal.

BLOCK 14: Report all subcontracts awarded to HUBZone SBs (including WOSBs, VOSBs (including service-disabled VOSBs), and SDBs that are also HUBZone SBs).

BLOCK 15: Report all subcontracts awarded to VOSBs including service-disabled VOSBs (and including SDBs, WOSBs, and HUBZone SBs that are also VOSBs).

BLOCK 16: Report all subcontracts awarded to service-disabled VOSBs (including SDBs, WOSBs, and HUBZone SBs that are also service-disabled VOSBs).

BLOCK 17: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 11, but have not been certified by SBA as SDBs.

BLOCK 18: Report all subcontracts awarded to ANCs and Indian tribes that are reported in Block 10a, but are not small businesses.

BLOCK 19: Enter a short narrative explanation if (a) SB, SDB, WOSB, VOSB, service-disabled VOSB, or HUBZone SB accomplishments fall below that which would be expected using a straight-line projection of goals through the period of contract performance; or (b) if this is a final report, any one of the six goals were not met.

DEFINITIONS

1. Direct Subcontract Awards are those that are identified with the performance of one or more specific Government contract(s).

2. Indirect costs are those which, because of incurrence for common or joint purposes, are not identified with specific Government contracts; these awards are related to Government contract performance but remain for allocation after direct awards have been determined and identified to specific Government contracts.

DISTRIBUTION OF THIS REPORT

For the Awarding Agency or Contractor:

The original copy of this report should be provided to the contracting officer at the agency or contractor identified in Block 8. For contracts with DOD, a copy should also be provided to the Defense Contract Management Agency (DCMA) at the cognizant Defense Contract Management Area Operations (DCMAO) office.

For the Small Business Administration (SBA):

A copy of this report must be provided to the cognizant Commercial Market Representative (CMR) at the time of a compliance review. It is NOT necessary to mail the SF 294 to SBA unless specifically requested by the CMR.

[FR Doc. 2014–27512 Filed 11–24–14; 8:45 am]
BILLING CODE 6820–EP–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0056; FXES11130900000C2–134–FF09E32000]

RIN 1018–AY46

Endangered and Threatened Wildlife and Plants; Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of a final environmental impact statement and a draft record of decision.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), make available the final environmental impact statement (EIS) on the proposed revisions to the regulations for the nonessential experimental population designation of the Mexican wolf and our draft record of decision (ROD), under the National Environmental Policy Act of 1969, as amended. Our intended action is to revise the regulations established in our 1998 Final Rule for the nonessential experimental population of the Mexican wolf. We also propose to extend the authority of the Mexican Wolf Recovery Program's section 10(a)(1)(A) research and recovery permit to areas that are outside of the Mexican Wolf Experimental Population Area. In the EIS we analyzed the environmental consequences of a range of alternatives, including the Proposed Action and No Action alternative, for our proposed rule. The action would be implemented through a final rule, a revised section 10(a)(1)(A) research and recovery permit, and the provision of Federal funding.

DATES: We will consider comments received on or before December 27, 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. We will issue a final ROD no sooner than December 27, 2014.

ADDRESSES: *Document availability:* The final EIS and draft ROD are available electronically on *http://www.regulations.gov* in Docket No. FWS–R2–ES–2013–0056, on the Mexican Wolf Recovery Program's Web site at *http://www.fws.gov/southwest/es/mexicanwolf/,* or from the office listed in **FOR FURTHER INFORMATION CONTACT**.

Document submission: You may submit written comments on the final EIS and draft ROD by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for FWS–R2–ES–2013–0056, 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–R2–ES–2013–0056; Division of Policy and Directives Management; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments on the final EIS and draft ROD only by the methods described above. 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 Public Comments section below for more information). To increase our efficiency in downloading comments, groups providing mass submissions should submit their comments in an Excel file.

FOR FURTHER INFORMATION CONTACT: Sherry Barrett, Mexican Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna Road, NE., Albuquerque, NM 87113; by telephone 505–761–4704; or by facsimile 505–346–2542. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339. Further contact information can be found on the Mexican Wolf Recovery Program's Web site at *http://www.fws.gov/southwest/es/mexicanwolf/.*

SUPPLEMENTARY INFORMATION: With this **Federal Register** document, we announce the availability of the final EIS and our draft ROD for the Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (*Canis lupus baileyi*). We developed the final EIS and our draft ROD in compliance with the agency decision making requirements of the National Environmental Policy Act of 1969, as amended.

We have described all alternatives in detail, and we have evaluated them in our final EIS. Our draft decision is based on our review of the alternatives and their environmental consequences as described in our final EIS.

Reviewing Documents

You may obtain a copy of the final EIS and draft ROD by going to the Mexican Wolf Recovery Program Web site at *http://www.fws.gov/southwest/es/mexicanwolf/.* Alternatively, you may obtain a compact disk with an electronic copy of the final EIS by writing to Ms. Sherry Barrett, Mexican Wolf Recovery Coordinator (see **FOR FURTHER INFORMATION CONTACT**). The final EIS and draft ROD will also be available for public inspection, by appointment, during normal business hours (8 a.m. to 4:30 p.m.) at the New Mexico Ecological Services Field Office, 2105 Osuna Road NE., Albuquerque, NM 87113. In cooperation with the U.S. Department of Agriculture, Forest Service, Southwest Region, we have also established information repositories at the Supervisor Offices for the National Forests throughout Arizona and New Mexico. Links to the National Forests with the addresses of the supervisor offices are available at *http://www.fs.usda.gov/r3.*

Background

On June 13, 2013 (78 FR 35719), we published a proposed rule to revise the existing nonessential experimental population designation of the Mexican wolf. That proposal had a 90-day comment period ending September 11, 2013. On August 5, 2013 (78 FR 47268), we published a notice of intent to prepare an environmental impact statement in conjunction with the proposed rule to revise the existing nonessential experimental population designation of the Mexican wolf. That notice of intent to prepare an environmental impact statement had a 45-day comment period ending September 19, 2013. On September 5, 2013 (78 FR 54613), we extended the public comment period on the proposed rule to revise the existing nonessential experimental population designation of the Mexican wolf to end on October 28, 2013, and announced a public hearing. On October 28, 2013 (78 FR 64192), we once again extended the public comment period on the proposed rule to revise the existing nonessential experimental population designation of the Mexican wolf to end on December 17, 2013, and announced public hearings on the proposed rule to revise the existing nonessential experimental population designation of the Mexican wolf.

On July 25, 2014 (79 FR 43358), we published a revised proposed rule to the

existing nonessential experimental population designation of the Mexican wolf and announced the availability of a draft environmental impact statement, the reopening of the public comment period, and the holding of public hearings. That proposal had a 60-day comment period ending September 23, 2014. We developed our final EIS after assessing and considering all comments both individually and collectively. Our response to the substantive comments that we received are provided as an appendix to the final EIS.

Public Comments

You may submit your comments and materials concerning the final EIS and the draft ROD by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. 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.

Comments and materials we receive, as well as some of the supporting documentation we used, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R2–ES–2013–0056, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: October 31, 2014.

Joy E. Nicholopoulos,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–27872 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 79, No. 227

Tuesday, November 25, 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.

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503. Copies of submission may be obtained by calling (202) 712–5007.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0520.

Form No.: AID 1420–17.

Title: Contractor Employee Biographical Data Sheet.

Type of Review: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) is authorized to make contracts with any corporation, international organization, or other body of persons in or outside of the United States in furtherance of the purposes and within limitations of the Foreign Assistance Act (FAA). The information collections requirements placed on the public are published in 48 CFR Chapter 7, and include such items as the Contractor Employee Biographical Data Sheet and Performance and Progress Reports (AIDAR 752.7026). These are all USAID unique procurement requirements. The pre-award requirements are based on a need for prudent management in the determination that an offeror either has or can obtain the ability to competently manage development assistance programs utilizing public funds. The requirements for information collection during the post-award period are based on the need to administer public funds prudently.

Annual Reporting Burden:

Respondents: 14,570.

Total Annual Responses: 31,337.

Total Annual Hours Requested: 42,700.

Dated: November 17, 2014.

Lynn P. Winston,

Chief, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development.

[FR Doc. 2014–27626 Filed 11–24–14; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 19, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by December 26, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: 7 CFR 340; Introduction of Organisms and Products Altered or Produced Through Genetic Engineering.

OMB Control Number: 0579–0085.

Summary of Collection: Under the Plant Protection Act (PPA, 7 U.S.C. 7703 *et seq.*) the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, If the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or the dissemination of a plant pest into the United States. The Animal and Plant Health Inspection Service (APHIS) is charged with preventing the introduction of plant pest into the United States or their dissemination within the United States. The statutory requirements for the information collection activity are found in the PPA. The regulations in 7 CFR part 340 implement the provisions of the PPA by providing the information necessary to establish conditions for proposed introductions of certain genetically engineered organisms and products which present a risk of plant pest introduction. APHIS will collect information using several APHIS forms.

Need and Use of the Information: APHIS will collect the information through a notification procedure or a permit requirement to ensure that certain genetically engineered organisms, when imported, moved interstate, or released into the environment, will not present a risk of plant pest introduction. The information collected through the petition process is used to determine whether a genetically

engineered organism will pose a risk to agriculture or the environment if grown in the absence of regulations by APHIS. The information is also provided to State departments of agriculture for review, and made available to the public and private sectors on the Internet to ensure that all sectors are kept informed concerning any potential risks posed through the use of genetic engineering technology.

Description of Respondents: Business or other for profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 121.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 3,308.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–27861 Filed 11–24–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 19, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Economic Research Service

Title: A Pilot Generic Clearance To Conduct Experimental Economic Research.

OMB Control Number: 0536–0070.

Summary of Collection: The primary function of the Economic Research Service (ERS) is to provide economic and social science research, analysis for public and private decisions on agriculture, food, natural resources, and rural America, and to disseminate data under the authority of 7 U.S.C. 2204(a) and 7 U.S.C. 2026(a)(1). ERS envisions to conduct experimental economic research to further an ongoing initiative that would use insight from behavioral economic to provide economic intelligence, research, and analysis to inform agricultural resource and conservation policies. ERS plans on using a number of research techniques including laboratory and field techniques, exploratory interviews, pilot experiments, and respondent debriefing to develop and implement state-of-the-art research methodologies to better inform and advance scientific understanding for its customers in response to both specific requests and in anticipation of future need. This request is being sought as a continuing pilot of the concept of using a generic approval mechanism for the type of experiments listed above. As such, experiments will be limited to two topic areas: Conservation and nutrition. ERS does not intend to use the information collected under this approval for purposes of developing or evaluating policy. ERS does not intend to invoke CIPSEA for the collection, but instead intends to protect respondent information under the Privacy Act of 1974 and the E-Government Act of 2002.

Need and Use of the Information: Information collected from experiments will allow ERS to develop and implement state-of-the-art research methodologies to better inform and advance scientific understanding for its customers in response to both specific request and to anticipation of future need. ERS will use a number of research techniques, as appropriate to the individual investigation. These include laboratory and field techniques, exploratory interviews, pilot experiments, and respondent debriefing.

Description of Respondents: Individuals or households; Business or other for-profit; Farms.

Number of Respondents: 6,900.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 7,025.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–27862 Filed 11–24–14; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 19, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such

persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Technical Assistance for Specialty Crops Program.

OMB Control Number: 0551–0038.

Summary of Collection: The Technical Assistance for Specialty Crops (TASC) program is authorized by Section 3205 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). Regulations governing the program appear at 7 CFR part 1487. Section 3205 provides that the Secretary of Agriculture shall establish a program to address unique barriers that prohibit or threaten the export of U.S. specialty crops. The program was reauthorized by the Agricultural Act of 2014, which became effective on February 7, 2014. The Foreign Agricultural Service (FAS) administers the program for the Commodity Credit Corporation.

Need and Use of the Information: FAS collects data for fund allocation, program management, planning and evaluation. FAS will collect information from applicant desiring to receive grants under the program to determine the viability of requests for funds. The program could not be implemented without the submission of project proposals, which provide the necessary information upon which funding decisions are based.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 1,600.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–27864 Filed 11–24–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0089]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Reporting, Herd Monitoring, and Management of Swine Enteric Coronavirus Diseases

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the reporting, herd monitoring, and management of swine enteric coronavirus diseases.

DATES: We will consider all comments that we receive on or before January 26, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0089*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0089, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0089* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the reporting, herd monitoring, and management of swine enteric diseases, contact Dr. Troy Bigelow, Senior Staff Veterinarian-Swine, Surveillance, Preparedness and Response Services, VS, APHIS, 210 Walnut Street, Room 891, Des Moines, IA 50309; (515) 284–4121. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

SUPPLEMENTARY INFORMATION:

Title: Reporting, Herd Monitoring, and Management of Swine Enteric Coronavirus Diseases.

OMB Control Number: 0579–0416.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is authorized, among other things, to prohibit or restrict the interstate movement of animals and animal products to prevent the dissemination within the United States of animal diseases and pests of livestock and to conduct programs to detect, control, and eradicate pests and disease of livestock. Disease prevention is the most effective method for maintaining a healthy animal population. APHIS has delegated the authority for prevention of animal diseases to Veterinary Services (VS).

On June 5, 2014, VS issued a Federal Order to establish reporting, herd monitoring, and management requirements for two swine enteric coronavirus diseases (SECD). Porcine epidemic diarrhea virus was identified in the United States in May 2013, and has spread to at least 31 States. In February 2014, a related virus, porcine delta coronavirus, was identified in 13 States. Infections with these swine enteric coronaviruses can cause significant morbidity and mortality, particularly in young piglets. In fact, since identification of the porcine epidemic diarrhea virus, it has caused approximately 7 million piglet deaths. These two swine enteric coronavirus diseases are transmitted by the fecal-oral route from infected swine or contaminated materials. Only swine are affected. These diseases do not affect other animals or people, and are not a food safety concern. However, the U.S. swine population has minimal immunity against these coronaviruses; therefore, the entire population remains at risk.

Porcine epidemic diarrhea virus minimally affected trade when it was first confirmed in May 2013. However, as the spread of the disease drew media attention, negative trade impacts increased. Unfortunately, trading partners are beginning to restrict the export of not only live animals, but also animal-derived products, such as blood products and other byproducts. While no restrictions have been imposed on pork meat exports, some U.S. trading partners have begun to discuss such restrictions. The lack of sufficient information to describe the current disease situation and to outline specific Federal and State Government actions taken to control the disease only increases our trading partners' concern.

The Federal Government, States, herd veterinarians, and industry have collaborated to manage these infections in the United States. This collaboration includes certain information collection activities that were approved by the Office of Management and Budget (OMB) on an emergency basis. These information collection activities are

herd management plans, disease reporting, animal movement recordkeeping, fee basis agreement and statement of work, electronic funds transfer agreement, producer reimbursement for biosecurity activities (Vendor Agreement and Statement of Work, Biosecurity Payment Certification Sheet, and review of Statement of Services Performed (VS 8–18)), agreements and workplans that include Standard Form (SF) 424 (Application for Federal Assistance), Request for Advance Reimbursement (SF 270), and State control orders or quarantines.

In addition to the above approved information collection activities, we are also adding invoicing for herd plan completion, a reimbursement form (VS 8–19), State and Tribal involvement in SECD documentation and reporting, and declaration of negative (status).

We are asking OMB to approve these information collection activities, as described, for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 2.47 hours per response.

Respondents: Pork producers, accredited veterinarians, State animal health officials, and personnel from approved laboratories.

Estimated Annual Number of Respondents: 1,500.

Estimated Annual Number of Responses per Respondent: 43.

Estimated Annual Number of Responses: 64,965.

Estimated Total Annual Burden on Respondents: 162,200 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 19th day of November 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–27900 Filed 11–24–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request approval to revise and extend a currently approved information collection, the Milk and Milk Products Surveys. Revision to burden hours will be needed due to changes in the size of the target population, sample design, and/or questionnaire length.

DATES: Comments on this notice must be received by January 26, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0020, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Efax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Milk and Milk Products Surveys.

OMB Control Number: 0535–0020.

Expiration Date of Approval: April 30, 2015.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to collect, prepare and issue State and national estimates of crop and livestock production, prices and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. The Milk and Milk Products Surveys obtain basic agricultural statistics on milk production and manufactured dairy products from farmers and processing plants throughout the nation. Data are gathered for milk production, dairy products, evaporated and condensed milk, manufactured dry milk, and manufactured whey products. Milk production and manufactured dairy products statistics are used by the U.S. Department of Agriculture (USDA) to help administer federal programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. Only minor changes are planned for the questionnaires and sample sizes. The Milk Production Survey will continue to be conducted quarterly (January, April, July, and October) and monthly estimates for the non-quarterly months will still be published for the total number of dairy cows, the number of cows milked, and the total milk produced. Estimates for the non-survey months will be generated by using a combination of administrative data, regression modeling, and historic data. In April 2012 NASS discontinued the collection of Dairy Product Prices. This data is now collected by the Agricultural Marketing Service (AMS) in compliance with the Mandatory Price Reporting Act of 2010, and the amended section 273(d) of the Agricultural Marketing Act of 1946.

Authority: Voluntary dairy information reporting is conducted under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276), which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Mandatory dairy product information reporting is based on the Agricultural Marketing Act of 1946, as amended by the Dairy Market Enhancement Act of 2000 and the Farm Security and Rural Development Act of 2002 (U.S.C. 1637–1637b). This program requires each manufacturer to report to USDA the price, quantity, and moisture content of dairy products sold and each entity storing dairy products to report information on the quantity of dairy products stored. Any manufacturer that processes, markets, or stores less than 1,000,000 pounds of dairy products per year is exempt. USDA is required to maintain information, statistics, or documents obtained under these Acts in a manner that ensures that confidentiality is preserved regarding the identity of persons and proprietary business information, subject to verification by the Agricultural Marketing Service (AMS) under Public Law 106–532. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register,** Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response. This average is based on the 7 different surveys in the information collection: 2 monthly, 4 quarterly, and 1 annual. The estimated total number of responses is 63,100 annually, with an average annual frequency of 4.44 responses per respondent. NASS also plans to increase the use of cover letters to explain the importance and uses of this data series along with how the respondent can access and report their data using the secure internet connection that NASS will be using.

Respondents: Farms and businesses.

Estimated Number of Respondents: 14,200.

Estimated Total Annual Burden on Respondents: 11,100 hours.

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, November 14, 2014.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2014–27896 Filed 11–24–14; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[11/14/2014 through 11/18/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Genesis Acquisition Company, Inc., d/b/a Northland Furniture Company.	681 SE Glenwood Drive, Suite 5, Bend, OR 97702.	11/18/2014	The firm manufactures wood products, molding, panels, veneer or laminated panels.
Main Street Pedicabs, Inc	11811 Upham Street, #9, Broomfield, CO 80020.	11/14/2014	The firm manufactures human powered transportation pedicabs, made of steel frames, fiberglass bodies, and bicycle components.
Perennial Energy, LLC	1375 County Road 8690, West Plains, MO 65775.	11/18/2014	The firm manufactures customized biogas handling systems (Skids, Flares)—extract/remove waste gases from landfills, digesters & other sources.
Vforge, Inc	5567 West 6th Avenue, Lakewood, CO 80214.	11/14/2014	The firm manufactures high precision aluminum alloy forged components for various industries.
Thurston Manufacturing, Inc ..	1708 H Avenue, Thurston, NE 68062.	11/18/2014	The firm manufactures agricultural equipment.
American Standard Company, Inc.	1570 Water Street, Southington, CT 06489.	11/12/2014	The firm manufactures fiber optic wire strippers, dog tags, blades for knives, tree pruning tools, various metal stamped products and various tools assemblies.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public

hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: November 18, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–27877 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Diocenyr Ribamar Barbosa-Santos, 3928 Shiver Road, Fort Worth, TX 76244–8692; Order Denying Export Privileges

On October 3, 2013, in the U.S. District Court for the Southern District of Florida, Diocenyr Ribamar Barbosa-Santos (''Barbosa-Santos'') was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (''IEEPA''). Specifically, Barbosa-Santos knowingly and willfully engaged in a transaction involving the attempted export, sale, brokering and financing of an A–300 Airbus aircraft from China to Iran, in violation, inter alia, of IEEPA. Barbosa-Santos was sentenced to 24 months in prison, three years of supervised release, and a $100 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Barbosa-Santos's conviction for violating the IEEPA, and in accordance with Section 766.25 of the Regulations, BIS has provided notice and an opportunity for Barbosa-Santos to make a written submission to BIS. BIS has not received a submission from Barbosa-Santos.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Barbosa-Santos's export privileges under the Regulations for a period of five (5) years from the date of Barbosa-Santos's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Barbosa-Santos had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until October 3, 2018, Diocenyr Ribamar Barbosa-Santos, with a last known address of 3928 Shiver Road, Fort Worth, TX 76244–8692, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Barbosa-Santos by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Barbosa-Santos may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Barbosa-Santos. This

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2014). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 3, 2018.

Issued this 18th day of November, 2014.

Karen H. Nies-Vogel,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–27882 Filed 11–24–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet December 9, 2014, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Opening remarks by Bureau of Industry and Security.
3. Presentation of papers or comments by the Public.
4. Export Enforcement update.
5. Regulations update.
6. Working group reports.
7. Automated Export System update.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than December 2, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 29, 2014, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: November 19, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–27867 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on December 11, 2014, 8:30 a.m., Room 3884, at the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda

Thursday, December 11

1. Welcome and Introductions.
2. Remarks by Assistant Secretary for Export Administration.
3. *Status Report:* Export Control Classification Number Review, Review by the ETRAC members of their assigned Categories to determine viability.
4. Recruitment for ETRAC members.
5. Harmonization of definitions—fundamental research.
6. *Review of Meeting Minutes and topics delivered at ETRAC Fall meeting at the University of California-San Diego, including:* Genetic Synthesis; Space Security; Unmanned Aerial Vehicles; Fundamental Research and Public Domain; New Technology Definition; and Additive Manufacturing.

Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and l0(a)(3).

The open sessions will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than, December 4, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 2, 2014, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: November 19, 2014.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2014–27868 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

President's Export Council Subcommittee on Export Administration; Notice of Open Meeting

The President's Export Council Subcommittee on Export Administration (PECSEA) will meet on December 10, 2014, 10:00 a.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4830, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The PECSEA provides advice on

matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

Agenda

Open Session

1. Opening remarks by the Chairman and Vice Chairman.
2. Opening remarks by the Bureau of Industry and Security.
3. Export Control Reform Update.
4. Presentation of papers or comments by the Public.
5. Data Transmission and Security Subcommittee Presentation.
6. Process Improvements and Trusted Trader Subcommittee Presentation.
7. Outreach Subcommittee Update.
8. Update: One-year Anniversary of the First ECR Transition Rule Statistics.
9. Consolidated Screening List Demonstration and Discussion.

The open session will be accessible via teleconference to 25 participants on a first come, first served basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than December 3, 2014.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Dated: November 19, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–27869 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') published its *Preliminary Results* of the sixth antidumping duty administrative review on certain activated carbon from the People's Republic of China (''PRC'') on May 22, 2014,[1] in which we gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments received, we made changes to the margin calculations for these final results of the antidumping duty administrative review. The final weighted-average dumping margins are listed below in the ''Final Results of the Review'' section of this notice. The period of review (''POR'') is April 1, 2012, through March 31, 2013.

DATES: *Effective Date:* November 25, 2014.

FOR FURTHER INFORMATION CONTACT: Bob Palmer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–9068.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on May 22, 2014.[2] In accordance with 19 CFR 351.309(c)(1)(ii), we invited parties to comment on our *Preliminary Results.*[3] On June 19, 2014, the Department fully extended the time limit for completion of the final results of this administrative review.[4] The Department extended the deadlines for submission of case and rebuttal briefs twice based on requests from interested parties.[5] On July 3, 2014, Albemarle,[6] Calgon,[7] Carbon Activated,[8] Cherishmet,[9] Huahui [10] and Jacobi [11] submitted case briefs.[12] On July 18, 2014, Petitioners [13] and Albemarle submitted rebuttal briefs.[14] On July 29, 2014, pursuant to 19 CFR 351.302(d), we rejected Jacobi's case brief because it contained untimely new factual information, and instructed Jacobi to resubmit a redacted case brief, which it submitted on July 30, 2014. On September 24, 2014, the Department held a public hearing limited to issues raised in case and rebuttal briefs.

Scope of the Order

The merchandise subject to the *Order* is certain activated carbon.[15] The products are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.1000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.[16]

[1] *See Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 29419 (May 22, 2014), and accompanying Preliminary Decision Memorandum (''*Preliminary Results*'').

[2] *See id.*

[3] *See id.* at 29420.

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, through James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Bob Palmer, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations: Certain Activated Carbon from the People's Republic of China (''PRC''): Extension of Deadline for Final Results of Antidumping Duty Administrative Review, dated June 19, 2014.

[5] *See* Memorandum to the File, from Frances Veith, Senior International Trade Compliance Analyst, Enforcement and Compliance, dated June 11, 2014; *see also* Memorandum to the File, from Frances Veith, Senior International Trade Compliance Analyst, Enforcement and Compliance, dated June 13, 2014 and Memorandum to the File, from Bob Palmer, Senior International Trade Compliance Analyst, Enforcement and Compliance, dated July 9, 2014.

[6] Albemarle Corporation (''Albemarle'').

[7] Calgon Carbon Corporation and Calgon Carbon (Tianjin) Co., Ltd. (collectively, ''Calgon'').

[8] Carbon Activated Corporation (''Carbon Activated'').

[9] Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (''Cherishmet'').

[10] Ningxia Huahui Activated Carbon Co., Ltd. (''Huahui'').

[11] Jacobi Carbons AB (''Jacobi'').

[12] On July 3, 2014, M.L. Ball Co., Inc, Nichem Co., and Datong Juqiang Activated Carbon Company, Ltd. submitted a letter supporting arguments made by the Chinese respondents. *See* Letter from ML Ball, Nichem, and Datong, dated July 3, 2014.

[13] Calgon Carbon Corporation and Cabot Norit Americas, Inc. (collectively, ''Petitioners'').

[14] *See* Petitioners' Rebuttal Brief, dated July 18, 2014; *see also* Albemarle's Rebuttal Brief, dated July 18, 2014.

[15] *See* Certain Activated Carbon from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fifth Antidumping Duty Administrative Review,'' (''Issues & Decision Memo'') dated concurrently with and hereby adopted by this notice, for a complete description of the Scope of the *Order.*

[16] *See Notice of Antidumping Duty Order: Certain Activated Carbon From the People's Republic of China,* 72 FR 20988 (April 27, 2007) (''*Order*'').

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the Issues & Decision Memo. A list of the issues which parties raised is attached to this notice as an Appendix. The Issues & Decision Memo is a public document and is on file in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and it is available to all parties in the CRU. In addition, a complete version of the Issues & Decision Memo can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues & Decision Memo and the electronic version of the Issues & Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made certain revisions to the margin calculations for Jacobi, Cherishmet, and the non-examined, separate rate respondents.[17] Further, the Surrogate Values Memo [18] contains descriptions of our changes to the surrogate values.

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that Sinocarbon International Trading Co., Ltd. (''Sinocarbon'') did not have any reviewable transactions during the POR. We have not received any information to contradict this determination. Therefore, the Department made the final determination that Sinocarbon did not have any reviewable entries of subject merchandise during the POR, and will issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.

Separate Rate Respondents

In our *Preliminary Results,* we determined that the following companies met the criteria for separate rate status: Jacobi; Cherishmet; Huahui; Calgon Carbon (Tianjin) Co., Ltd.; Datong Juqiang Activated Carbon Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Jilin Bright Future Chemicals Company, Ltd.; Ningxia Mineral and Chemical Limited; Shanxi Sincere Industrial Co., Ltd.; Tianjin Channel Filters Co., Ltd.[19] We have received no comments or argument since the issuance of the *Preliminary Results* that provides a basis for reconsideration of these determinations. Therefore, the Department continues to find that the companies listed above meet the criteria for a separate rate.

Rate for Non-Examined Separate Rate Respondents

In the *Preliminary Results,*[20] and consistent with the Department's practice,[21] we assigned the non-examined, separate rate companies a rate calculated using the ranged total U.S. sales quantities from the public version of the submissions from the individually-examined respondents with weighted-average dumping margins that are not zero or *de minimis* (*i.e.,* less than 0.5 percent) [22] from the public versions of their submissions.[23] No parties have commented on the methodology for calculating this separate rate. For the final results, we continue to find this approach to be consistent with the intent of section 735(c)(5)(A) of the Act and our use of section 735(c)(5)(A) of the Act as guidance when we establish the rate for separate rate respondents not examined individually in an administrative review.[24]

Because the calculated net U.S. sales values for the individually-examined respondents with weighted-average dumping margins that are not zero or *de minimis* are business-proprietary figures, we find that $0.04 U.S. Dollars/kilogram (''USD/kg''), which we calculated using the publicly available figures of U.S. sales quantities for these firms, is the best reasonable proxy for the weighted-average dumping margin based on the calculated U.S. sales quantities of these respondents.[25]

PRC-Wide Entity

In the *Preliminary Results,* the Department determined that those companies that did not demonstrate eligibility for a separate rate are properly considered part of the PRC-wide entity.[26] Since the *Preliminary Results,* we received no comments regarding these findings. Therefore, we continue to treat these entities as part of the PRC-wide entity.

Rate for the PRC-Wide Entity

The Department used the rate of 2.42 USD/kg in the most recent completed administrative review of this antidumping order for the PRC-wide entity.[27] Because nothing on the record of the instant review calls into question the reliability of this rate, we find it appropriate to continue to apply the rate of 2.42 USD/kg to the PRC-wide entity for these final results.[28]

Final Results of the Review

The weighted-average dumping margins for this POR are as follows:

[17] *See* Issues & Decision Memo and the company-specific analysis memoranda for further explanation regarding these changes.

[18] *See* Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Bob Palmer, Case Analyst, Office V, Certain Activated Carbon From the People's Republic of China (''PRC''): Surrogate Values for the Final Results,'' dated concurrently with this notice (''Surrogate Values Memo'').

[19] *See Preliminary Results,* 79 FR at 29420; Preliminary Decision Memorandum at 9–11.

[20] *See* Preliminary Decision Memorandum at 11–12.

[21] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 56158, 56160 (September 12, 2011) (''*Vietnam Shrimp*'').

[22] *See* Jacobi's public version of its supplemental Section A questionnaire response, dated August 21, 2013, at Exhibit A–1; *see also* Cherishmet's public version of its supplemental Section A questionnaire response, dated August 30, 2013, at Exhibit SA–1.

[23] *See id.*

[24] *See Vietnam Shrimp,* 76 FR at 56160.

[25] *See* Memorandum to the File from Bob Palmer, Case Analyst, Office V, AD/CVD Operations, Re: Calculation of Separate Rate, dated concurrently with this notice.

[26] The PRC-wide entity includes Shanxi DMD Corporation and Tangshan Solid Carbon Co., Ltd. *See Preliminary Results,* 79 FR at 29420 n.5; *see also* Preliminary Decision Memorandum at 12–13.

[27] *See Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 70533, 70535 (November 26, 2013) (''*AR5 Carbon*'').

[28] *See, e.g., id.*

Exporter	Margin (dollars per kilogram) [29]
Jacobi Carbons AB [30]	0.04
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd [31]	0.04
Calgon Carbon (Tianjin) Co., Ltd	0.04
Datong Juqiang Activated Carbon Co., Ltd	0.04
Datong Municipal Yunguang Activated Carbon Co., Ltd	0.04
Jilin Bright Future Chemicals Company, Ltd	0.04
Ningxia Huahui Activated Carbon Co., Ltd	0.04
Ningxia Mineral and Chemical Limited	0.04
Shanxi Sincere Industrial Co., Ltd	0.04
Tianjin Channel Filters Co., Ltd	0.04
PRC-Wide Rate [32]	2.42

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department has determined, and U.S Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. As the Department stated in the most recent administrative review,[33] we will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. Specifically, we calculated importer-specific duty assessment rates on a per-unit rate basis by dividing the total amount of dumping for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[34] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[35]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Jacobi, Cherishmet and the non-examined, separate rate respondents, the cash deposit rate will be equal to their weighted-average dumping margins established in the final results of this review, except if the rate is zero or *de minimis,* then no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the PRC-wide entity established in the final results of this review; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

[29] In the second administrative review of the *Order,* the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010).

[30] In the third administrative review, the Department found Jacobi, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) are a single entity and, because there were no changes to the facts which supported that decision, we continued to find these companies part of a single entity in the fourth and fifth administrative reviews. Because there have been no changes to the facts that supported that decision in the present review, we are continuing to treat the companies as a single entity in this review. *See Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review,* 76 FR 67142, 67145 n.25 (October 31, 2011); *see also Certain Activated Carbon From the People's Republic of China; 2010–2011; Final Results of Antidumping Duty Administrative Review,* 77 FR 67337, 67338 n.22 (November 9, 2012); *AR5 Carbon,* 78 FR at 70535 n.32.

[31] In the first administrative review, the Department found Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd., and Ningxia Guanghua Activated Carbon Co., Ltd. are a single entity and, because there were no changes to the facts which supported that decision, we continued to find these companies to be part of a single entity in subsequent reviews. Because there have been no changes to the facts that supported that decision in the present review, we are continuing to treat the companies as a single entity in this review. *See Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results,* 74 FR 21317, 21319 (May 7, 2009), unchanged in *First Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 57995, 57998 (November 10, 2009); *AR5 Carbon,* 78 FR at 70535 n.33.

[32] The PRC-wide entity includes the Shanxi DMD Corporation and Tangshan Solid Carbon Co., Ltd.

[33] *See AR5 Carbon,* 78 FR at 70535.

[34] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[35] For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 18, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues & Decision Memorandum

General Issues

Comment 1: Whether Albemarle Corporation Is a Domestic Interested Party
Comment 2: Differential Pricing
A. Withdrawal of the Targeted Dumping Regulation
B. Application of the Differential Pricing Analysis
C. Explanation of the Differential Pricing Analysis
Comment 3: Whether Separate Rate Respondents Should Receive Zero or *De Minimis* Margins

Surrogate Values

Comment 4: Anthracite Coal Surrogate Value
Comment 5: Surrogate Financial Statement Selection
A. Related Party Transactions
B. Whether the Financial Ratios of BF Industries Are Outliers
C. Whether BF Industries Financial Statements Demonstrated Benefits Received From Countervailable Subsidies
D. Whether To Reject Financial Statements With Non-Interest Bearing Loans
Comment 6: Surrogate Financial Ratio Calculation
A. Calculation of Premium AC's Surrogate Financial Ratios
B. Calculation of Mapecon's Surrogate Financial Ratios
C. Categorization of Bank Charges for Premium AC and Davao
D. Categorization of Insurance Expenses for Davao and Philips Carbon
E. Categorization of Travel and Transport Expenses for Davao
F. Labor in Financial Ratios
Comment 7: ILO 6A Labor Calculation
Comment 8: Electricity
Comment 9: Water
Comment 10: Coal Tar
Comment 11: Carbonized Materials
Comment 12: Brokerage and Handling Denominator

Company Specific Issues

Comment 13: Jacobi's Packing Calculation

[FR Doc. 2014–27926 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD582

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Scientific and Statistical Committee Ecosystem Subcommittee (Subcommittee) will hold a meeting, which is open to the public.

DATES: The Subcommittee will meet Monday and Tuesday, December 15–16, 2014. The meeting will start at 9 a.m. each day and continue until business is completed on each day.

ADDRESSES:

Meeting address: The meeting will be held in the Conference Room in Building 1, National Oceanic and Atmospheric Administration, Western Regional Center, 7600 Sand Point Way NE., Seattle, WA 98115–6349.

Council address: Pacific Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2280 or Dr. Martin Dorn, Alaska Fisheries Science Center; telephone: (206) 526–6548.

SUPPLEMENTARY INFORMATION: The Subcommittee will meet with the Integrated Ecosystem Assessment Team, Northwest Fisheries Science Center, National Marine Fisheries Service. The purpose of the meeting is to review the indicators used in the Annual State of the California Current Ecosystem Report, which is delivered to the Pacific Council each March, and consider how the report might be refined and improved.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: November 19, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–27768 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD616

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting in Hawaii in December 2014 regarding social science in the fishery management council process.

DATES: The meeting will be held Wednesday, December 17, 2014, Thursday, December 18, 2014, and Friday, December 19, 2014 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will take place at the Council office, 1164 Bishop Street, Suite 1400, Honolulu, HI; telephone: (808) 522–8220. Site visits for meeting participants to points of interest on the Fishing Community of Oahu will be conducted on Friday, December 19, 2014.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for Meeting

8:30 a.m.–5 p.m. Wednesday, December 17, 2014

1. Welcome
2. Introductions
3. Workshop overview
4. Addressing Federal Regulations I
5. Addressing Federal Regulations II

8:30 a.m.–5 p.m. Thursday, December 18, 2014

6. Social Impact Assessment: Regional Approaches
7. Data Collection I (Methods)
8. Data Collection II (Indicators)
9. Data Analysis and Social Impact Assessment Writing
10. Social Impact Assessment: Predictions vs. Actual
11. Next Steps

8:30 a.m.–5 p.m. Friday, December 19, 2014

1. Oahu Fishing Community Site Visits

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: November 19, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–27769 Filed 11–24–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery Honor Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Honor Subcommittee of the Advisory Committee on Arlington National Cemetery (ACANC). The meeting is open to the public. For more information about the Committee and the Honor Subcommittee, please visit *http://www.arlingtoncemetery.mil/AboutUs/FocusAreas.aspx.*

DATES: The Honor Subcommittee will meet from 8:30 a.m.–10:00 a.m. on Tuesday, December 9, 2014.

ADDRESSES: Building 123, Conference Room, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Ms. Renea C. Yates; Designated Federal Officer for the committee and the Honor Subcommittee, in writing at Arlington National Cemetery, Arlington, VA 22211, or by email at *renea.c.yates.civ@mail.mil,* or by phone at 703–614–1248.

SUPPLEMENTARY INFORMATION: Due to scheduling conflicts, the Designated Federal Officer was unable to submit a **Federal Register** notice pertaining to the Honor Subcommittee of the Advisory Committee on Arlington National Cemetery's meeting agenda for its scheduled meeting on December 9, 2014, to ensure compliance with the requirements of 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, waives the 15-calendar day notification requirement pursuant to 41 CFR 102–3.150(b). This subcommittee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the committee's advice and recommendations. The primary purpose of the Honor Subcommittee is to review and provide recommendations to the parent committee on extending the future locations and availability of active burial gravesites at Arlington National Cemetery, veteran eligibility criteria, and master planning.

Proposed Agenda: The subcommittee will receive an update on the status of concept of all major infrastructure projects.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. Building 123, Arlington National Cemetery is fully handicapped accessible. For additional information about public access procedures, contact Ms. Renea Yates, the subcommittee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Ms. Renea Yates, the subcommittee's Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. The Designated Federal Officer will review all timely submitted written comments or statements with the subcommittee Chairperson, and ensure the comments are provided to all members of the subcommittee before the meeting. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting. Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow the public to speak; however, interested persons may submit a written statement or a request to speak for consideration by the subcommittee. After reviewing any written statements or requests submitted, the subcommittee Chairperson and the Designated Federal Officer may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the subcommittee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–27788 Filed 11–24–14; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting for the Redwood City Harbor Navigation Improvement Feasibility Study and Integrated EIS/EIR Redwood City and County of San Mateo, CA (SPN–2014–125242)

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The purpose of this notice is to initiate the scoping process for the preparation of an integrated Feasibility Report and Environmental Impact Statement/Environmental Impact Report for proposed improvements to the existing navigation project at Redwood City Harbor and San Bruno Shoal.

DATES: A public scoping meeting will be held on December 10, 2014 at 7:00 p.m. (PST). Submit comments concerning this notice on or before December 15, 2014.

ADDRESSES: The scoping meeting location is: the Redwood City Hall, 1017 Middlefield Road, Redwood City, CA 94063. Meeting will be held at the City Council Chamber Meeting Room. Mail written comments concerning this notice to: U.S. Army Corps of Engineers, San Francisco District, Project Management Division, ATTN: SPN–2014–125242, 1455 Market Street, San Francisco, CA 94103–1398. Comment letters should include the commenter's physical mailing address, the project title and the Corps file number in the subject line.

FOR FURTHER INFORMATION CONTACT: Katherine Reyes, U.S. Army Corps of Engineers, San Francisco District, Project Management Division, ATTN: CESPN–PM–B, 1455 Market Street, San Francisco CA 94103–1398, (415) 503–6847, *katherine.m.reyes@usace.army.mil.*

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers intends to prepare an Environmental Impact Statement (EIS). The primary Federal actions under consideration are dredging, channel realignment, dredged material placement, and transport of dredged material for the purpose of ocean placement.

Pursuant to the California Environmental Quality Act (CEQA) the Port of Redwood City will serve as Lead Agency in preparing an Environmental Impact Report (EIR). The Corps and the Port of Redwood City have agreed to jointly prepare a Draft EIS/EIR to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address the Federal, state and local requirements and environmental issues concerning the proposed activities and permit approvals.

Project Site and Background Information: The project site is located at Redwood City Harbor (RWC), and San Francisco Bay, CA. The harbor is located in San Mateo County, on the southwest side of San Francisco Bay, approximately 18 miles south of San Francisco. The project site includes the existing Federal navigation channel and turning basins at RWC, extending from the mouth of Redwood Creek to deep water in the San Francisco Bay, as well as the channel at San Bruno Shoal in San Francisco Bay. Both channels are authorized to a depth of 30 feet Mean Lower Low Water (MLLW). It is the only deep-water port in South San Francisco Bay and was completed to its present-day authorized depth in 1965. The Port of Redwood City is the local sponsor and the U.S. Army Corps of Engineers is the Federal partner. The port maintains three berth facilities at a depth of 34 feet MLLW and a small facility to unload cement and aggregates via barge. Maritime activities include the export of recycled metal and the import of dry bulk building materials such as cement, bauxite, gypsum and aggregates.

Proposed Action(s): The proposed action is to evaluate alternatives to improve the existing navigation project at RWC and San Bruno Shoal. The study is authorized by House Resolution 2511, adopted May 7, 1997 *". . . in the interest of navigation improvements and related purposes at Redwood City Harbor, California, with particular reference to providing increased depths to accommodate new, larger vessels that now call on the port."*

Issues: Potentially significant issues associated with the project may include: aesthetics/visual impacts, air quality emissions, biological resource impacts, environmental justice, geologic impacts related to seismicity, hazards and hazardous materials, hydrology and water quality, noise, traffic and transportation, and cumulative impacts from past, present and reasonably foreseeable future projects. Bair Island and Greco Island are adjacent to RWC and are within the NEPA scope of analysis due to potential project impacts. Bair Island is operated by the USFWS and is the site of an ongoing wetland restoration effort. The bay water around Bair Island and RWC is within the Don Edwards Marine Protected Area.

Alternatives: Four alternative plans will be evaluated. Alternative 1 would deepen the RWC and the San Bruno Shoal Channels. Alternative 2 would deepen the RWC and San Bruno Shoal channels and implement measures to address shoaling including, realigning the turn into RWC channel, modifying the cross section of the RWC channel entrance and/or conducting advance maintenance. Alternative 3 would address shoaling by realigning the turn into RWC channel, modifying the cross section to the RWC channel entrance and/or conducting advance maintenance. Alternative 4 would be the no-action alternative, which would include continued maintenance of the authorized Federal channels to a depth of 30 feet MLLW at RWC and San Bruno Shoal.

Six dredge material placement sites are being evaluated. Multiple sites may be used depending on the quantity of material dredged from the channels and the capacity of the placement sites. The potential dredge material placement sites include:

1. Ravenswood Pond Complex (Upland Beneficial Reuse Site).

2. Eden Landing Pond Complex (Upland Beneficial Reuse Site).

3. Alviso Pond Complex (Upland Beneficial Reuse Site).

4. SF–11 Alcatraz (In-Bay Aquatic).

5. Dumbarton Bridge—Passive Sediment Transport (In-Bay Aquatic).

6. San Francisco Deep Ocean Disposal Site (SFDODS) (Ocean Aquatic).

Scoping Process: The Corps is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the draft EIS/EIR through this public notice. The purpose of the public scoping meeting is to solicit comments regarding the potential impacts, environmental issues, and alternatives associated with the proposed action to be considered in the draft EIS/EIR. The meeting place, date and time will be advertised in advance in local newspapers, and meeting announcement letters will be sent to interested parties. The final draft Integrated Feasibility Report and EIS/EIR is expected to be available for public review and comment in the

summer of 2015 and a public meeting will be held after its publication.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–27787 Filed 11–24–14; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting; December 9–10, 2014

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, December 9, 2014. A business meeting will be held the following day on Wednesday, December 10, 2014. The hearing and business meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on December 9, 2014 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges and other water-related projects subject to the Commission's review, and a resolution adopting the Commission's Water Resources Program FY 2015–17. The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net,* in a long form of this notice at least ten days before the hearing date. Written comments on draft dockets and resolutions scheduled for hearing on December 9 will be accepted through the close of the hearing that day. After the hearing on all scheduled matters has been completed, there will be an opportunity for public dialogue.

The public is advised to check the Commission's Web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is deemed necessary to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that project details commonly change in the course of the Commission's review, which is ongoing.

Public Meeting. The public business meeting on December 10, 2014 will begin at 1:00 p.m. and will include: Adoption of the Minutes of the Commission's September 10, 2014 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required. The meeting will include a resolution honoring Robert F. Molzahn, President of the Water Resources Association of the Delaware River Basin, on his retirement.

There will be no opportunity for additional public comment at the December 10 business meeting on hearing items for which the hearing was completed on December 9 or a previous date. Commission consideration on December 10 of items for which the public hearing is closed may result in either approval of the item (docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment for the record at the public hearing on December 9 or to address the Commissioners informally during the public dialogue portion of the hearing on December 9 are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at the public hearing or in advance of the hearing, either: by hand, U.S. Mail or private carrier to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522; or by email to *paula.schmitt@drbc.state.nj.us.* If submitted by email in advance of the hearing date, written comments on a docket should also be sent to Mr. William Muszynski, Manager, Water Resources Management at *william.muszynski@drbc.state.nj.us.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Other meeting items also are subject to change. Please check the Commission's Web site, *www.drbc.net,* closer to the meeting date for changes that may be made after the deadline for filing this notice.

Additional Information, Contacts. The list of projects scheduled for hearing, with descriptions, will be posted on the Commission's Web site, *www.drbc.net,* in a long form of this notice at least ten days before the hearing date. Draft dockets and resolutions for hearing items will be available as hyperlinks from the posted notice. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Project Review Section assistant Victoria Lawson at 609–883–9500, ext. 216.

Dated: November 19, 2014.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2014–27880 Filed 11–24–14; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

[Certification Notice—230]

Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of filing.

SUMMARY: On October 21, 2014, Footprint Power Salem Harbor Development LP, as owner and operator of a new base load electric powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c).

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE–20, Room 8G–024, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586–5260.

SUPPLEMENTARY INFORMATION: Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to FUA in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new base load electric powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

OWNER: Footprint Power Salem Harbor Development LP.

CAPACITY: 630 megawatts (MW).

PLANT LOCATION: Salem, MA.

IN-SERVICE DATE: Second quarter of 2017.

Issued in Washington, DC, on November 18, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–27892 Filed 11–24–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–13–000]

Boardwalk Storage Company, LLC; Notice of Application

Take notice that on November 7, 2014, Boardwalk Storage Company, LLC (Boardwalk Storage), 9 Greenway Plaza, Suite 2800, Houston, TX 77046, filed in Docket No. CP15–13–000, an application pursuant to section 7(b) of the Natural Gas Act and Part 157 of the Commission's regulations, for authorization to abandon its natural gas storage Cavern 24 and the storage services provided by that cavern, located at the Choctaw Gas Storage Facility in Iberville Parish, Louisiana. Specifically, Boardwalk Storage requests that Cavern 24 and the associated wellhead be abandoned by sale to its parent Boardwalk Louisiana Midstream, LLC in order for it to convert the cavern into storage of natural gas liquids, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Michael E. McMahon, Senior Vice President and General Counsel; J. Kyle Stephens, Vice President, Regulatory Affairs; M.L. Gutierrez, Director, Regulatory Affairs at 9 Greenway Plaza, Suite 2800, Houston, TX 77046, phone: (713) 479–8252, fax: (713) 479–1745, or email: *Mike.McMahon@bwpmlp.com, Kyle.Stephens@bwpmlp.com, Nell.Gutierrez@bwpmlp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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.

Comment Date: December 9, 2014.

Dated: November 18, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27809 Filed 11–24–14; 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: EC15–34–000
Applicants: Bethel Wind Energy LLC, Elk Wind Energy LLC, BlackRock NTR Renewable Power Fund (Master), L.P.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment, and Expedited Consideration of Bethel Wind Energy LLC, et al.
Filed Date: 11/17/14
Accession Number: 20141117–5275
Comments Due: 5 p.m. ET 12/8/14

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–94–004
Applicants: Avista Corporation
Description: Compliance filing per 35: Avista Corp OATT Order No. 1000 Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5218
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER13–96–005
Applicants: Black Hills Power, Inc.
Description: Compliance filing per 35: Order No. 1000 OATT Third Regional Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5260
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER13–99–003
Applicants: Puget Sound Energy, Inc.
Description: Compliance filing per 35: OATT Order No. 1000 Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5246
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER13–120–005
Applicants: Cheyenne Light, Fuel and Power Company
Description: Compliance filing per 35: Order No. 1000 OATT Third Regional Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5266
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER14–2372–001
Applicants: California Independent System Operator Corporation
Description: Compliance filing per 35: 2014–11–17 Petition for Limited Tariff Waiver to be effective N/A.
Filed Date: 11/17/14
Accession Number: 20141117–5269
Comments Due: 5 p.m. ET 11/21/14

Docket Numbers: ER15–420–000
Applicants: ITC Midwest LLC
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Filing of a Joint Use Agreement to be effective 1/19/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5214
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–421–000
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3203; Queue No. W3–079 to be effective 10/27/2014.
Filed Date: 11/17/14
Accession Number: 20141117–5216
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–422–000
Applicants: Avista Corporation
Description: Compliance filing per 35: Avista Corp Order No. 1000 FERC Rate Schedule CG2 to be effective 1/1/201.
Filed Date: 11/17/14
Accession Number: 20141117–5219
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–423–000
Applicants: Nevada Power Company
Description: Compliance filing per 35: Rate Schedule No. 146 WestConnect Planning Participation Agreement Concurrence to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5224
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–424–000
Applicants: Sierra Pacific Power Company
Description: Compliance filing per 35: Rate Schedule No. 67 WestConnect Planning Participation Agreement Concurrence to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5225
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–425–000
Applicants: PPL Montour, LLC
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Nov 2014 Market-Based Rate Tariff Revisions to be effective 11/13/2014.
Filed Date: 11/17/14
Accession Number: 20141117–5230
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–426–000
Applicants: El Paso Electric Company
Description: Compliance filing per 35: APS Rate Schedule No. 274, WestConnect Planning Participation Agreement to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5238
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–427–000
Applicants: Pacific Gas and Electric Company
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revision to Twin Valley Hydroelectric SGIA—WDT Service Agreement No. 83 to be effective 1/19/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5245
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–428–000
Applicants: Nevada Power Company
Description: Compliance filing per 35: Order No. 1000 OATT Third Regional Compliance filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5247
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–429–000
Applicants: Puget Sound Energy, Inc.
Description: Compliance filing per 35: Columbia Grid Functional Agreement to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5248
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–430–000
Applicants: Black Hills/Colorado Electric Utility Co
Description: Compliance filing per 35: WestConnect Planning Participation Agreement Concurrence Filing to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5251
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–431–000
Applicants: Black Hills Power, Inc.
Description: Baseline eTariff Filing per 35.1: WestConnect Planning Participation Agreement Concurrence Filing to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5259
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–432–000
Applicants: Cheyenne Light, Fuel and Power Company
Description: Baseline eTariff Filing per 35.1: WestConnect Planning Participation Agreement Concurrence Filing to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5263
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–433–000
Applicants: Tucson Electric Power Company
Description: Compliance filing per 35: Certificate of Concurrence WestConnect Planning Participation Agreement to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5265
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER15–434–000

Applicants: UNS Electric, Inc.
Description: Compliance filing per 35: Certificate of Concurrence WestConnect Planning Participation Agreement to be effective 12/31/9998.
Filed Date: 11/17/14
Accession Number: 20141117–5268
Comments Due: 5 p.m. ET 12/8/14

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 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27904 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–97–005
Applicants: Black Hills/Colorado Electric Utility Company, LP
Description: Compliance filing per 35: Order No. 1000 OATT Third Regional Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14
Accession Number: 20141117–5257
Comments Due: 5 p.m. ET 12/8/14

Docket Numbers: ER14–1183–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO-TexLa PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5146
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–1184–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO–ETEC PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5147
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–1185–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO–NTEC PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5148
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–1186–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO-TexLa ERCOT PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5149
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–1187–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO–ETC NTEC PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5150
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–1402–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO-Rayburn PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5152
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–2137–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO-Minden PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5151
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–2983–001
Applicants: Idaho Power Company
Description: Tariff Amendment per 35.17(b): Supplemental Filing to First Revised BPA PF and OTEC NITSAs to be effective 10/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5123
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER15–72–001
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): 1976R3 Substitute Kaw Valley Electric Cooperative, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5088
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER15–77–001
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): 2041R3 Substitute Kansas City Board of Public Utilities PTP to be effective 8/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5130
Comments Due: 5 p.m. ET 12/9/14

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 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27905 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–167–000.
Applicants: High Island Offshore System, L.L.C.
Description: Compliance filing per 154.203: Capacity Release Update #2 to be effective 12/12/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5138.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP15–168–000.
Applicants: Portland General Electric Company.

Description: Compliance filing per 154.203: Show Cause Filing Section 20 to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5196.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP15–169–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Neg Rate Agmt Filing (Southwest 43412) to be effective 11/13/2014.
Filed Date: 11/13/14.
Accession Number: 20141113–5026.
Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP15–170–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Amendment to Neg Rate Agmt (TVA 31033) to be effective 11/14/2014.
Filed Date: 11/13/14.
Accession Number: 20141113–5027.
Comments Due: 5 p.m. ET 11/25/14.

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.

Filings in Existing Proceedings

Docket Numbers: RP14–868–001.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Compliance filing per 154.203: Show Cause Order Compliance Filing—Response to October 16, 2014 Order to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5133.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–873–001.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Compliance filing per 154.203: Compliance with RP14–873 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5199.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–874–001.
Applicants: Trunkline Gas Company, LLC.
Description: Compliance filing per 154.203: Compliance with RP14–874 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5198.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–913–001.
Applicants: Southwest Gas Storage Company.
Description: Compliance filing per 154.203: Compliance with RP14–913 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5200.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–914–001.
Applicants: Sea Robin Pipeline Company, LLC.
Description: Compliance filing per 154.203: Compliance with RP14–914 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5201.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–924–001.
Applicants: Cheyenne Plains Gas Pipeline Company, L.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5444.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–925–001.
Applicants: Ruby Pipeline, L.L.C.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5437.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–926–001.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5445.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–927–001.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5432.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–928–001.
Applicants: Young Gas Storage Company, Ltd.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5427.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–962–001.
Applicants: Pine Needle LNG Company, LLC.
Description: Compliance filing per 154.203: Compliance Filing—GT&C Section 20—Posting of Offers to Purchase_2nd Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5191.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–963–001.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Compliance filing per 154.203: Compliance Filing—GT&C Section 42—Posting of Offers to Purchase_2nd Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5190.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–984–001.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Compliance filing per 154.203: Second Show Cause Order Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5377.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–985–001.
Applicants: Mojave Pipeline Company, L.L.C.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5438.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–986–001.
Applicants: TransColorado Gas Transmission Company L.
Description: Compliance filing per 154.203: Second Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5379.
Comments Due: 5 p.m. ET 11/24/14.

Docket Numbers: RP14–989–001.
Applicants: Millennium Pipeline Company, LLC.
Description: Compliance filing per 154.203: Show Cause Compliance Filing to be effective 10/16/2014.
Filed Date: 11/12/14.
Accession Number: 20141112–5144.
Comments Due: 5 p.m. ET 11/24/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern Time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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 13, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27823 Filed 11–24–14; 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: EC15–32–000.
Applicants: Kingfisher Wind, LLC, Kingfisher Transmission, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Kingfisher Transmission, LLC, et. al.
Filed Date: 11/13/14.
Accession Number: 20141113–5205.
Comments Due: 5 p.m. ET 12/4/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2292–010; ER11–3942–009; ER11–2293–010; ER12–2447–008.
Applicants: Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Renewable Energy Marketing US, Brookfield Smoky Mountain Hydropower LLC.
Description: Supplement to June 30, 2014 Updated Market Power Analysis for the Southeast Region of the Brookfield Companies.
Filed Date: 11/14/14.
Accession Number: 20141114–5104.
Comments Due: 5 p.m. ET 12/5/14.

Docket Numbers: ER12–1194–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing per 35: 2014–11–17 MVP ARR Compliance Filing to be effective 9/1/2012.
Filed Date: 11/17/14.
Accession Number: 20141117–5207.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER12–2273–003.
Applicants: Public Service Company of Colorado.
Description: Compliance filing per 35: 2014–11–17_Rev Att U Comp Filing to be effective 8/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5187.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–75–007.
Applicants: Public Service Company of Colorado.
Description: Compliance filing per 35: 2014–11–17_Att-R PSCo-Trans Planning Proc Comp Filing to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5126.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–77–005.
Applicants: Tucson Electric Power Company.
Description: Compliance filing per 35: OATT Order No. 1000 Compliance Filing (November 2014) to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5130.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–78–005.
Applicants: UNS Electric, Inc.
Description: Compliance filing per 35: OATT Order No. 1000 Compliance Filing (November 2014) to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5133.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–79–005.
Applicants: Public Service Company of New Mexico.
Description: Compliance filing per 35: Order No. 1000 OATT Third Regional Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5125.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–82–005.
Applicants: Arizona Public Service Company.
Description: Compliance filing per 35: OATT Order No. 1000 Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5087.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–91–005.
Applicants: El Paso Electric Company.
Description: Compliance filing per 35: OATT Order No. 1000 Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5203.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER13–836–003.
Applicants: MATL LLP.
Description: Compliance filing per 35: Order 1000 Compliance Filing to be effective 1/1/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5176.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER14–2320–001.
Applicants: Portland General Electric Company.
Description: Compliance filing per 35: Revised Att M Compliance Filing to be effective 9/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5150.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER14–2574–002.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing per 35: 2014–11–17_FRAC–MOO_Compliance to be effective 11/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5204.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–158–001.
Applicants: Southwest Power Pool, Inc..
Description: Tariff Amendment per 35.17(b): 1765R11 Substitute KCP&L–GMO NITSA and NOA to be effective 8/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5205.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–350–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): 1883R3 Substitute Westar Energy, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5196.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–411–000.
Applicants: Arizona Public Service Company.
Description: Compliance filing per 35: Rate Schedule No. 274—Planning Participation Agreement to be effective 12/31/9998.
Filed Date: 11/17/14.
Accession Number: 20141117–5036.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–412–000.
Applicants: ISO New England Inc., Green Mountain Power Corporation.
Description: Compliance filing per 35: GMP EL11–66 Compliance Filing to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5059.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–413–000.
Applicants: Public Service Company of New Mexico.
Description: Compliance filing per 35: Certificate of Concurrence ith APS Rate Schedule 274 to be effective 12/31/9998.
Filed Date: 11/17/14.

Accession Number: 20141117–5096.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–414–000.
Applicants: ISO New England Inc., Emera Maine, Central Maine Power Company, New England Power Company, Northeast Utilities Service Company (as, The United Illuminating Company, Vermont Electric Power Company, Inc., Fitchburg Gas and Electric Light Company.
Description: Compliance filing per 35: Compliance Filing in Docket No. EL11–66–001 to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5134.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–415–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 607R23 Westar Energy, Inc. NITSA NOA to be effective 10/1/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5169.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–416–000.
Applicants: Public Service Company of Colorado.
Description: Compliance filing per 35: 2014–11–17_PSCo Concur PPA–APS RS 274 Filing to be effective 12/31/9998.
Filed Date: 11/17/14.
Accession Number: 20141117–5172.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–417–000.
Applicants: Cosima Energy, LLC.
Description: Notice of cancellation of market-based rate authority of Cosima Energy, LLC.
Filed Date: 11/17/14.
Accession Number: 20141117–5182.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–418–000.
Applicants: New England Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): New England Power Amendments to Schedule III–B Integrated Facilities Provisions to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5208.
Comments Due: 5 p.m. ET 12/8/14.

Docket Numbers: ER15–419–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Filing of a Joint Use Agreement to be effective 1/19/2015.
Filed Date: 11/17/14.
Accession Number: 20141117–5209.
Comments Due: 5 p.m. ET 12/8/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: November 17, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27824 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #3

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1307–001
Applicants: Southwestern Electric Power Company
Description: Compliance filing per 35: SWEPCO-Minden PSA Amendment SPP IM Compliance to be effective 3/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5170
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER14–2945–000
Applicants: Roundtop Energy LLC
Description: Supplement to September 26, 2014 Roundtop Energy LLC tariff filing.
Filed Date: 11/18/14
Accession Number: 20141118–5154
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER15–164–001
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): 1636R13 Substitute Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 8/1/2014.
Filed Date: 11/18/14
Accession Number: 20141118–5171
Comments Due: 5 p.m. ET 12/9/14

Docket Numbers: ER15–435–000
Applicants: Consumers Energy Company
Description: Request for Limited Waiver of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff by Consumers Energy Company.
Filed Date: 11/18/14
Accession Number: 20141118–5226
Comments Due: 5 p.m. ET 12/9/14

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 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27906 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR15–7–000.
Applicants: Corning Natural Gas Corporation.
Description: Tariff filing per 284.123(b)(1) + (g): 2014 Rates to be effective 11/7/2014; TOFC: 1300.
Filed Date: 11/13/14.
Accession Number: 20141113–5129.
Comments Due: 5 p.m. ET 12/4/14.
284.123(g) Protests Due: 5 p.m. ET 1/12/15.

Docket Numbers: RP15–164–000.
Applicants: Venice Gathering System, L.L.C.
Description: Tariff Withdrawal per 154.205(a): Withdraw Compliance Filing 111014.
Filed Date: 11/14/14.
Accession Number: 20141114–5209.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–171–000.
Applicants: Destin Pipeline Company, L.L.C.

Description: Compliance filing per 154.203: Auxiliary Installation Reimbursement Fee—Docket No. RP14–1200 to be effective 12/31/9998.
Filed Date: 11/13/14.
Accession Number: 20141113–5144.
Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP15–172–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) rate filing per 154.204: Electronic Contracting Procedures Filing to be effective 12/1/2014.
Filed Date: 11/14/14.
Accession Number: 20141114–5043.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–173–000.
Applicants: Empire Pipeline, Inc.
Description: § 4(d) rate filing per 154.204: GT&C Section 4.9(c)—Purchase of Operational Gas to be effective 12/14/2015.
Filed Date: 11/14/14.
Accession Number: 20141114–5061.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–174–000.
Applicants: Viking Gas Transmission Company.
Description: § 4(d) rate filing per 154.204: Update Statement of Rates & GT&C ?? 11, 23 & 24 per RP14–1185 Settlement Order to be effective 1/1/2015.
Filed Date: 11/14/14.
Accession Number: 20141114–5074.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–175–000.
Applicants: Kinetica Energy Express, LLC.
Description: § 4(d) rate filing per 154.204: Kinetica Energy Express LLC—FERC Gas Tariff—Change in GT&C—Sheet 108 to be effective 10/16/2014.
Filed Date: 11/14/14.
Accession Number: 20141114–5079.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–176–000.
Applicants: Discovery Gas Transmission LLC.
Description: § 4(d) rate filing per 154.403: 2015 HMRE Filing to be effective 1/1/2015.
Filed Date: 11/14/14.
Accession Number: 20141114–5080.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–177–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Annual Report of Operational Transactions of Southern Natural Gas Company, L.L.C.
Filed Date: 11/14/14.
Accession Number: 20141114–5088.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–178–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) rate filing per 154.204: 20141114 Negotiated Rate to be effective 11/15/2014.
Filed Date: 11/14/14.
Accession Number: 20141114–5194.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP15–179–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Amendment to Neg Rate Agmt (Encana 37663–26) to be effective 11/17/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5045.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–180–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) rate filing per 154.204: Neg Rate Agmts Filing (PAL SW 43416, 43476; Texla 43489) to be effective 11/13/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5179.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP15–181–000.
Applicants: WestGas InterState, Inc.
Description: § 4(d) rate filing per 154.204: 20141016 Compliance Filing to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5188.
Comments Due: 5 p.m. ET 12/1/14.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR12–24–002.
Applicants: Liberty Utilities (Midstates Natural Gas) Corp.
Description: Tariff filing per 284.123/.224; Clarification Filing to be effective 10/6/2014; TOFC: 790.
Filed Date: 11/10/14.
Accession Number: 20141110–5091.
Comments Due: 5 p.m. ET 12/1/14.
284.123(g) Protests Due:

Docket Numbers: RP12–130–005.
Applicants: Paiute Pipeline Company.
Description: Tariff Withdrawal per 154.205(a): Cancel Docket RP12–130–005.
Filed Date: 11/17/14.
Accession Number: 20141117–5164.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP13–673–002.
Applicants: B–R Pipeline Company.
Description: Compliance filing per 154.203: Show Cause Compliance Filing 2 to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5098.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–875–001.
Applicants: Florida Gas Transmission Company, LLC.
Description: Compliance filing per 154.203: Compliance with RP14–875 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/13/14.
Accession Number: 20141113–5068.
Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP14–892–001.
Applicants: Fayetteville Express Pipeline LLC.
Description: Compliance filing per 154.203: Compliance with RP14–892 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/13/14.
Accession Number: 20141113–5066.
Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP14–894–001.
Applicants: ETC Tiger Pipeline, LLC.
Description: Compliance filing per 154.203: Compliance with RP14–894 Order on Show Cause Filings to be effective 10/16/2014.
Filed Date: 11/13/14.
Accession Number: 20141113–5067.
Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP14–901–002.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing per 154.203: Correction of Metadata Docket No. RP14–901–001 to be effective 10/16/2014.
Filed Date: 11/14/14.
Accession Number: 20141114–5163.
Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–907–002.
Applicants: Questar Pipeline Company.
Description: Compliance filing per 154.203: Show Cause Order Amended Compliance Filing to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5002.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–934–003.
Applicants: Questar Southern Trails Pipeline Company.
Description: Compliance filing per 154.203: Show Cause Order Amended Compliance Filing to be effective 10/16/2014.
Filed Date: 11/17/14.
Accession Number: 20141117–5000.
Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–935–005.
Applicants: Questar Overthrust Pipeline Company.
Description: Compliance filing per 154.203: Show Cause Order Amended

Compliance Filing to be effective 10/16/2014.

Filed Date: 11/17/14.

Accession Number: 20141117–5001.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–936–002.

Applicants: White River Hub, LLC.

Description: Compliance filing per 154.203: Show Cause Order Amended Compliance Filing to be effective 10/16/2014.

Filed Date: 11/17/14.

Accession Number: 20141117–5003.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–940–001.

Applicants: Venice Gathering System, L.L.C.

Description: Compliance filing per 154.203: Compliance Filing 111414 to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5219.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–958–001.

Applicants: Enable Mississippi River Transmission, L.

Description: Compliance filing per 154.203: Compliance Filing RP14–958 to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5172.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–960–001.

Applicants: Enable Gas Transmission, LLC.

Description: Compliance filing per 154.203: Compliance Filing in RP14–960–000 to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5171.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–961–001.

Applicants: USG Pipeline Company, LLC.

Description: Compliance filing per 154.203: Show Cause Order Compliance Filing 2 to be effective 10/16/2014.

Filed Date: 11/17/14.

Accession Number: 20141117–5099.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–968–001.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Compliance filing per 154.203: Show Cause Order—Second Compliance Filing to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5084.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–971–001.

Applicants: Gulf States Transmission LLC.

Description: Compliance filing per 154.203: Compliance with RP14–971 Order to Show Cause Filings to be effective 10/16/2014.

Filed Date: 11/17/14.

Accession Number: 20141117–5221.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–972–001.

Applicants: Kern River Gas Transmission Company.

Description: Compliance filing per 154.203: 2014 OCSC Compliance Second Filing to be effective 12/15/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5053.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–975–001.

Applicants: Northern Natural Gas Company.

Description: Compliance filing per 154.203: 20141113 Compliance Filing Offers to Purchase Capacity to be effective 10/16/2014.

Filed Date: 11/13/14.

Accession Number: 20141113–5063.

Comments Due: 5 p.m. ET 11/25/14.

Docket Numbers: RP14–976–001.

Applicants: MoGas Pipeline LLC.

Description: Compliance filing per 154.203: MoGas Compliance Filing to be effective 10/16/2014.

Filed Date: 11/17/14.

Accession Number: 20141117–5097.

Comments Due: 5 p.m. ET 12/1/14.

Docket Numbers: RP14–977–001.

Applicants: East Cheyenne Gas Storage, LLC.

Description: Compliance filing per 154.203: Compliance Filing in Response to Show Cause Order to be effective 12/15/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5205.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–979–001.

Applicants: Dominion Transmission, Inc.

Description: Compliance filing per 154.203: DTI—November 14, 2014 Show Cause Compliance Filing to be effective 8/21/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5050.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–981–001.

Applicants: Dominion Cove Point LNG, LP.

Description: Compliance filing per 154.203: DCP—November 14, 2014 Show Cause Compliance Filing to be effective 10/1/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5049.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–982–001.

Applicants: National Fuel Gas Supply Corporation.

Description: Compliance filing per 154.203: CF_Order to Show Cause (Supply) to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5077.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–983–001.

Applicants: Empire Pipeline, Inc.

Description: Compliance filing per 154.203: CF Order to Show Cause (Empire) to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5051.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–987–001.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Compliance filing per 154.203: 11/17/14—Show Cause Order RP14–442.

Filed Date: 11/14/14.

Accession Number: 20141114–5147.

Comments Due: 5 p.m. ET 11/26/14.

Docket Numbers: RP14–988–001.

Applicants: Paiute Pipeline Company.

Description: Compliance filing per 154.203: Supplemental Compliance Filing in RP14–988 to be effective 10/16/2014.

Filed Date: 11/14/14.

Accession Number: 20141114–5180.

Comments Due: 5 p.m. ET 11/26/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified date(s).

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–27825 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1894–000—South Carolina Parr Hydroelectric Project]

South Carolina Electric & Gas Company; Notice of Proposed Restricted Service List for a Programmatic Agreement

Rule 2010 of the Federal Energy Regulatory Commission's (Commission)

Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the South Carolina State Historic Preservation Officer (South Carolina SHPO) and the Advisory Council on Historic Preservation (Advisory Council) pursuant to the Advisory Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. 470 f), to prepare a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Parr Hydroelectric Project.

The Programmatic Agreement, when executed by the Commission, the South Carolina SHPO, and the Advisory Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the project would be fulfilled through the Programmatic Agreement, which the Commission staff proposes to draft in consultation with certain parties listed below.

South Carolina Electric & Gas Company, as licensee for the Parr Hydroelectric Project, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic Agreement. For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for Project No. 1894–000 as follows:

John Eddins, Advisory Council on Historic Preservation, 401 F Street NW., Suite 308, Washington, DC 20001–2637.

Elizabeth M. Johnson, Deputy SHPO, South Carolina Department of Archives & History, 8301 Parklane Road, Columbia, SC 29223–4905

Emily Dale, Archaeologist, South Carolina Department of Archives & History, 8301 Parklane Road, Columbia, SC 29223–4905

William R. Argentieri, P.E., Manager, South Carolina Electric & Gas Company, 220 Operation Way, Mail Code A221, Cayce, SC 29033–3701

James Landreth, Vice President, Fossil & Hydro Operations, South Carolina Electric & Gas Company, 220 Operation Way, Mail Code A221, Cayce, SC 29033–3701

J. Hagood Hamilton, Jr., General Counsel, South Carolina Electric & Gas Company, 220 Operation Way, Mail Code C222, Cayce, SC 29033–3701

Michael Harmon, U.S. Forest Service, Sumter National Forest, 20 Work Center Road, Whitmire, SC 29178

Robert Morgan, U.S. Forest Service, Sumter National Forest, 2967 Steed Creek Road, Huger, SC 29450

Lisa C. Baker, Acting THPO, United Keetoowah Band of Cherokee Indians in Oklahoma, P.O. Box 746, Tahlequah, OK 74465

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. A copy of any such motion must be filed with the Secretary of the Commission (888 First Street NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

Dated: November 18, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–27810 Filed 11–24–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0719; FRL 9919–79–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Pollutant Discharge Elimination System (NPDES) Permits for Point Source Discharges From the Application of Pesticides to Waters of the United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''National Pollutant Discharge Elimination System (NPDES) Permits for Point Source Discharges from the Application of Pesticides to Waters of the United States'' (EPA ICR No. 2397.02, OMB Control No. 2040–0284) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through Nov. 30, 2014. Public comments were previously requested via the **Federal Register** (79 FR 41548), on July 16, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 26, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2008–0719, to (1) EPA online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Amelia Letnes, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–5627; email address: *letnes.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's

public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR calculates the burden and costs associated with information collection and reporting activities from EPA and state NPDES general permits for point source discharges from the application of pesticides to waters of the United States. On November 27, 2006, EPA issued a final rule (hereinafter called the ''2006 NPDES Pesticides Rule'') clarifying circumstances in which an NPDES permit was not required to apply pesticide to, or over, including near, waters of the U.S. On January 9, 2009, the Sixth Circuit Court vacated EPA's 2006 NPDES Pesticides Rule. As a result of the Court's decision, beginning October 31, 2011 NPDES permits were required for discharges to waters of the U.S. from the application of biological pesticides and chemical pesticides that leave a residue. Regulations governing permit requirements for NPDES discharges are codified at 40 CFR part 122. This ICR includes information submitted or recorded by permittees as well as information used primarily by permitting authorities. The permitting authority will use the information to assess permittee compliance and modify/add new permit requirements as appropriate. The estimated burden in this ICR is based on EPA's NPDES Pesticide General Permit (PGP).

Form Numbers: 6100–22, 6100–23, 6100–24, 6100–25, 6100–26.

Respondents/affected entities: Pesticide applicators.

Respondent's obligation to respond: mandatory (40 CFR 122).

Estimated number of respondents: 365,047 total (365,000 permittees, 47 permitting authorities [46 states and Virgin Islands]).

Frequency of response: varies from once, every 5 years, to occasionally as needed.

Total estimated burden: 834,756 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $38,662,462 ($38,462,682 for permittees and $199,780 for permitting authorities), includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 12,896 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. EPA expects that the 2016 PGP will be similar to the 2011 PGP. All of the decrease in burden is attributable to the shift from the 2011 PGP to the 2016 PGP in year 3 of this ICR when permittees renewing their coverage would not need to develop a new Pesticide Discharge Management Plan.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–27817 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0013: FRL 9919–78–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Drinking Water Security and Safety

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) has submitted an information collection request (ICR), ''Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002: Drinking Water Security and Safety'' (EPA ICR No. 2103.05, OMB Control No. 2040–0253) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through November 30, 2014. Public comments were previously requested via the **Federal Register** on July 16, 2014, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is provided in this request, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before December 26, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2003–0013, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Water Security Division, Office of Ground Water and Drinking Water, Mailcode: 4608T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–3797; fax number: 202–566–0055; email address: *Edwards.Karen@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Section 1433 of the Safe Drinking Water Act, as amended by the Bioterrorism Act, requires each community water system serving a population of more than 3,300 people to conduct a vulnerability assessment of its water system and to prepare or revise an emergency response plan that incorporates the results of the vulnerability assessment. These requirements are mandatory under the statute. EPA will continue to use the information collected under this ICR to determine whether community water systems have conducted vulnerability assessments and prepared or revised emergency response plans in compliance with Section 1433. EPA is required to protect all vulnerability assessments and all information derived from them from disclosure to unauthorized parties and has established an Information Protection Protocol describing how that will be accomplished.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are community water systems serving more than 3,300 persons.

Respondent's obligation to respond: Mandatory (Section 1433 of the Safe Drinking Water Act, as amended by the Bioterrorism Act).

Estimated number of respondents: 80 (total).

Frequency of response: Once.

Total estimated burden: 8,994 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $803,501 (per year), includes $337 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no increase of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The cost increase is an adjustment to the respondent burden estimates to account for inflation.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–27816 Filed 11–24–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 14–1609]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing the meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

DATES: Tuesday, December 9, 2014, 10:00 a.m.

ADDRESSES: Requests to make an oral statement or provide written comments to the NANC should be sent to Carmell Weathers, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 12th Street SW., Room 5–C162, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carmell Weathers at (202) 418–2325 or *Carmell.Weathers@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in CC Docket No. 92–237, DA 14–1609 released November 7, 2014. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, December 9, 2014, from 10:00 a.m. until 2:00 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Tuesday, December 9, 2014, 10:00 a.m.*

1. Announcements and Recent News
2. Approval of Transcript—Meeting of September 17, 2014
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of the National Thousands Block Pooling Administrator (PA)
5. Report of the Numbering Oversight Working Group (NOWG)
6. Report of the North American Numbering Plan Billing and Collection (NANP B&C) Agent
7. Report of the Billing and Collection Working Group (B&C WG)
8. Report of the North American Portability Management LLC (NAPM LLC)
9. Report of the Local Number Portability Administration Working Group (LNPA WG)
10. Status of the Industry Numbering Committee (INC) activities
11. Report of the Future of Numbering Working Group (FoN WG)
12. Report of the Internet Protocol Issue Management Group (IP IMG)
13. Summary of Action Items
14. Public Comments and Participation (maximum 5 minutes per speaker)
15. Other Business

Adjourn no later than 2:00 p.m.

*The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission.

Marilyn Jones,

Attorney, Wireline Competition Bureau.

[FR Doc. 2014–27893 Filed 11–24–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Systemic Resolution Advisory Committee; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Systemic Resolution Advisory Committee (the ''SR Advisory Committee''), which will be held in Arlington, Virginia. The SR Advisory Committee will provide advice and recommendations on a broad range of issues regarding the resolution of systemically important financial companies pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (July 21, 2010), 12 U.S.C. 5301 *et seq.*

DATES: Wednesday, December 10, 2014, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held in Auditorium C on the Third Floor of the FDIC William Seidman Center, 3501 North Fairfax Drive (Building C), Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of a range of issues and

developments related to the resolution of systemically important financial companies pursuant to the Dodd-Frank Act. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available, on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the SR Advisory Committee before or after the meeting. This SR Advisory Committee meeting will be Webcast live via the Internet and subsequently made available on-demand approximately two weeks after the event. Visit *https://fdic.primetime.mediaplatform.com/#!/channel/1384300429544/Advisory+Committee+on+Systemic+Resolution* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

Dated: November 20, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2014–27866 Filed 11–24–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2014–N–14]

Privacy Act of 1974; Systems of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of the establishment of new systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (Privacy Act), the Federal Housing Finance Agency (FHFA) gives notices of two new proposed Privacy Act systems of records. The two new proposed systems are: Suspended Counterparty System (FHFA–23); and Employee Adverse Action and Disciplinary Records System (FHFA–24). The Suspended Counterparty System will contain information that FHFA will use to implement the Suspended Counterparty Program by which the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the twelve Federal Home Loan Banks (Banks) (hereafter, collectively, ''regulated entities'' or individually, ''regulated entity'') are required to report to FHFA when they become aware that an individual or institution and any affiliates thereof, who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of covered misconduct, have engaged in fraud or other financial misconduct.

The Employee Adverse Action and Disciplinary Records System will contain information on current or former FHFA employees who have been disciplined or had a performance-based action taken against them; who have a proposed disciplinary or performance-based action against them; or who are or have been suspected of misconduct.

DATES: To be assured of consideration, comments must be received on or before December 26, 2014. These two new systems of records will become effective on January 5, 2015 without further notice unless comments necessitate otherwise. FHFA will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA *only once,* identified by ''2014–N–14'', using any one of the following methods:

- *Agency Web site: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Please include ''Comments/No. 2014–N–14'' in the subject line of the message
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/No. 2014–N–14, Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/No. 2014–N–14, Federal Housing Finance Agency, 400 Seventh Street SW., Eighth Floor, Washington, DC 20024.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: For the Suspended Counterparty System: Tasha Cooper, Associate General Counsel at (202) 649–3091; for the Employee Adverse Action and Disciplinary Records System: Kakeisla Qaasim at (202) 649–3743; or David A. Lee, Senior Agency Official for Privacy, *privacy@fhfa.gov,* (202) 649–3803 (not toll free numbers), Federal Housing Finance Agency, 400 7th Street SW., Washington DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

Instructions: FHFA seeks public comments on the two proposed new systems of records and will take all comments into consideration before issuing the final notice. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing ''Comments/No. 2014–N–14,'' please reference the title and number of the system of records your comment addresses: ''Suspended Counterparty System (FHFA–23),'' or ''Employee Adverse Action and Disciplinary Records System (FHFA–24).''

Posting and Public Availability of Comments: All comments received will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information provided, such as your name, address (home and email) telephone number and any other information you provide. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at 202–649–3804.

II. Introduction

This notice informs the public of FHFA's proposal to establish and maintain two new systems of records. This notice satisfies the Privacy Act requirement that an agency publish a system of records notice in the **Federal Register** when there is an addition to the agency's system of records. It has been recognized by Congress that

application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The Director of FHFA has determined that records and information in these two new systems of records are not exempt from requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996; 61 FR 6427, 35), FHFA has submitted a report describing the two new systems of records covered by this notice, to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

The proposed new systems of records described above are set forth in their entirety below.

FHFA–23

SYSTEM NAME:

Suspended Counterparty System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information about individuals who are suspected of or have been found to have engaged in fraud or possible fraud or who are suspected of or have been found to have engaged in other financial misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, address, Social Security number, date of birth, professional license number or other identifying information, type of sanction, date of sanction, court or agency responsible, description of misconduct, affiliate information (name, address, professional license number or other identifying information, description of how the affiliate is related to the subject), online profile or account information, and information pertaining to criminal prosecutions, civil actions, enforcement proceedings, and investigations resulting from or relating to fraud or suspected fraud or other financial misconduct. Such records may also include information on individuals: (a) Who have been referred to FHFA for possible suspension; (b) who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of the covered misconduct; or (c) who are affiliates of such persons or institutions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to 12 U.S.C. 4513(a)(2) and 12 CFR part 1227.

PURPOSE(S):

The information in this system of records will be used by FHFA to implement the Suspended Counterparty Program. Under the Suspended Counterparty Program the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the twelve Federal Home Loan Banks (Banks) (hereafter, collectively, ''regulated entities'' or individually, ''regulated entity'') are required to report to FHFA when they become aware that an individual or institution and any affiliates thereof, who are currently or have been engaged in a covered transaction with a regulated entity within three years of when the regulated entity becomes aware of the covered misconduct, have engaged in fraud or other financial misconduct. Such implementation includes reviewing the reports submitted and any additional information needed to make a determination of whether action is needed by FHFA to limit the risk of the regulated entities continuing to do business with the individual or an institution, or in order to protect the safe and sound operation of the regulated entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to

an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, interns, and others performing or working on a contract, service, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are stored in computerized databases. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes.

RETRIEVABILITY:

Records may be retrieved by name, address, email address, telephone number, Social Security number, professional license number, type of sanction, court or agency responsible for sanction, person who referred the individual or entity to FHFA, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained and who have agreed to maintain the confidentiality and integrity of the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedule and FHFA Records Retention and Disposition Schedule. Disposal is by shredding or other appropriate disposal methods.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to a record to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse determination for a record to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by the subject of the record, the Federal Home Loan Banks, Fannie Mae, Freddie Mac, the Office of Finance, FHFA and FHFA–OIG, Federal and State financial regulators, and members of the public.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA–24

SYSTEM NAME:

Employee Adverse Action and Disciplinary Records System.

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or by individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FHFA employees who have been disciplined or had a performance-based action taken against them; who have a proposed disciplinary or performance-based action against them; or who are or have been suspected of misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include case files and documents related to adverse actions and performance-based actions not covered under the types of records set forth in the Office of Personnel Management's (OPM) Privacy Act System of Records Notice (OPM/GOVT–3 Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers) or any successor system of records notice. The case file may include the individual's name, address and other personally identifiable information; documents related to disciplinary or adverse actions or performance-based action such as:

Letters of expectations, leave restriction letters, written counseling letters, reprimands, suspensions, adverse actions, appeals, correspondence, management requests for assistance, evidentiary materials (such as supporting documents, witness statements), employee replies or responses, regulatory or legal information, hearing notices, reports or investigations, agency decisions, reversals of the action, settlement agreements, and appeal records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301 *et seq.*; 5 U.S.C. 4311 *et seq.*; 5 U.S.C. 7101 *et seq.*; 5 U.S.C. 7501 *et seq.*; 5 U.S.C. 7511 *et seq.*; 5 U.S.C. 7541 *et seq.*; and 5 CFR parts 293, 315, 432 & 752.

PURPOSE(S):

The records in this system are maintained to document proposed and final agency actions/decisions on disciplinary actions, adverse actions, and performance-based actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, interns, and others performing or working on a contract, service, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None, except as may be authorized under OPM/GOVT–3, or under 5 U.S.C. 552a(b)(12) when attempting to collect a claim of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in controlled access areas. Buildings where records are stored have security cameras and 24-hour security guard service. Records are maintained in electronic format, paper form, and magnetic disk or tape. Electronic records are protected by restricted access procedures, including user identifications and passwords. Paper and magnetic disk, or tape records are stored in locked file rooms, locked file cabinets, or locked safes. Only FHFA staff whose official duties require access are allowed to view, administer, and control these records.

RETRIEVABILITY:

Records may be retrieved by the employee's name or other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security

measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained and who have agreed to maintain the confidentiality and integrity of the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Human Resources Management, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to a record to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse determination for a record to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or *privacy@fhfa.gov* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Individuals about whom the records pertain, witnesses, supervisors, co-workers, contractor personnel, counselors, and others, along with related documentation and correspondence from relevant individuals or entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 13, 2014.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2014–27912 Filed 11–24–14; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB for a three-year extension of the current PRA clearance for information collection requirements contained in the Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule), 16 CFR part 432 (OMB Control Number 3084–0105). That clearance expires on December 31, 2014.

DATES: Comments must be received by December 26, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amplifier Rule: FTC File No. P974222'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra2* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the collection of information and supporting documentation should be addressed to Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION:

Title: Amplifier Rule, 16 CFR part 432.

OMB Control Number: 3084–0105.

Type of Review: Extension of a currently approved collection.

Abstract: The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

On August 18, 2014, the Commission sought comment on the information collection requirements in the Amplifier Rule (79 FR 48748). No comments were received. As required by OMB regulations, 5 CFR part 1320, the FTC is providing this second opportunity for public comment.

Estimated Annual Hours Burden: 450 hours (300 testing-related hours; 150 disclosure-related hours).

Likely Respondents and Estimated Burden

(a) Testing—High fidelity manufacturers—300 new products/year × 1 hour each = 300 hours; and

(b) Disclosures—High fidelity manufacturers—[(300 new products/year × 1 specification sheet) + (300 new products/year × 1 brochure)] × 15 minutes each = 150 hours.

Frequency of Response: Periodic.

Estimated Annual Labor Cost: $22,200 per year ($14,100 for testing + $8,100 for disclosures).

Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 26, 2014. Write ''Amplifier Rule: FTC File No. P974222'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does

not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra2,* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Amplifier Rule: FTC File No. P974222'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 26, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–27894 Filed 11–24–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–0990–0330–30D]

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 extending the use of the approved information collection assigned OMB control number 0990–0330, scheduled to expire on 12/31/14. 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 26, 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 OMB control number <OCN> and document identifier HHS–OS–0990–0330 30D for reference.

Information Collection Request Title: Annual Appellant Climate Survey-Office of Medicare Hearings and Appeals (OMHA).

OMB No.: 0990–0330.

Abstract: The annual OMHA Appellant Climate Survey is a survey of Medicare beneficiaries, providers, suppliers, or their representatives who participated in a hearing before an Administrative Law Judge (ALJ) from the Office of Medicare Hearings and Appeals (OMHA). Appellants dissatisfied with the outcome of their Level 2 Medicare appeal may request a hearing before an OMHA ALJ. The Appellant Climate Survey will be used to measure appellant satisfaction with their OMHA appeals experience, as opposed to their satisfaction with a specific ruling.

OMHA was established by the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (Pub. L. 108–173) and became operational on July 1, 2005. The MMA legislation and implementing regulations issued on March 8, 2007 instituted a number of changes in the appeals process. The MMA legislation also directed the U.S. Department of Health and Human Services to consider the feasibility of conducting hearings using telephone or video-teleconference (VTC) technologies. In carrying out this mandate, OMHA makes use of VTC to provide appellants with a vast nationwide network of access points for hearings close to their homes. The first three-year administration cycle of the OMHA survey began in FY08 and a second three-year cycle began in FY12. The survey will continue to be conducted annually over a three-year period, beginning in FY15.

Likely Respondents: Survey respondents will consist of Medicare beneficiaries, providers, suppliers, or their representatives who participated in a hearing before an OMHA ALJ. OMHA will draw a representative, non-redundant sample of appellants whose cases have been closed in the last six months.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Type of respondent	Form name	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Charged at rate of Healthcare Providers and Suppliers.	Form A	240	1	11/60	44
Charged at rate of Beneficiaries	Form A	160	1	11/60	29
Total		400	1	11/60	73

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. 2014–27835 Filed 11–24–14; 8:45 am]

BILLING CODE 4150–46–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Dr. Igor Dzhura, Vanderbilt University: Based on an inquiry conducted and admission obtained by Vanderbilt University (VU) and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Igor Dzhura, former Senior Research Associate, Department of Biomedical Engineering, VU, engaged in research misconduct in research supported by U.S. Public Health Service (PHS) funds, specifically National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), grants R01 HL070250, R01 HL062494, P01 HL046681, and K08 HL03727, National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), NIH, grant R01 AR044864, National Institute of Mental Health (NIMH), NIH, grant R01 MH063232, National Institute of Allergy and Infectious Diseases (NIAID), NIH, grant U01 AI06223, and National Cancer Institute (NCI), NIH, grant U54 CA113007.

ORI found that Respondent engaged in research misconduct by providing falsified and/or fabricated data to his supervisor and colleagues. Specifically, Respondent:

- Submitted falsified cytosolic calcium buffering experiments to his research supervisor by misrepresenting apparent action potential traces; these actually were fluorescent calcium transients merged with sodium calcium exchange currents from a different experiment; Respondent admitted to falsely claiming ten replicates for each trace when only testing three to five cells
- falsified sodium calcium exchange (NCX) activity in Very Long Chain Acid Dehydrogenase Deficient (VLCAD) mice versus wild type mice in a PowerPoint presentation by falsely labeling and manipulating NCX data from a different experiment testing an unrelated compound; the effect was to falsely claim a difference in NCX activity between the two mouse phenotypes
- provided a falsified Figure 6C in a manuscript submitted to *Nature Cell Biology,* while claiming that the data were based on Respondent's memory of his data that had purportedly been collected and lost; Respondent claimed to have tested one hundred fifty (150) cells for their action potential characteristics when the experimental record only accounted for approximately twenty (20).

ORI found that Respondent engaged in research misconduct by falsifying and/or fabricating the research record of patch-clamp data. Specifically, Respondent:

- Created a hierarchy of computer folders containing duplicated and renamed files; the falsified groups of files included eighty-two (82) groups of duplicated files with each group containing two to twenty-one (2–21) duplicates, which made it appear that experiments were conducted when they were not
- used the falsified and/or fabricated data files in Figure 6 of a paper published in the American Journal of Physiology-Heart and Circulatory Physiology (292(5):H2202–H2211, 2007), to represent Ca+ currents in cardiac myocytes from CLCAD-/- mice; specifically, Respondent claimed that Figure 6 represented results from seven (7) mice when the data files were three (3) sets of duplicated and renamed files plus one additional data file. All of the data files were part of larger groups of identical duplicated and renamed data files on the Respondent's hard drive.

ORI found that Respondent engaged in research misconduct by submitting and publishing multiple falsified and/or fabricated action potential traces and summary data in at least sixty-nine (69) images in twelve (12) different figures across seven (7) publications and three (3) grant applications by duplication and relabeling of traces; resizing, modifying, and splicing different traces; and modifying and/or duplicating bar graphs.

The evidence established that Respondent engaged in research misconduct, as defined by the PHS regulation, in that he significantly departed from accepted research practices by engaging in the intentional and knowing fabrication and falsification of data files.

Dr. Dzhura has entered into a Voluntary Exclusion Agreement (Agreement) and has voluntarily agreed for a period of three (3) years, beginning on October 29, 2014:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR part 376 *et seq*) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the ''Debarment Regulations'');

(2) to exclude himself from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(3) to retract or correct the following publications:

- *Nature Cell Biology* 2:173–177, 2000
- *J. Physiol.* 535(3):679–687, 2001
- *Circulation* 106:1288–1293, 2002
- *J. Physiol.* 545(2):399–406, 2002
- *J. Physiol.* 550(3):731–738, 2003
- *FASEB J.* 19:1573–1585, 2005
- *Molecular Cell* 23:641–650, 2006

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2014–27813 Filed 11–24–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed changes to the currently approved information collection project: ''Medical Expenditure Panel Survey (AMPS) Household Component'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on August 29th, 2014 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by December 26, 2014.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Expenditure Panel Survey (MEPS) Household Component

For over thirty years, results from the MEPS and its predecessor surveys (the 1977 National Medical Care Expenditure Survey, the 1980 National Medical Care Utilization and Expenditure Survey and the 1987 National Medical Expenditure Survey) have been used by OMB, DHHS, Congress and a wide number of health services researchers to analyze health care use, expenses and health policy.

Major changes continue to take place in the health care system. The MEPS is needed to provide information about the current state of the health care system as well as to track changes over time. The MEPS permits annual estimates of use of health care and expenditures and sources of payment for that health care. It also permits tracking individual change in employment, income, health insurance and health status over two years. The use of the National Health Interview Survey (NHIS) as a sampling frame expands the MEPS analytic capacity by providing another data point for comparisons over time.

Households selected for participation in the MEPS–HC are interviewed in person five times. These rounds of interviewing are spaced about 5 months apart. The interview will take place with a family respondent who will report for him/herself and for other family members.

The MEPS–HC has the following goal:

- To provide nationally representative estimates for the U.S. civilian noninstitutionalized population for health care use, expenditures, sources of payment and health insurance coverage.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the cost and use of health care services and with respect to health statistics and surveys. 42 U.S.C. 299a(a)(3) and (8); 42 U.S.C. 299b–2.

Method of Collection

To achieve the goals of the MEPS–HC the following data collections are implemented:

1. Household Component Core Instrument. The core instrument collects data about persons in sample households. Topical areas asked in each round of interviewing include condition enumeration, health status, health care utilization including prescribed medicines, expense and payment, employment, and health insurance. Other topical areas that are asked only once a year include access to care, income, assets, satisfaction with health plans and providers, children's health, and adult preventive care. While many of the questions are asked about the entire reporting unit, which is typically a family, only one person normally provides this information.

2. Adult Self Administered Questionnaire. A brief self-administered questionnaire (SAQ) will be used to collect self-reported (rather than through household proxy) information on health status, health opinions and satisfaction with health care for adults 18 and older. The items on satisfaction with health care are a subset from the Consumer Assessment of Healthcare Providers and Systems. The health status items are from the Short Form 12 Version 2, which has been widely used as a measure of self-reported health status in the United States, the Kessler Index of non-specific psychological distress, and the Patient Health Questionnaire.

3. Diabetes Care SAQ. A brief self-administered, paper-and-pencil questionnaire on the quality of diabetes care is administered once a year, during rounds 3 and 5, to persons identified as having diabetes. Included are questions about the number of times the respondent reported having a hemoglobin A1c blood test, whether the respondent reported having his or her feet checked for sores or irritations, whether the respondent reported having an eye exam in which his or her pupils were dilated, the last time the respondent had his or her blood cholesterol checked and whether the diabetes has caused kidney or eye problems. Respondents are also asked if their diabetes is being treated with diet, oral medications or insulin.

4. Permission forms for the MEPS–MPC Provider and Pharmacy Survey. As in previous panels of the MEPS, we will ask respondents for permission to obtain supplemental information from their medical providers (hospitals, physicians, home health agencies and institutions) and pharmacies.

The MEPS–HC was last approved by OMB on December 20th, 2012 and will expire on December 31, 2015. The OMB control number for the MEPS–HC is 0935–0118. All of the supporting documents for the current MEPS–HC can be downloaded from OMB's Web site at. *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201209-0935-001.*

The MEPS is a multi-purpose survey. In addition to collecting data to yield annual estimates for a variety of measures related to health care use and expenditures, the MEPS also provides estimates of measures related to health status, consumer assessment of health care, health insurance coverage, demographic characteristics, employment and access to health care indicators. Estimates can be provided for individuals, families and population subgroups of interest. Data from the MEPS–HC are intended for a number of annual reports required to be produced by the Agency, including the National Health Care Quality Report and the National Health Care Disparities Report.

AHRQ proposes to make the following changes to questions asked of respondents:

Additions

Closing—questions pertaining to respondent email and administration status of the Preventive Care self-administered questionnaire;

Re-enumeration—addition of questions pertaining to educational level attainment and the determination of institutional status;

Provider Probes—determination if health care was received in an overnight facility; and

Health Insurance—questions were added regarding interaction with the health insurance marketplace, enrollment through state health insurance exchanges, the extent of subsidized health insurance, monthly premiums, health insurance metal plan names, and medical debt.

Preventive Care—a field test will be conducted to assess response lost through self-administration.

Deletions

Questions were removed from the following sections: Access to Care, Medical Conditions, Charge Payment, Child Preventive Health, Disability Days, Emergency Room, Employment, Health Status, Health Insurance, Hospital Stay, Income, Medical Provider Visits, Outpatient Departments, and Satisfaction with Health Plan.

Questions were removed to reduce burden and redundancy, and additional questions were removed due to difficulty in respondent interpretation, low frequency in response or minimal variation, and limited ability of respondent to respond accurately.

Estimated Annual Respondent Burden

There are no changes to the current burden estimates.

Estimated Annual Costs to the Federal Government

There are no changes to the current cost estimates.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: November 13, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–27687 Filed 11–24–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14ARR]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Drug Overdose Response Investigation (DORI) Data Collections—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

State and local health authorities frequently call upon CDC's National Center for Injury Prevention and Control (NCIPC) to assist in their response to urgent public health problems resulting from drug use, misuse, abuse, and overdose. When called, NCIPC supports the states and local health authorities by conducting Drug Overdose Response Investigations (DORI), which entails a rapid and flexible epidemiological response. Urgent requests, such as DORIs, depend on the time and resources available, number of persons involved, and other circumstances unique to the urgent conditions at hand, and usually involve the development of procedures, specific data collection

instruments, and the collection of critical data.

This request is for a new generic approval to conduct information collections during DORIs. A three-year clearance is requested to ensure: (1) Rapid deployment of data collection tools and (2) timely information collection of vital information. Of particular interest is response to increasing trends in, or changing characteristics of, overdose from prescription drugs (with a special interest in opioid analgesics such as oxycodone or methadone; benzodiazepines such as alprazolam) and/or illicit drugs (*e.g.,* heroin).

Specifically, this request covers investigative collections with the following aims: (1) To understand sudden increases in drug use and misuse associated with fatal and nonfatal overdoses; (2) to understand the drivers and risk factors associated with those trends; and (3) to identify the groups most affected. This will allow CDC to effectively advise states on recommended actions to control local epidemics. Thus, the ultimate goals of these collections are to minimize adverse health consequences, provide epidemiological data collection support to the states and, based on the findings from the investigation, appropriately assist with implementation of prevention and control measures.

Data is collected by epidemiologists, psychologists, medical professionals, subject matter experts, and biostatisticians. Examples of data collection modes that may be employed during DORIs include: Archival record abstractions and reviews, face-to-face interviews, telephone interviews, web-based questionnaires, and self-administered questionnaires.

For example, information collected through archival chart review from hospitals and medical examiners could include demographics, drug use history, reported medical and mental health conditions, place of overdose, place of death, drug paraphernalia on the scene, mode of administration, observers present, naloxone administration, hospital admittance, autopsy findings, and toxicology results. Information collected through interviews with representatives from agencies involved in preventing, intervening, or responding to drug overdose could include professional history, personal experience with drug overdose cases or investigations, prevention or intervention efforts engaged in, and perceptions of characteristics of, or changes in drug overdose cases (*e.g.,* transition from opioids to heroin; increasing or decreasing rates). Collection of information from nonfatal overdose victims, and friends and family of overdose victims could include substance use history, prescription drug history, number of providers and pharmacies used, pain history, co-occurring health conditions (*e.g.,* abnormal snoring indicative of respiratory depression), mental health conditions (*e.g.,* depression, anxiety disorders), enrollment in drug treatment programs, sources of drugs, route of drug administration, and criminal history. Finally, collection of spatial information could be obtained through city, county, and state government agencies to determine structural and environmental factors associated with location of overdose deaths.

Respondent type will also vary by investigation, but will include organizations typically involved in prevention, intervention, and response to drug overdose (*e.g.,* public health, law enforcement authorities, health systems, and community organizations). Respondents also may include victims of non-fatal drug overdoses, as well as family and friends of victims.

During a DORI, data is collected once, with the rare need for follow-up. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Drug Overdose Response Investigation Participants.	Drug Overdose Response Investigation Data Collection Instruments.	2,700	1	.5

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–27850 Filed 11–24–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–0913]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluating Locally-Developed HIV Prevention Interventions for African-American MSM in Los Angeles (OMB No. 0920–0913, expires 01/15/2015)—[Extension]—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Data on HIV cases reported in 33 U.S. states with HIV reporting indicate the burden of HIV/AIDS is most concentrated in the African American population compared to other racial/ethnic groups. Of the 49,704 African American males diagnosed with HIV between 2001 and 2004, 54% of these cases were among men who have sex with men (MSM). In Los Angeles County (LAC), the proportion of HIV/AIDS cases among African American males attributable to male-to-male sexual transmission is even greater (75%). In the absence of an effective vaccine, behavioral interventions represent one of the few methods for reducing high HIV incidence among African American MSM (AAMSM). Unfortunately, in the third decade of the epidemic, very few of the available HIV-prevention interventions for African American populations have been designed specifically for MSM. In fact, until very recently none of CDC's evidence-based, HIV-prevention interventions had been specifically tested for efficacy in reducing HIV transmission among MSM of color. Given the conspicuous absence of (1) evidence-based HIV interventions and (2) outcome evaluations of existing AAMSM interventions, our collaborative team intends to address a glaring research gap by implementing a best-practices model of comprehensive program evaluation.

As of November 7, 2014, 888 men were screened using the eligibility screener, 711 were eligible, and 520 men were consented, enrolled, and completed the baseline assessment. There are a total of 227 men who completed 3-month follow-up and 193 men who completed 6-month follow-up. Each enrolled participant completed a client satisfaction survey for each of the three intervention sessions they attended. Finally, twenty-two men consented for and completed qualitative interviews. There were unanticipated delays in getting our initial OMB approval and delays in enrollment which prevented the study from reaching the desired sample size of 528 and completing data collection within the original 3-year timeframe. When the current information collection request (ICR) expires on January 31st, 2015, we will need to enroll, consent, and baseline approximately 10 more participants. To reach these additional 10 participants, we anticipate having to screen approximately more 20 men. During this extended period, an additional 185 men will complete the 3-month assessment, 225 men will complete the 6-month follow-up questionnaires, and 14 men will consent for and complete the success case study qualitative interviews. We anticipate that all data collection activities will be completed by the end of 2015.

The purpose of this project is to test in a real world setting the efficacy of an HIV transmission prevention intervention for reducing sexual risk among African American men who have sex with men in Los Angeles County. The intervention is a 3-session, group-level intervention that will provide participants with the information, motivation, and skills necessary to reduce their risk of transmitting or acquiring HIV. The intervention is being evaluated using baseline, 3 month and 6 month follow up assessments. This project is also conducting in-depth qualitative interviews with a total of 36 men in order to assess the experiences with the intervention, elicit recommendations for improving the intervention, and to better understand the factors that put young African American MSM at risk for HIV.

CDC is requesting approval for a 1-year clearance to complete data collection. The data collection system involves screenings, limited locator information, contact information, baseline questionnaire, client satisfaction surveys, 3-month follow-up questionnaire, 6-month follow-up questionnaire, and case study interviews. An estimated 20 men will be screened for eligibility in order to enroll 10 additional men to reach the desired sample size of 528. The baseline and follow up questionnaires contain questions about participants' socio-demographic information, health and healthcare, sexual activity, substance use, and other psychosocial issues. The duration of each baseline, 3-month, and 6-month questionnaires are estimated to be 60 minutes; the Success Case Study interviews 90 minutes; Outreach Recruitment Assessment 5 minutes; limited locator information form 5 minutes; participant contact information form 10 minutes; each client satisfaction survey 5 minutes.

There is no cost to participants other than their time. The total estimated annual burden hours are 459.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Prospective Participant	Outreach Recruitment Assessment (screener)	20	1	5/60
Prospective Participant	Limited Locator Form	20	1	5/60
Enrolled Participant	RCT Informed Consent Form	10	1	10/60
Enrolled Participant	Participant Contact Information Form	10	1	10/60
Enrolled Participant	Baseline Questionnaire	10	1	1
Enrolled Participant	Client Satisfaction Survey	30	3	5/60
Enrolled Participant	3 month follow up Questionnaire	185	1	1
Enrolled Participant	6 month follow up Questionnaire	225	1	1
Enrolled Participant	Success Case Study Informed Consent Form	14	1	10/60
Enrolled Participant	Success Case Study Interview	14	1	1.5

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–27851 Filed 11–24–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Public Health Preparedness and Response: Notice of Charter Amendment

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Board of Scientific Counselors, Office of Public Health Preparedness and Response, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has amended their charter to add the Tribal Epidemiology Centers as a non-voting liaison representative. The amended filing date is November 5, 2014.

For information, contact Samuel Groseclose, DVM, MPH, Board of Scientific Counselors, Office of Public Health and Preparedness and Response, Department of Health and Human Services, CDC, 1600 Clifton Road NE., Mailstop D44, Atlanta, Georgia, 30333, telephone (404) 639–0637, or fax (404) 639–7977.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2014–27837 Filed 11–24–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Cooperative Research Agreements in the area of Agricultural, Forestry, and Fishing Safety and Health Research, PAR–14–175, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Times and Dates

1:00 p.m.–5:00 p.m., January 21, 2015 (Closed).

1:00 p.m.–5:00 p.m., January 22, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Agricultural, Forestry, and Fishing Safety and Health Research, PAR–14–175''.

Contact Person for More Information: Nina Turner, Ph.D., Scientific Review Officer, CDC/NIOSH, 1095 Willowdale Road, Morgantown, WV, 26506, Telephone: (304) 285–5976.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–27838 Filed 11–24–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health (ICSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463), the Centers for Disease Control and Prevention announces the following meeting of the aforementioned committee.

Time and Date: 9:00 a.m.–4:30 p.m., December 16, 2014.

Place: Capital Hilton, Federal AB Rooms located at 1001 16th Street NW., Washington, DC 20036. Telephone: (202) 393–1000.

Status: Open to the public, limited only by the space and telephone lines available. Participants that would like to attend in person are encouraged to register with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 p.m. EST on December 11, 2014.

Limited teleconference access is also available.

Login information is as follows:

Toll Free Phone#: (800) 779–4815.

For Public:

Conference number: PW9452765.

Participant passcode: 3074156.

Participant URL: https://www.mymeetings.com/nc/join/.

Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW9452765&p=3074156&t=c.*

Purpose: The committee advises the Secretary, Department of Health and Human Services, and the Assistant Secretary for Health in the (a) coordination of all research and education programs and other activities within the Department and with other federal, state, local and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, federal agencies, and state and local public health agencies with respect to smoking and health activities.

Matters for Discussion: The topic of the meeting is ''Preventing and Reducing Tobacco Use in Youth and Young Adults'' and the objective is to identify specific federal actions that can be taken to prevent 5.6 million premature deaths from tobacco use among today's youth.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet at *www.cdc.gov/tobacco* or from Ms. Monica L. Swann, Management and Program Analyst, National Center for Chronic Disease Prevention and Health Promotion, CDC, 395 E. Street SW., Washington, DC 20024. Telephone: (202) 245–0552.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine Baker,

Director, Management Analysis and Service Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–27836 Filed 11–24–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1804]

Immediately in Effect Guidance Document: Product Labeling for Laparoscopic Power Morcellators; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance for industry and FDA staff entitled ''Immediately in Effect Guidance Document: Product Labeling for Laparoscopic Power Morcellators.'' FDA is issuing this guidance to recommend the addition of specific safety statements to the product labeling for laparoscopic power morcellators (LPMs). The Agency is making these recommendations in light of scientific information that suggests that the use of these devices contributes to the dissemination and upstaging of an occult uterine malignancy in women undergoing laparoscopic gynecologic surgery for presumed fibroids. FDA believes this effort will promote the safe and effective use of LPMs when used for gynecologic surgeries.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Immediately in Effect Guidance Document: Product Labeling for Laparoscopic Power Morcellators'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry and FDA staff entitled ''Immediately in Effect Guidance Document: Product Labeling for Laparoscopic Power Morcellators.'' This guidance is being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (21 CFR 10.115(g)(2)). FDA believes that immediate implementation of the guidance is needed to assist in addressing a significant public health issue. Although this guidance document is immediately in effect, FDA will consider all comments received and revise the guidance document when appropriate.

As the number of laparoscopic and minimally invasive procedures has increased through the introduction of new surgical technologies and techniques, additional safety information has become available regarding the use of LPMs. Recent discussions within the patient and clinical communities, as well as the peer-reviewed medical literature, have raised awareness of the risk of spreading unsuspected cancerous tissue beyond the uterus when LPMs are used during gynecologic surgeries intended to treat benign fibroids. Numerous case reports and case series have been published that describe the iatrogenic dissemination, implantation, and subsequent growth of unsuspected neoplastic tissue within the peritoneal cavity following laparoscopic morcellation of uterine tissue believed to contain fibroids based on preoperative diagnosis.

FDA's recent analysis of available information suggested that the risk of an occult uterine sarcoma in a woman undergoing surgical intervention for presumed fibroids is substantially higher than had previously been assumed or reported. FDA's analysis also suggested that patient outcomes, including survival, may be significantly adversely impacted from this upstaging of disease. Patient selection and choice of surgical technique can reduce the risk of spreading cancer. Specifically, the prevalence of unsuspected cancer in women undergoing hysterectomy for fibroids increases with age such that the benefit/risk profile of using LPMs is worse in peri- and post-menopausal women compared to pre-menopausal women. The surgical technique of en bloc tissue removal eliminates the need to perform morcellation, thereby reducing the risk of iatrogenic dissemination and upstaging an occult sarcoma. Importantly, no screening procedure that can reliably detect sarcoma preoperatively has been identified.

FDA considers this new scientific information to represent a significant change to the benefit/risk profile for these devices, prompting the issuance of a Safety Communication on April 17, 2014 (Ref. 1), and convening of the FDA's Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee on July 10–11, 2014 (Ref. 2), to further discuss the use and labeling of LPMs during gynecologic surgeries. FDA is issuing this document after considering the input of the Panel and other stakeholders, including comments made during the Open Public Hearing portion of the Panel meeting.

As a result of the new information and discussions during the public Advisory Committee meeting, FDA recommends that manufacturers of LPMs with a general indication or a specific gynecologic indication prominently include two specific Contraindications and a specific Boxed Warning in their product labeling. FDA believes this may be information that manufacturers should disclose to users under sections 201(n), 502(a), and 502(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n), 352(a) and 352(f)(2)). The issuance of this guidance represents another step in addressing this serious public health issue. In the future, additional safety communications, guidance, or rulemaking may be undertaken to further support the safe and effective use of LPMs.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on product labeling for LPMs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by

downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. Persons unable to download an electronic copy of ''Immediately in Effect Guidance Document: Product Labeling for Laparoscopic Power Morcellators'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400052 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485.

In addition, FDA concludes that the labeling statements in the guidance do not constitute a ''collection of information'' under the Paperwork Reduction Act. Rather, the labeling statements are ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public.'' (5 CFR 1320.3(c)(2)).

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

VI. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov*. (FDA has verified the Web site addresses in this reference section, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA Center for Devices and Radiological Health, Safety Communications Page, ''Laparoscopic Uterine Power Morcellation in Hysterectomy and Myomectomy,'' (*http://www.fda.gov/medicaldevices/safety/alertsandnotices/ucm393576.htm*).
2. Public meeting in 2014, Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee, **Federal Register** notice, available at *http://www.gpo.gov/fdsys/pkg/FR-2014-06-09/pdf/2014-13290.pdf*.

Dated: November 19, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–27857 Filed 11–24–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; The Genetic Testing Registry

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of the Director (OD), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Sarah Carr, Acting Director, Office of Clinical Research and Bioethics Policy, Office of Science Policy, NIH, 6705 Rockledge Dr., Suite 750, Bethesda, MD 20892, or call non-toll-free number (301) 496–9838, or Email your request, including your address to: *OCRBP–OSP@od.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: The Genetic Testing Registry, 0925–0651, Expiration Date 02/28/2015—EXTENSION, Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: Clinical laboratory tests are available for more than 5,000 genetic conditions. The Genetic Testing Registry (GTR) provides a centralized, online location for test developers, manufacturers, and researchers to voluntarily submit detailed information about the availability and scientific basis of their genetic tests. The GTR is of value to clinicians by providing information about the accuracy, validity, and usefulness of genetic tests. The GTR also highlights evidence gaps where additional research is needed.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 5,536.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Estimated annual number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Laboratory Personnel Using Bulk Submission	Minimal Fields	190	29	18/60	1,653
	Optional Fields	159	29	14/60	1,076
Laboratory Personnel Not Using Bulk Submission.	Minimal Fields	116	29	30/60	1,682
	Optional Fields	97	29	24/60	1,125

Dated: November 17, 2014.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2014–27898 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

T-cell Chimeric Receptors of TSLPR for Diagnosis and Immunotherapy of Cancer

Description of Technology: T-cell-based immunotherapies allow a patient's immune system to concentrate its efforts and destroy cancer cells. In the present technology, the researchers at the National Cancer Institute have developed chimeric antigen receptors (or CARs), which encode an antigen binding domain specific for thymic stromal lymphopoietin receptor (TSLPR) and a T-cell signaling domain. TSLPR is over-expressed on the surface of approximately 10% of adult and pediatric B-cell precursor acute lymphoblastic leukemias (BCP–ALL).

Available for licensing is the above-reference CAR technology as well as methods for diagnosing and treating cancer using these CARs.

Potential Commercial Applications:

- Immunotherapy against cancer, especially leukemia
- Immunotoxins

Competitive Advantages: CAR receptors are specific for TSLPR.

Development Stage:

- In vitro data available
- In vivo data available (animal)
- Prototype

Inventors: Terry Fry and Haiying Qin (NCI).

Publication: Qin H, et al. Pre-clinical development of a novel chimerical antigen receptor targeting high-risk pediatric ALL over-expressing Tslpr. Blood 2013 Nov 15;122(21):2665.

Intellectual Property:

- HHS Reference No. E–008–2014/0—US Provisional Application No. 61/912,948 filed 06 Dec 2013
- HHS Reference No. E–008–2014/1—US Provisional Application No. 61/991,697 filed 12 May 2014
- HHS Reference No. E–008–2014/2—PCT Application No. PCT/US2014/063096 filed 30 Oct 2014

Licensing Contact: Patrick McCue, Ph.D.; 301–435–5560; *mccuepat@mail.nih.gov*

Novel Bridged Bicyclic Thiazepinone Compounds

Description of Technology: The invention is directed to small molecules containing a novel, bridged, bicyclic thiazepinone pharmacophore. Invention compounds inhibit the Nav1.7 sodium channel. Additionally, invention compounds bind the human norepinephrine transporter (NET), with selectivity over the serotonin transporter (SERT) and dopamine transporter (DAT).

Invention compounds could be used to treat neuropathic pain associated with diabetes and fibromyalgia, Attention Deficit Hyperactivity Disorder (ADHD), urinary incontinence, depression, anxiety, and other mood disorders.

Invention compounds can be conjugated with fluorescent or radioactive tags, and used to probe the structure and activity of the Nav1.7 sodium channel and NET.

Potential Commercial Applications:

- Therapeutic
- Chemical probe

Competitive Advantages:

- Small molecule compounds made using facile synthesis scheme
- Inhibition of Nav1.7 sodium channel
- NET inhibition with selectivity over other transporters

Development Stage:

- Early-stage
- In vitro data available

Inventors: Hans F. Luecke (NIDDK), Michael T. Scerba (NIDDK), Dongwook Kang (Daegu Catholic University).

Intellectual Property: HHS Reference No. E–224–2012/0—

- US Application No. 61/876,262 filed 09 Sept 2013
- PCT Application No. PCT/US2014/054660 filed 09 Sept 2014

Licensing Contact: Lauren Nguyen-Antczak, Ph.D., J.D.; 301–435–4074; *nguyenantczakla@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize use of bridged bicyclic thiazepinones. For collaboration opportunities, please contact Marguerite J. Miller, M.B.A. at *marguerite.miller@nih.gov* or 301–496–9003.

Dated: November 18, 2014.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–27820 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Research and Field Studies of Infectious Diseases.

Date: December 2, 2014.

Time: 4:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Development and Testing of Novel Interventions to Improve HIV Prevention, Care and Program Implementation.

Date: December 3, 2014.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Control Regulatory Research.

Date: December 4, 2014.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Control Regulatory Research.

Date: December 5, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott at Metro Center, 775 12th St. NW., Washington, DC 20005.

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: December 8–9, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: HIV/AIDS Innovative Research Applications.

Date: December 8, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: AIDS and AIDS Related Research.

Date: December 9, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 19, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27818 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, November 17, 2014, 11:00 a.m. to November 17, 2014, 03:00 p.m., National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 which was published in the **Federal Register** on September 17, 2014 (79 FR 55817).

The meeting notice is amended to change the date of the meeting from November 17, 2014 to December 8, 2014 at 12:00 p.m. to 4:00 p.m. The meeting is closed to the public.

Dated: November 19, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27821 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Cures Acceleration Network Review Board. The meeting will be open to the public, viewing virtually by WebEx. Individuals can register to view and access the meeting by the link below. *https://ncatsevents.webex.com/ncatsevents/onstage/g.php?MTID=eb948880d82d5d6f0c3d3b5ad5cd7429e.*

1. Go to ''Event Status'' on the left hand side of page, then click ''Register''. On the registration form, enter your information and then click ''Submit'' to complete the required registration.

2. You will receive a personalized email with the live event link.

Name of Committee: Cures Acceleration Network Review Board.

Date: December 12, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: The CAN Review Board will meet virtually to discuss updates regarding CAN programs and next steps.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Danilo A. Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational, Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to finalizing the agenda and scheduling of meeting topics.

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.

Dated: November 19, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27819 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; 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 Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: December 11, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: The NIH Recombinant DNA Advisory Committee (RAC) will review and discuss selected human gene transfer protocols and related data management activities. Please check the meeting agenda at OBA Meetings Page (available at the following URL: *http://oba.od.nih.gov/rdna_rac/rac_meetings.html*) for more information.

Place: National Institutes of Health Building 45, Conference Room, E1/E2 9000, Rockville Pike, Bethesda, MD 20892.

Contact Person: Chris Nice, Program Assistant, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838, *nicelc@mail.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

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://oba.od.nih.gov/rdna/rdna.html,* where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: November 19, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–27822 Filed 11–24–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No DHS–2014–0066]

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 DHS Grant Review Task Force on Friday November 7, 2014. The DHS Grant Review Task Force will provide recommendations to the Homeland Security Advisory Council on how to improve the allocation of annual grant funds among jurisdictions. This notice informs the public of the establishment of the DHS Grant Review Task Force and is not a solicitation for membership.

FOR FURTHER INFORMATION CONTACT: Mike Miron, Director, Homeland Security Advisory Council and the DHS Grant Review Task Force at 202–447–3135 or *mike.miron@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 DHS Grant Review Task Force will develop findings and recommendations in the following topic areas: The DHS Grant Review Task Force should address, among other closely related topics, the following questions: (1) What are the outcomes that the grants process is intended to achieve? (2) What mechanisms are best suited to achieving the desired outcomes? (3) Can national advisory committees and sub-groups consisting of local, state, territorial, and tribal representation be used to create nationally-recognized communities of practice, which in turn can be used to set broad national priorities, share lessons learned, and practice determining capability and capacity targets? (4) What role can national standards-setting bodies play in helping to define capability and capacity targets and other assessment criteria?

Schedule: The DHS Grant Review Task Force's findings and recommendations will be submitted to the Homeland Security Advisory Council for their deliberation and vote during a public meeting. Once the report is approved it will be sent to the Secretary for his review and acceptance.

Dated: November 19, 2014.

Ben Haiman,

Deputy Executive Director, Homeland Security Advisory Council, DHS.

[FR Doc. 2014–27967 Filed 11–24–14; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Flight Crew Self-Defense Training—Registration and Evaluation

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0028, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments of the following collection of information, on September 9, 2014, 79 FR 53438.

Upon registering for a voluntary advanced self-defense training class provided by TSA, the collection process involves requesting the name, contact information, airline employee number, and Social Security number (last four digits) from flight and cabin crew members of air carriers to verify employment status and to confirm eligibility to participate. Eligible training participants are flight and cabin crew members of a U.S. airline conducting scheduled passenger operations. On attending class in person, crew members are asked to show a second form of identification to confirm registration information. Additionally, each participant is asked to complete a voluntary course evaluation form after the training concludes.

DATES: Send your comments by December 26, 2014. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Flight Crew Self-Defense Training—Registration and Evaluation.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0028.

Forms(s): ''Web enabled Registration Form''; ''Level 1 End-of-Course Evaluation''.

Affected Public: Flight and cabin crewmembers on passenger and cargo flights.

Abstract: TSA is seeking to renew the ICR, currently approved under OMB number 1652–0028, to continue compliance with a statutory mandate. Specifically, under Section 603 of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176, 117 Stat. 2490, 2563, Dec. 12, 2003), TSA must develop and provide a voluntary advanced self-defense training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation. See 49 U.S.C. 44918(b).

TSA requests this renewal so that TSA may collect limited biographical information from flight and cabin crew members to continue to confirm their eligibility to participate in this training program and to confirm their attendance. TSA confirms the eligibility of the participant by contacting the participant's employer, and confirms attendance by comparing the registration information against a sign-in sheet provided in the classroom. TSA also asks participants to complete an anonymous and voluntary evaluation form after participation in the training to assess the quality of the training.

Number of Respondents: 1,000.

Estimated Annual Burden Hours: An estimated 250 hours annually.

Dated: November 19, 2014.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2014–27781 Filed 11–24–14; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–FHC–2014–N243: FXFR1334088TWG0W4–123–FF08EACT00]

Trinity Adaptive Management Working Group; Public Meeting and Teleconference

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG is a Federal advisory committee that affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

DATES: *Public meeting:* TAMWG will meet from 9:30 a.m. to 4:30 p.m. Pacific Time on Monday, December 15, 2014, and from 9 a.m. to 3 p.m. Pacific Time on Tuesday, December 16, 2014. *Deadlines:* For deadlines on submitting written material, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The in-person meeting will be held at the Weaverville Fire District, 125 Bremer Street, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT: Elizabeth W. Hadley, Redding Electric Utility, 777 Cypress Avenue, Redding, CA 96001; telephone: 530–339–7327; email: *ehadley@reupower.com;* or Joseph C. Polos, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: 707–822–7201; *joe_polos@fws.gov.* Individuals with a disability may request an accommodation by sending an email to the one of the points of contact, and those accommodations will be provided.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Trinity Adaptive Management Working Group (TAMWG) will hold a meeting.

Background

The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight.

Meeting Agenda

- Designated Federal Officer (DFO) updates,
- TMC Chair update,
- Executive Director's update,
- TRRP workgroup/Science Coordinator update,
- Implementation update,
- Phase 1 workshop summary presentation,
- TAMWG Information Needs and Communication Discussion,
- TAMWG objectives identification discussion,
- Potential hole filling associated with Dutch Creek restoration site,
- Addition of Humboldt County to the TMC,
- TMC current issues, and
- Public Comment.

The final agenda will be posted on the Internet at *http://www.fws.gov/arcata.*

PUBLIC INPUT

If you wish to	You must contact Elizabeth Hadley (**FOR FURTHER INFORMATION CONTACT**) no later than
Submit written information or questions for the TAMWG to consider during the meeting ...	December 8, 2014.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the TAMWG to consider during the meeting. Written statements must be received by the date listed in ''Public Input,'' so that the information may be available to the TAMWG for their consideration prior to this meeting. Written statements must be supplied to Elizabeth Hadley in one of the following formats: One hard copy with original signature, one electronic copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Registered speakers who wish to expand on their oral statements, or those who wished to speak but could not be accommodated on the agenda, may submit written statements to Elizabeth Hadley up to 7 days after the meeting.

Meeting Minutes

Summary minutes of the meeting will be maintained by Elizabeth Hadley (see **FOR FURTHER INFORMATION CONTACT**). The draft minutes will be available for public inspection within 15 days after the meeting, and will be posted on the TAMWG Web site at *http://www.fws.gov/arcata.*

Dated: November 18, 2014.

Joseph C. Polos,

Supervisory Fish Biologist, Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2014–27764 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Scientific Earthquake Studies Advisory Committee; Meeting

AGENCY: U.S. Geological Survey.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 106–503, the Scientific Earthquake Studies Advisory Committee (SESAC) will hold its next meeting in the Southern California Earthquake Center (SCEC) Boardroom at the University of Southern California in Los Angeles, California. The Committee is comprised of members from academia, industry, and State government. The Committee shall advise the Director of the U.S. Geological Survey (USGS) on matters relating to the USGS's participation in

the National Earthquake Hazards Reduction Program.

The Committee will receive reports on the status of activities of the Program and progress toward Program goals and objectives. The Committee will assess this information and provide guidance on the future undertakings and direction of the Earthquake Hazards Program. Focus topics for this meeting include a program review and strategic planning for 2016–2018.

Meetings of the Scientific Earthquake Studies Advisory Committee are open to the public.

DATES: January 28–29, 2015, commencing at 9:00 a.m. on the first day and adjourning at 5:00 p.m. on January 29, 2015.

CONTACT: Dr. William Leith, U.S. Geological Survey, MS 905, 12201 Sunrise Valley Drive, Reston, Virginia 20192, (703) 648–6786, *wleith@usgs.gov*.

William Leith,

Senior Science Advisor for Earthquake and Geologic Hazards.

[FR Doc. 2014–27799 Filed 11–24–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plat listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plat will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on December 26, 2014.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat and field notes of the dependent resurvey and survey in Township 8 South, Range 70 West, Sixth Principal Meridian, Colorado, were accepted on October 30, 2014.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2014–27873 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the official filing of the survey plat listed below. The plat will be available for viewing at *http://www.glorecords.blm.gov*.

DATES: The plat described in this notice was filed on August 28, 2014.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The supplemental plat of sections 12 and 13 in Township 13 South, Range 91 West, Sixth Principal Meridian, Colorado, was accepted and filed on November 3, 2014.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2014–27902 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000 L14200000.BJ0000 15X]

Eastern States: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of survey of the lands described below in the BLM-Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey. 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: Survey in Arkansas requested by the Quapaw Tribe of Oklahoma. Surveys in Iowa were requested by the National Park Service. Surveys in Wisconsin and Mississippi were requested by the Bureau of Indian Affairs.

The lands surveyed are:

Fifth Principal Meridian, Arkansas

T. 1 N., R. 11 W.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of sections 22 and 27 of Township 1 North, Range 11 West, of the Fifth Principal Meridian, in the State of Arkansas, and was accepted September 25, 2014.

Fifth Principal Meridian, Iowa

T. 95 N., R. 3 W.

The plat of survey represents the dependent resurvey of a portion of the subdivisional lines, a portion of the 1838 adjusted record meanders, the survey of the subdivision of section 10, and the metes-and-bounds surveys of the Effigy Mounds National Monument boundary of Township

95 North, Range 3 West, of the Fifth Principal Meridian, in the State of Iowa, and was accepted October 22, 2014.

T. 96 N., R. 3 W.

The plat of survey represents the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, a portion of the adjusted 1849 record meanders; the survey of the subdivision of sections 27, 28, 29, 31, 32, and 33, the survey of the Effigy Mounds National Monument boundary in the west half of the southwest quarter of section 27, and the informational traverse of the westerly right-of-way line of Iowa State Highway 76 in the west half of the southeast quarter of section 28 of Township 96 North, Range 3 West, of the Fifth Principal Meridian, in the State of Iowa, and was accepted September 29, 2014.

Choctaw Meridian, Mississippi

T. 13 N., R. 7 E.

The plat of survey represents the dependent resurvey of a portion of the north boundary and the survey of a parcel of land held in trust for the Mississippi Band of Choctaw Indians in sections 2 and 3 of Township 13 North, Range 7 East, of the Choctaw Meridian, in the State of Mississippi, and was accepted September 24, 2014.

T. 13 N., R. 7 E.

The plat of survey represents the dependent resurvey of a portion of the south and east boundaries and a portion of the subdivisional lines, the subdivision of sections 25, 35 and 36, and the survey of land held in trust for the Mississippi Band of Choctaw Indians in sections 25, 35 and 36 of Township 13 North, Range 7 East, of the Choctaw Meridian, in the State of Mississippi, and was accepted September 30, 2014.

Fourth Principal Meridian, Wisconsin

T. 51 N., R. 3 W.

The plat of survey represents the retracement, resurvey and monumentation of certain boundaries of lands held in trust for the Red Cliff Band of Lake Superior Chippewa, east of state highway 13 in government lot 2 of section 31, Township 51 North, Range 3 West, Fourth Principal Meridian, in the State of Wisconsin, and was accepted September 25, 2014.

We will place a copy of the plats we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against the surveys, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plats until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: November 19, 2014.

Dominica VanKoten,

Chief Cadastral Surveyor.

[FR Doc. 2014–27876 Filed 11–24–14; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17143; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 31, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 10, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 7, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

INDIANA

Lake County

Hobart Commercial District, Roughly bounded by Lake George, NSRR, Center & 2nd Sts., Hobart, 14001037

Noble County

Stanley School—District No. 2, (Indiana's Public Common and High Schools MPS) Cty. Rd. 300E, Albion, 14001038

Rush County

East Hill Cemetery, 704 E. IN 44, Rushville, 14001039

Wayne County

Stonebraker, John & Caroline, House, 100 S. Washington St., Hagerstown, 14001040

MARYLAND

Howard County

Carrollton Hall, 12280 Folly Quarter Rd., Ellicott City, 14001042

Oakdale, 16449 Ed Warfield Rd., Woodbine, 14001041

MICHIGAN

Isabella County

Mount Pleasant Downtown Historic District, Roughly bounded by Mosher, Franklin, Illinois & Washington Sts., Isabella, 14001043

Mecosta County

Morgan West Wheatland Cemetery, 55th Ave. between 10 & 11 Mile Rds., Wheatland Township, 14001044

Saginaw County

Saginaw County Fairgrounds Main Gate, 2701 E. Genesee Ave., Saginaw, 14001045

Wayne County

Springwells Park Historic District, Rotunda Dr., MCRR, Greenfield & Eastham Rds., Dearborn, 14001046

MONTANA

Flathead County

Flathead National Forest Backcountry Administrative Facilities, Flathead Natl. Forest, Hungry Horse, 14001047

NEW YORK

Franklin County

Debar Pond Lodge, Debar Park Rd., Duane, 14001048

NORTH CAROLINA

Cleveland County

Mauney, Jacob S., Memorial Library and Teacher's Home, 100 S. Piedmont Ave., Kings Mountain, 14001049

OHIO

Butler County

Snider, Dan F., Ford Dealership Building, 101 N. Main St., Middletown, 14001050

Cuyahoga County

Bryant Building, 1261 Superior Ave., Cleveland, 14001051

Preble County

Eaton High School, 307 Cherry St., Eaton, 14001052

TENNESSEE

Putnam County

United States Post Office and Court House, 9 E. Broad St., Cookeville, 14001053

WASHINGTON

Pierce County

Lakewold, 12317 Gravelly Lake Dr., Lakewood, 14001055

Spokane County

Seligman, William O. and Stella M., House, 2203 S. Manito Blvd., Spokane, 14001054

WEST VIRGINIA

Hampshire County

French's Mill, Augusta-Ford Hill Rd., Augusta, 14001056

Hebron Church, 10851 Carper's Pike, Yellow Springs, 14001057

Kuykendall, Nathaniel and Isaac, House, Address Restricted, Romney, 14001058

Yellow Spring Mill, Jct. of WV 259 & Cacapon River Rd., Yellow Spring, 14001059

Kanawha County

East End Historic District (Boundary Increase), Roughly bounded by Dixie, Greenbrier & Lee Sts., East & Shelton Alleys, Charleston, 14001060

Preston County

Old Hemlock, 17098 Brandonville Pike, Bruceton Mills, 14001061

Randolph County

Beverly Historic District, Roughly bounded by Dodson Run, Files Cr., Tygart Valley R. & Lewis St., Beverly, 14001062

[FR Doc. 2014–27859 Filed 11–24–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16876; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 27, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 10, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: October 7, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

FLORIDA

Hillsborough County

Original Rogers Park Golf Course Site, 7801 N. 30th St., Tampa, 14000901

Leon County

Los Robles Historic District, Roughly bounded by Desoto St., N. Meridian & Thomasville Rds., Tallahassee, 14000902

Strickland School, 14735 Beth Page Rd., Tallahassee, 14000903

GEORGIA

Bartow County

Cartersville Downtown Historic District, Roughly bounded by Church, Gilmer, Leake & Noble Sts., Cartersville, 14000904

IOWA

Floyd County

Sherman Nursery Company Historic District, 1300 Grove St., Charles City, 14000905

Henry County

Second Baptist Church, 407 Saunders St., Mount Pleasant, 14000906

Jones County

Business Part of Olin Historic District, Both sides of 300 blk. of E. Jackson and portion of E. 2nd Sts., Olin, 14000907

MINNESOTA

Cass County

Pine River to Woman Lake and Longville Stagecoach Road—Widow Lake Segment Historic District, Address Restricted, Hackensack, 14000908

NEBRASKA

Douglas County

Hupmobile Building, 2523–2525 Farnam St., Omaha, 14000909

Turner Court Apartments, 3106 Dodge St., Omaha, 14000910

Hamilton County

Temple Craft Building, 1127–1131 12th St., Aurora, 14000916

NEW YORK

Erie County

Central Avenue Historic District, 16–50 Central Ave., 1–5 W. Main & 40 Clark Sts., Lancaster, 14000911

Wayne, The, and The Waldorf Apartments, 1106 Main St., Buffalo, 14000912

Nassau County

Denton Homestead, 60 Denton Ave., East Rockaway, 14000913

Ontario County

Woodlawn Cemetery, 130 N. Pearl St., Canandaigua, 14000914

Putnam County

Valhalla Highlands Historic District, Roughly Highland Rd., Locust, Lookout & Mountainview Drs., Cold Spring, 14000915

WISCONSIN

Eau Claire County

Eau Claire Vocational School, 1300 1st Ave., Eau Claire, 14000917

[FR Doc. 2014–27863 Filed 11–24–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16822; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 20, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 10, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: September 29, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Maricopa County

Moeur Park, 715 N. Mill Rd., Tempe, 14000888

CALIFORNIA

Sacramento County

Sacramento City Cemetery, 1000 Broadway, Sacramento, 14000889

COLORADO

Park County

South Park City Museum, 100 4th St., Fairplay, 14000899

GEORGIA

Chatham County

Pine Gardens Historic District, Roughly bounded by Goebel Ave., Beech & Capitol Sts., Savannah, 14000890

GUAM

Guam County

Mahlac Pictograph Cave, Address Restricted, Talofofo, 14000891

Talisay Site—Latte' Saddok Talisai, Address Restricted, Santa Rita, 14000892

Tumon—Maui Well, Marine Corps Dr. & Tumon Ln., Dededo, 14000893

MASSACHUSETTS

Essex County

Union Congregational Church, 350–354 Main St., Amesbury, 14000894

NEW MEXICO

Colfax County

Raton Downtown Historic District (Boundary Increase), Roughly bounded by 3rd St., Apache & Parsons Aves., Raton, 14000897

Socorro County

El Camino Real de Tierra Adentro—Arroyo Alamillo North Section, (Camino Real in New Mexico, AD 1598–1881 MPS), Address Restricted, San Acacia, 14000898

NORTH DAKOTA

Burleigh County

Depression Era Work Relief Construction Features at Double Ditch Indian Village Site State Historic Site, (Federal Relief Construction in North Dakota, 1931–1943, MPS), ND 1804, Bismarck, 14000896

Grand Forks County

Wells—Denbrook Architects Office Building, 1701 Cherry St., Grand Forks, 14000900

OREGON

Marion County

Gaiety Hollow, 545 Mission St. NE., Salem, 14000895

[FR Doc. 2014–27865 Filed 11–24–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0018]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Federal Firearms License

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until January 26, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracey Robertson, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 25405 or email at *Tracey.Robertson@atf.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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection 1140–0018

1. *Type of Information Collection:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Application for Federal Firearms License.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 7 (5310.12)/ 7CR (5310.16).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Individuals or households.

Abstract: In accordance with 18 U.S.C. 923(a)(1) each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application, pay the required fee with ATF and obtain a license before engaging in business. The information requested on the form will be used to determine eligibility for the license as required by 18 U.S.C. Section 923. Additionally, this form will be used by the public when applying for a Federal firearms license to collect curios and relics to facilitate a personal collection in interstate and foreign commerce. The change to this collection is to combine information from the Application for Federal Firearms License (ATF Form 7 (5310.12)) and the Application for Federal Firearms License (Collector of Curios and Relics) (ATF Form 7CR (5310.16)) into one form. The information requested on the form covers all firearms license types.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 23,000 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 11,500 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: November 20, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–27920 Filed 11–24–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140—NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Federal Firearms License Responsible Person Questionnaire

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until January 26, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracey Robertson, Chief, Federal Firearms Licensing Center, 244 Needy Road, Martinsburg, WV 25405 or email at *Tracey.Robertson@atf.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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection 1140—NEW

1. *Type of Information Collection:* New collection.
2. *The Title of the Form/Collection:* Federal Firearms License Responsible Person Questionnaire.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5300.34.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: The form will be used by the public when applying for Federal firearms license and collector of curios and relics license to facilitate a personal collection in interstate and foreign commerce. The information requested on the form will be used by ATF to determine whether the individual is qualified to be a responsible person in a firearms business or as a collector. The form will also be used to add responsible persons to existing Federal firearms licenses.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 30,000 respondents will take 30 minutes to complete the form.
6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 15,000 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: November 20, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–27921 Filed 11–24–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On November 19, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States and the State of Ohio* v. *City of Lima, Ohio,* Civil Action No. 3:14–cv–02551 (N.D. Ohio).

A Complaint that was filed along with the proposed Consent Decree alleges that the City of Lima (''Lima'') has violated the Clean Water Act and its implementing regulations, certain terms and conditions of Lima's National Pollutant Discharge Elimination System permit, and corresponding requirements under Ohio state law by discharging untreated sewage from its combined sewer system, partially treated wastewater that has bypassed full wastewater treatment, and raw wastewater from its sanitary sewer system into the environment. The proposed Consent Decree would resolve the claims alleged in the Complaint in exchange for Lima's commitments to: (i) Make major upgrades and improvements to its wastewater treatment plant and sewer systems; (ii) pay a $49,000 civil penalty; and (iii) perform a Supplemental Environmental Project that will make environmental enhancements to areas along the banks of the Ottawa River in Lima, at an expected cost of approximately $218,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Ohio* v. *City of Lima, Ohio,* D.J. Ref. No. 90–5–1–1–08433. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice Department Web site: *http://*

www.usdoj.gov/enrd/Consent_Decrees.html. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs (at 25 cents per page). Please mail your request and a check or money order payable to the United States Treasury to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. The cost for a paper copy is $16.00 for the Consent Decree only or $23.25 for the Consent Decree and its Appendices.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–27831 Filed 11–24–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Pre-Apprenticeship—Pathways to Success, New Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), that collection instruments are clearly understood, and that the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about quality pre-apprenticeship programs that prepare qualified entrants for registered apprenticeships and contribute to the development of a diverse and skilled workforce.

DATES: Submit written comments to the office listed in the addresses section below on or before January 26, 2015.

ADDRESSES: Submit written comments to John V. Ladd, Administrator, Office of Apprenticeship, Room N–5311, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–2796 (this is not a toll-free number). Fax: 202–693–3799. Email: *ladd.john@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

FOR FURTHER INFORMATION CONTACT: John V. Ladd, Administrator, Office of Apprenticeship, Room N–5311, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–2796 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Through a variety of approaches, pre-apprenticeship programs can be adapted to meet the needs of differing populations being trained, the various employers and sponsors they serve, and the specific opportunities available in the local labor market. The development of an online database of quality pre-apprenticeship programs will provide a valuable tool for job seekers, Registered Apprenticeship program sponsors, and America's Job Center front line staff. A dedicated database will provide a way for job seekers and Registered Apprenticeship programs to access pre-apprenticeship programs that meet the requirements outlined in Training and Employment Notice (TEN) 13–12: ''Defining a Quality Pre-Apprenticeship Program and Related Tools and Resources.'' In 2009, ETA consulted with stakeholders and partners, including through several in-person listening sessions with labor, employers and the public and through webinars targeted at workforce development partners. In addition, ETA engaged the Secretary's Advisory Committee on Apprenticeship (ACA) to develop recommendations that resulted in the development of TEN 13–12. The development and implementation of a ''pre-apprenticeship pathways to success'' database will enable ETA to identify pre-apprenticeship programs that meet the ''quality pre-apprenticeship'' definition and the quality framework criteria. Even more importantly, a national database of pre-apprenticeship programs will facilitate connections between pre-apprenticeship program participants and registered apprenticeship program sponsors, resulting in expanded opportunities. This voluntary data collection will be accomplished using an online form. The public seeking information about pre-apprenticeship programs would go to a map on a Web site, choose a state, and view information about the location of pre-apprenticeship programs, including general descriptions of the services and training they provide.

II. Review Focus

The Department is particularly interested in comments which:

- Address 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;
- address the accuracy of the agency's estimate of the burden that would be imposed by the proposed collection of information, including the validity of the methodology and assumptions used;
- address ways in which ETA can enhance the quality, utility, and clarity of the information to be collected; and
- address ways in which ETA can minimize the burden of the information collection on respondents, such as through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

III. Current Actions

Type of Review: New collection.

Title: Pre-Apprenticeship—Pathways to Success.

OMB Number: 1205–0NEW.

Affected Public: Private sector (businesses or other for-profits and not-for-profit institutions).

Estimated Total Annual Respondents: 100.

Estimated Total Annual Responses: 100.

Estimated Total Annual Burden Hours: 16.7 hours.

Total Estimated Annual Other Costs Burden: $69.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request. In addition, those comments will become part of the public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–27875 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,512; TA–W–85,512A]

ALSIP Acquisition LLC, D.B.A. Future Mark ALSIP, ALSIP, Illinois; Futuremark Paper Company Westport, Connecticut; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 19, 2014, applicable to workers of Alsip Acquisition LLC, d.b.a. FutureMark Alsip, Alsip, Illinois (TA–W–85,512). The Department's Notice of Determination was published in the **Federal Register** on October 14, 2014 (79 FR 61658).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

The firm is engaged in the production of coated printing paper. Workers at FutureMark Paper Company, Westport, Connecticut supplied sales services.

The investigation confirmed that worker separations at FutureMark Paper Company, Westport, Connecticut (TA–W–85,512A) are attributable to increased imports of coated printing paper, as are the worker separations at the Alsip Acquisition LLC, d.b.a. FutureMark Alsip, Alsip, Illinois (TA–W–85,512). The worker group includes individuals who worked from their homes in New Jersey but reported to the Westport, Connecticut office.

The amended notice applicable to TA–W–85,512 and TA–W–85,512A is hereby issued as follows:

All workers of Alsip Acquisition LLC, d.b.a. FutureMark Alsip, Alsip, Illinois (TA–W–85,512) and FutureMark Paper Company, Westport, Connecticut (TA–W–85,512A) who became totally or partially separated from employment on or after August 28, 2013 through September 19, 2016, and all workers in the group threatened with total or partial separation from employment on the date of certification through September 19, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of October, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–27786 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,242E]

AT&T Services, Inc., Information Technology Operations Division, White Plains, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 21, 2014, applicable to workers of AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from Accenture LLP, OnX USA LLC (Formerly Agilysys), and IBM Corporation, Atlanta, Georgia (TA–W–83,242), AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from Accenture LLP, OnX USA LLC (Formerly Agilysys), IBM Corporation, Paragon Computer Professional, Inc., Cisco Systems, Inc., Paragon Solutions and Wavecreste, Inc., (Formerly Genesis Networks Inc.), Middletown, New Jersey (TA–W–83,242A), AT&T Services, Inc., Information Technology Operations Division, Columbus, Ohio (TA–W–83,242B), and AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from IBM Corporation, Dallas, Texas (TA–W–83,242C). The Department's Notice of Determination was published in the **Federal Register** on March 14, 2014 (79 FR 05545).

In response to request from the company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the supply of telecommunications services.

The investigation confirmed that worker separations at AT&T Services, Information Technology Operations Division, White Plains, New York are attributable to the same acquisition of services that contributed importantly to separations at the four certified locations. Based on these findings, the Department is amending this certification to include workers located at AT&T Services, Inc., Information Technology Operations Division, White Plains, New York.

The amended notice applicable to TA–W–83,242 is hereby issued as follows:

All workers of AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from Accenture LLP, OnX USA LLC (Formerly Agilysys), and IBM Corporation, Atlanta, Georgia (TA–W–83,242), AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from Accenture LLP, OnX USA LLC (Formerly Agilysys), IBM Corporation, Paragon Computer Professional, Inc., Cisco Systems, Inc., Paragon Solutions and Wavecreste, Inc., (Formerly Genesis Networks Inc.,), Middletown, New Jersey (TA–W–83,242A), AT&T Services, Inc., Information Technology Operations Division, Columbus, Ohio (TA–W–83,242B), and AT&T Services, Inc., Information Technology Operations Division, including on-site leased workers from IBM Corporation, Dallas, Texas (TA–W–83,242C), AT&T Services, Inc., Information Technology Operations Division, San Ramon, California (TA–W–83,242D) and AT&T Services, Inc., Information Technology Operations Division, White Plains, New York (TA–W–83,242E), who became totally or partially separated from employment on or after November 22, 2012, through February 21, 2016, and all workers in the group threatened with total or partial separation from employment on the date of certification through February 21, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of October, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–27782 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,479]

GDF Suez Mt. Tom Power Plant, a Subsidiary of GDF Suez Energy North America, Including On-Site Leased Workers From Guidant Group and ATEECA, Holyoke, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 14, applicable to workers of GDF SUEZ Mt. Tom Power Plant, a subsidiary of GDF SUEZ Energy North America, including on-site leased workers from Guidant Group, Holyoke, Massachusetts. The Department's notice of determination was published in the

Federal Register on September 11, 2014 (79 FR 179).

In response to a petition filed by the International Brotherhood of Electrical Workers, Local 455 on behalf of workers at GDF SUEZ Energy North America, Holyoke, Massachusetts, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of electricity.

The state workforce office reports that on-site leased workers from ATEECA also worked on-site at the subject firm.

Based on these findings, the Department is amending this certification to include on-site leased workers from ATEECA, Holyoke, Massachusetts.

The amended notice applicable to TA–W–85,479 is hereby issued as follows:

All workers of GDF SUEZ Mt. Tom Power Plant, a subsidiary of GDF SUEZ Energy North America, including on-site leased workers from Guidant Group and ATEECA, Holyoke, Massachusetts, who became totally or partially separated from employment on or after August 12, 2013, through September 4, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of October, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–27785 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 5, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 5, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of October 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

14 TAA Petitions Instituted Between 10/14/14 and 10/17/14

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85590	Echelon Furniture (Company)	Gas City, IN	10/14/14	10/10/14
85591	Global Tungsten & Powders, Corp. (Company)	Towanda, PA	10/14/14	10/13/14
85592	Micro Power Electronics Inc. (Company)	Beaverton, OR	10/14/14	10/10/14
85593	The NutraSweet Company (Company)	Augusta, GA	10/14/14	10/13/14
85594	SUPERVALU INC (Company)	Boise, ID	10/14/14	10/13/14
85595	Quad Graphics Inc. (State/One-Stop)	Woodstock, IL	10/15/14	10/14/14
85596	Robertshaw (Company)	Hanover, IL	10/15/14	10/14/14
85597	WorldClass Processing Corp. (Company)	Ambridge, PA	10/15/14	10/14/14
85598	Arkwright Advanced Coating Inc. (Union)	Fiskeville, RI	10/15/14	10/14/14
85599	Donna Morgan LLC (Company)	New York, NY	10/16/14	10/15/14
85600	Novartis Pharmaceuticals Corp (Workers)	Suffern, NY	10/16/14	10/15/14
85601	Pitney Bowes Inc. (Company)	Troy, NY	10/16/14	10/07/14
85602	GreenWood, Inc. Job Site at NutraSweet Augusta, GA (Company).	Augusta, GA	10/17/14	10/16/14
85603	Eighth Floor Promotions (State/One-Stop)	Celina, OH	10/17/14	10/16/14

[FR Doc. 2014–27783 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *October 14, 2014 through October 17, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,553, YUSA Corporation, Washington Court House, Ohio. September 24, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,467, Electrolux Home Care Products, Inc., El Paso, Texas.

85,549, Humana, Louisville, Kentucky.

85,551, Harte Hanks Market Intelligence, Inc., San Diego, California.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,561, Air System Components, Inc., Ponca City, Oklahoma.

I hereby certify that the aforementioned determinations were issued during the period of *October 14, 2014 through October 17, 2014.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 23rd day of October 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–27784 Filed 11–24–14; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 26, 2014. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2015–016

1. *Applicant* Ashley Perrin. Racing Yacht Management. P.O. Box 623. Mill Valley, CA 94942.

Activity for Which Permit Is Requested

Waste permit; Applicant requests that 16 total passengers and crew aboard the 56 meter sailing yacht SY Fidelis be allowed into the Antarctic Treaty area, to cruise along the Antarctic Peninsula for tourism and sightseeing purposes. Applicant proposes to make select stops at non-protected area landings, for day-time sightseeing. Applicant intends to follow Appendix 2 for all food waste and garbage, and the boat has an onboard sewage treatment plant that meets MARPOL 6 standards. Contingency plans are in place in case of accidental releases to the environment.

Location

Antarctic Peninsula, South Shetland Islands.

Dates

January 1 to February 1, 2015.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–27901 Filed 11–24–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0252]

Biweekly Notice: Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 30, 2014 to November 12, 2014. The last biweekly notice was published on November 12, 2014.

DATES: Comments must be filed by December 26, 2014. A request for a hearing must be filed by January 26, 2015.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Sandra Figueroa, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1262, email: *sandra.figueroa@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0252 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0252.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents''* and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0252 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that

you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR Part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications,

see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit 2, New London County, Connecticut

Date of amendment request: March 28, 2014. A publicly-available version is in ADAMS under Accession No. ML14093A027.

Description of amendment request: The amendment would make changes to the Millstone Power Station, Unit 2 (MPS2) Technical Specifications (TSs). The proposed changes delete the TS Index and make administrative changes and corrections to the TSs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. The proposed changes remove the TS Index and make other editorial and administrative corrections to the TSs. These administrative changes are not initiators of any accident previously evaluated, and, consequently, the probability and consequence of an accident previously evaluated is not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature so no new or different accidents result from the proposed changes. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The changes do not alter assumptions made in the safety analysis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

Response: No.

The proposed administrative changes do not involve a change in the method of plant operation, do not affect any accident analyses, and do not relax any safety system settings.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Benjamin G. Beasley.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station (MPS), Unit 2, New London County, Connecticut

Date of amendment request: April 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14112A072.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) to add the Framatome-ANP (AREVA) topical report for the M5® (hereafter referred as M5) fuel rod cladding material to TS 6.9.1.8.b, ''Core Operating Limits Report.'' The M5 fuel rod cladding material was approved by the NRC in Topical Report BAW–10240(P)(A), Revision 0, ''Incorporation of M5™ Properties in FramatomeANP Approved Methods.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed TS change is: (1) Adding BAW–10240(P)(A) to the list of approved methodologies for determining core operating limits at MPS2.

The proposed change to TS 6.9.1.8.b permits the use of the appropriate methodology to analyze accidents for cores containing fuel with M5 cladding to ensure that the plant continues to meet applicable design criteria and safety analysis acceptance criteria. The proposed change to the list of NRC-approved methodologies listed in TS 6.9.1.8.b has no impact on plant operation and configuration. The list of methodologies in TS 6.9.1.8.b does not impact either the initiation of an accident or the mitigation of its consequences.

The NRC has previously approved use of M5 fuel rod cladding material provided that licensees ensure compliance with the conditions set forth in the NRC SE [Safety Evaluation] for topical report BAW–10240(P)(A). Confirmation that these conditions are satisfied is performed under 10 CFR 50.59 as part of the normal core reloads process.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed addition of topical report BAW–10240(P)(A) to the list of NRC approved methodologies listed in TS 6.9.1.8.b, has no impact on any plant configuration or system performance. There is no change to the parameters within which the plant is normally operated, and thus, the possibility of a new or different type of accident is not created.

Therefore, the addition of BAW–10240(P)(A) to TS 6.9.1.8.b does not create the possibility of a new or different kind of accident or malfunction from those previously evaluated within the FSAR.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to the list of NRC-approved methodologies listed in TS 6.9.1.8.b has no impact on any plant configuration or system performance. Topical report BAW–10240(P)(A) has been reviewed and approved by the NRC for use with M5 fuel rod cladding. Approved methodologies will be used to ensure that the plant continues to meet applicable design criteria and safety analysis acceptance criteria.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Benjamin G. Beasley.

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit 3, New London County, Connecticut

Date of amendment request: November 6, 2013. A publicly-available version is in ADAMS under Accession No. ML13322A415.

Description of amendment request: The amendment would revise Technical

Specification (TS) 3/4.5.4, ''Refueling Water Storage Tank,'' and TS 3/4.6.2.1, ''Depressurization and Cooling Systems, Containment Quench Spray System [QSS],'' to provide additional operational margin for control of the Refueling Water Storage Tank (RWST) temperature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change affects the allowable limit for RWST temperature. Since the RWST is a passive component used as a water supply for ECCS [Emergency Core Cooling System] and QSS that operate only following an accident, the proposed change cannot cause an accident or affect the probability of any accident.

Evaluations have been performed to address the impact of raising the maximum RWST temperature on the performance of the ECCS and QSS. The evaluations demonstrate that NPSH [Net Positive Suction Head] margin would be maintained for the ECCS and QSS pumps that take suction from the RWST following a Safety Injection Actuation Signal or a Containment Depressurization Actuation Signal. Pipe and component stress limits continue to be met at the higher RWST temperature. Thus, it is concluded that the ECCS and QSS will continue to meet the design basis requirements.

The FSAR [Final Safety Analysis Report] Chapter 15 accident analyses and Chapter 6 containment analyses were performed assuming an RWST temperature that bounds the proposed technical specification change. Thus, the proposed change has no significant impact on the consequences of an accident as documented in the current analysis of record.

Changing the ACTION statement to include the wording ''the next'' is administrative and editorial in nature. This proposed change does not alter the effective technical content of the ACTION statement.

Thus, it is concluded that the proposed changes do not involve a significant increase in the probability or consequences of any analyzed accident.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change only increases the allowable range for the RWST temperature. As such, it cannot initiate a transient or accident. Evaluations have been performed that demonstrate that the ECCS and QSS systems will have adequate NPSH and the design bases will be met.

Thus, the proposed change cannot create the possibility of a new or different kind of accident.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Evaluations have been performed that demonstrate that the ECCS and QSS pumps will maintain NPSH margin when taking suction from the RWST at the higher temperature limit. The mechanical component stress requirements will continue to be met at the higher temperature.

Thus, the ECCS and QSS will continue to operate as required to mitigate a design basis accident.

The accident analyses were performed with assumed RWST temperatures that bound this proposed change. The containment analysis and accident analyses demonstrate that the design basis requirements are met.

Thus, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Benjamin G. Beasley.

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station (MPS), Unit 3, New London County, Connecticut

Date of amendment request: March 28, 2014. A publicly-available version is in ADAMS under Accession No. ML14093A026.

Description of amendment request: The amendment would make the following changes to the MPS3 Technical Specifications (TSs):

(a) Delete TS index pages i through xix.

(b) Replace the first sub-letter under TS Table 4.3–2 Item 4, Steam Line Isolation—''Manual Initiation,'' which currently appears as sub-letter ''d'' on Page 3/4 3–37, with sub-letter ''a.''

(c) Revise TS 6.3.2, Facility Staff Qualifications, from:

''If the operations manager does not hold a senior reactor operator license for Millstone Unit No. 3, then the operations manager shall have held a senior reactor operator license at a pressurized water reactor, and the assistant operations manager shall hold a senior reactor operator license for Millstone Unit No. 3.''

to:

''The operations manager or at least one operations middle manager shall hold a senior reactor operator license for Millstone Unit No. 3.''

(d) Replace the term ''SORC'' in paragraph b of the ''Licensee initiated changes to the REMODCM,'' described in TS 6.13 with the term ''FSRC.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. The proposed changes remove the TS Index and make other editorial and administrative corrections to the TSs. These administrative changes are not initiators of any accident previously evaluated, and, consequently, the probability and consequences of an accident previously evaluated is not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are administrative in nature so no new or different accidents result from the proposed changes. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The changes do not alter assumptions made in the safety analysis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

Response: No.

The proposed administrative changes do not involve a change in the method of plant operation, do not affect any accident analyses, and do not relax any safety system settings.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resource Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Benjamin G. Beasley.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 1, 2014. A publicly-available version is in ADAMS under Accession No. ML14216A383.

Description of amendment request: The proposed amendment would revise the allowable values in Technical Specification (TS) Table 3.3.5.1–1, ''Emergency Core Cooling Instrumentation,'' Functions 4.c and 5.c; Table 3.3.6.3–1, ''RHR [Residual Heat Removal] Containment Spray System Instrumentation,'' Function 4; and Table 3.3.8.1–1, ''Loss of Power Instrumentation,'' Functions 1.c, 2.c, and 2.e. Revisions of setpoint calculations supporting the above tables, identified that the allowable values in the above functions are non-conservative. The licensee has noted that while the allowable values are non-conservative, the setpoints remain conservative.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed TS allowable value changes involve changes in the margin between the allowable values and the setpoints. The proposed TS changes do not change the trip setpoints. The proposed TS changes do not degrade the performance of, or increase the challenges to, any safety systems assumed to function in the accident analysis. The proposed TS changes do not impact the usefulness of the [surveillance requirements] SRs in evaluating the operability of required systems and components, or the way in which the surveillances are performed. In addition, the [* * *] trip setpoints for the associated TRM [Technical Requirements Manual] functions are not considered an initiator of any analyzed accident, nor does a revision to the allowable value introduce any accident initiators. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The consequences of a previously evaluated accident are not significantly increased. The proposed change does not affect the performance of any equipment credited to mitigate the radiological consequences of an accident. Evaluation of the proposed TS changes demonstrated that the availability of credited equipment is not significantly affected because of the reduction in margin between the allowable values and the trip setpoints.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS changes involves changes in allowable value settings to correct non-conservative values. The proposed TS changes do not introduce any failure mechanisms of a different type than those previously evaluated, since there are no physical changes being made to the facility.

No new or different equipment is being installed. No installed equipment is being operated in a different manner. As a result, no new failure modes are being introduced. The way surveillance tests are performed remains unchanged.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed TS change involves changes in the allowable value settings to correct non-conservative values. The impact of the change on system availability is not significant, based on the frequency of the testing being unchanged, the existence of redundant systems and equipment, and overall system reliability. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not result in any hardware changes or in any changes to the analytical limits assumed in accident analyses. Existing operating margin between plant conditions and actual plant setpoints is not significantly reduced due to these changes. The proposed change does not impact any safety analysis assumptions or results.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Counsel—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company, LLC (EGC), Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Calvert County, Maryland

Date of amendment request: September 18, 2014. A publicly-available version is in ADAMS under Accession No. ML14265A219.

Description of amendments request: The amendment(s) would revise Technical Specification (TS) 5.5.16, ''Containment Leakage Rate Testing Program'' to allow for permanent extensions of Type A Integrated Leak Rate Testing (ILRT) and Type C Leak Rate Testing frequencies to 15 years and 75 months, respectively.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the TS involves the extension of the Calvert Cliffs Unit 1 and 2 Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months. The current Type A test interval of 120 months (10 years) would be extended on a permanent basis to no longer than 15 years from the last Type A test. The current Type C test interval of 60 months for selected components would be extended on a performance basis to no longer than 75 months. Extensions of up to nine months (total maximum interval of 84 months for Type C tests) are permissible only for non-routine emergent conditions. The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

As documented in NUREG–1493, Type B and C tests have identified a very large percentage of containment leakage paths, and the percentage of containment leakage paths that are detected only by Type A testing is very small. The Calvert Cliffs Unit 1 and 2 Type A test history supports this conclusion.

The integrity of the containment is subject to two types of failure mechanisms that can be categorized as (1) activity based and (2) time based. Activity based failure

mechanisms are defined as degradation due to system and/or component modifications or maintenance. Local leak rate test requirements and administrative controls such as configuration management and procedural requirements for system restoration ensure that containment integrity is not degraded by plant modifications or maintenance activities. The design and construction requirements of the containment combined with the containment inspections performed in accordance with ASME [American Society of Mechanical Engineers] Section Xl, the Maintenance Rule, and TS requirements serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by a Type A test. Based on the above, the proposed extension does not significantly increase the consequences of an accident previously evaluated.

The proposed amendment also deletes exceptions previously granted to allow one time extensions of the ILRT test frequency for both Units 1 and 2 and exceptions from conducting post modification ILRT following replacement of the Units 1 and 2 Steam Generators. These exceptions were for things that have already taken place so their deletion is solely an administrative action that has no effect on any component and no impact on how the units are operated.

Therefore, the proposed change does not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment to the TS involves the extension of the Calvert Cliffs Unit 1 and 2 Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (i.e., no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

The proposed amendment also deletes exceptions previously granted to allow one time extensions of the ILRT test frequency for both Units 1 and 2 and exceptions from conducting post modification ILRT following replacement of the Units 1 and 2 Steam Generators. These exceptions were for things that have already taken place so their deletion is solely an administrative action that does not result in any change in how the units are operated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to TS 5.5.16 involves the extension of the Calvert Cliffs Unit 1 and 2 Type A containment test interval to 15 years and the extension of the Type C test interval to 75 months for selected components. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the TS Containment Leak Rate Testing Program exist to ensure that the degree of containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves only the extension of the interval between Type A containment leak rate tests and Type C tests for Calvert Cliffs Unit 1 and 2. The proposed surveillance interval extension is bounded by the 15 year ILRT Interval and the 75 month Type C test interval currently authorized within NEI [Nuclear Energy Institute] 94–01, Revision 3–A. Industry experience supports the conclusion that Type B and C testing detects a large percentage of containment leakage paths and that the percentage of containment leakage paths that are detected only by Type A testing is small. The containment inspections performed in accordance with ASME Section XI and TS serve to provide a high degree of assurance that the containment would not degrade in a manner that is detectable only by Type A testing. The combination of these factors ensures that the margin of safety in the plant safety analysis is maintained. The design, operation, testing methods and acceptance criteria for Type A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met, with the acceptance of this proposed change, since these are not affected by changes to the Type A and Type C test intervals.

The proposed amendment also deletes exceptions previously granted to allow one time extensions of the ILRT test frequency for both Units 1 and 2 and exceptions from conducting post modification ILRT following replacement of the Units 1 and 2 Steam Generators. These exceptions were for things that have already taken place so their deletion is an administrative action and does not change how the units are operated and maintained, thus there is no reduction in any margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC (EGC), Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2 (NMP1 And NMP2), Oswego County, New York

Date of amendment request: September 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14254A007.

Description of amendment request: The proposed amendments would revise the licensed operator training and qualification education and experience eligibility requirements specified in NMP1 Technical Specification (TS) 6.3.1 and NMP2 TS 5.3.1 to the eligibility requirements specified in this License Amendment Request. The proposed eligibility requirements correspond to the eligibility requirements contained in the current National Academy for Nuclear Training (NANT) Academy Document, ACAD 10–001, ''Guidelines for Initial Training and Qualification of Licensed Operators,'' dated February 2010.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The NRC considered the impact of previously evaluated accidents during the rulemaking process, and by promulgation of the revised 10 CFR 55 rule, determined that this impact remains acceptable when licensees have an accredited licensed operator training program which is based on a Systems Approach to Training (SAT). EGC maintains an Institute of Nuclear Power Operations (INPO) National Academy for Nuclear Training (NANT) accredited program which is based on a SAT. The NRC has concluded in Regulatory Information Summary (RIS) 2001–01, ''Eligibility of Operator License Applicants,'' and NUREG–1021, ''Operator Licensing Examination Standards For Power Reactors,'' that standards and guidelines applied by INPO in their accredited training programs are equivalent to those put forth by or endorsed by the NRC. Therefore, maintaining an INPO accredited SAT-based licensed operator training program is equivalent to maintaining an NRC approved licensed operator training program which conforms to applicable NRC Regulatory Guidelines or NRC endorsed industry standards. The proposed changes conform to NANT ACAD 10–001 licensed operator education and experience eligibility requirements.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment involves changes to the licensed operator training programs, which are administrative in nature. The EGC licensed operator training programs have been accredited by the National Nuclear Accrediting Board (NNAB) and are based on a SAT, which the NRC has previously found to be acceptable.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed TS changes are administrative in nature. The proposed TS changes do not affect plant design, hardware, system operation, or procedures for accident mitigation systems. The proposed changes do not significantly impact the performance or proficiency requirements for licensed operators. As a result, the ability of the plant to respond to and mitigate accidents is unchanged by the proposed TS changes.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Perry, OH

Date of amendment request: September 12, 2014. A publicly-available version is in ADAMS under Accession No. ML14255A150.

Description of amendment request: The proposed amendment modifies the Technical Specification (TS) definition of SHUTDOWN MARGIN (SDM) to require determination of SDM at the temperature that represents the most reactive state throughout the operating cycle. The proposed changes are intended to be consistent with the approved Technical Specification Task Force (TSTF) Traveler TSTF–535, Revision 0.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the definition of Shutdown Margin (SDM). SDM is not an initiator to any accident previously evaluated. Accordingly, the proposed change to the definition of SDM has no effect on the probability of any accident previously evaluated. SDM is an assumption in the analysis of some previously evaluated accidents and inadequate SDM could lead to an increase in consequences for those accidents. However, the proposed change revises the SDM definition to ensure that the correct SDM is determined for all BWR [boiling-water reactor] fuel types at all times during the fuel cycle.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change revises the definition of SDM. The change does not involve a physical alteration of the plant that is, no new or different type of equipment will be installed or a change in the methods governing normal plant operations. The change does not alter assumptions made in the safety analysis regarding SDM.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the definition of SDM. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change ensures that the SDM assumed in determining safety limits, limiting safety system settings or limiting conditions for operation is correct for all BWR fuel types at all times during the fuel cycle.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Travis L. Tate.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Units 3 and 4, Miami-Dade County, Florida

Date of amendment request: August 29, 2014. A publicly-available version is in ADAMS under Accession No. ML14252A230.

Description of amendment request: The amendments would modify the Technical Specifications (TSs) by removing TS 3/4.4.7, ''Chemistry,'' which provides limits on the oxygen, chloride, and fluoride content in the reactor coolant system to minimize corrosion. The licensee requested that these requirements be relocated to the Updated Final Safety Analysis Report (UFSAR) and related procedures and be controlled in accordance with 10 CFR 50.59, ''Changes, tests, and experiments.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change acts to remove current Reactor Coolant System (RCS) chemistry limits and monitoring requirements from the TS and relocate the requirements to the UFSAR and related procedures. Monitoring and maintaining RCS chemistry minimizes the potential for corrosion of RCS piping and components. Corrosion effects are considered a long-term impact on RCS structural integrity. Because RCS chemistry will continue to be monitored and controlled, removing the current TS requirements and relocating the requirements to the UFSAR and related procedures will not present an adverse impact to the RCS and subsequently, will not impact the probability or consequences of an accident previously evaluated. Furthermore, once relocated to the UFSAR and related procedures, changes to RCS chemistry limits and monitoring requirements will be controlled in accordance with 10 CFR 50.59.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change acts to remove current Reactor Coolant System (RCS) chemistry limits and monitoring requirements from the TS and relocate the requirements to the UFSAR and related procedures. The proposed change does not introduce new modes of plant operation and

it does not involve physical modifications to the plant (no new or different type of equipment will be installed). There are no changes in the method by which any safety related plant structure, system, or component (SSC) performs its specified safety function. As such, the plant conditions for which the design basis accident analyses were performed remain valid.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of the proposed change. There will be no adverse effect or challenges imposed on any SSC as a result of the proposed change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to confidence in the ability of the fission product barriers to perform their accident mitigation functions. The proposed change acts to remove current Reactor Coolant System (RCS) chemistry limits and monitoring requirements from the TS and relocate the requirements to the UFSAR and related procedures. The proposed change will maintain limits on RCS chemistry parameters and will continue to provide associated monitoring requirements. The proposed change does not physically alter any SSC. There will be no effect on those SSCs necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, loss of cooling accident peak cladding temperature (LOCA PCT), or any other margin of safety. The applicable radiological dose consequence acceptance criteria will continue to be met.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

Acting NRC Branch Chief: Lisa M. Regner.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station (SSES), Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: August 11, 2014. A publicly-available version is available in ADAMS under Accession No. ML14223A780.

Description of amendment request: The amendment proposes changes to SSES, Units 1 and 2, Technical Specification (TS) 3.4.10, ''RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits,'' which includes revisions to the P/T Limits curves. The primary effect of the revision is to provide P/T Limits curves that extend into the vacuum region to mitigate the risk of a level transient during startup and shutdown.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below, along with NRC edits in square brackets:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes request that the P/T limits curves in TS 3.4.10, ''RCS Pressure and Temperature (P/T) Limits'' be revised by extending each of the P/T Limits curves below 0 psig to allow operation with the RPV [reactor pressure vessel] at a vacuum.

The P/T curves are used as operational limits during heatup or cooldown maneuvering, when pressure and temperature indications are monitored and compared to the applicable curve to determine that operation is within the allowable region. The P/T curves provide assurance that station operation is consistent with previously evaluated accidents.

Thus, the probability of an accident or the radiological consequences of an accident previously evaluated are not significantly increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not change the response of any plant equipment to transient conditions. The proposed changes do not introduce any new equipment, modes of system operation, or failure mechanisms.

Therefore, there are no new types of failures or new or different kinds of accidents or transients that could be created by these changes. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The consequences of a previously evaluated accident are not increased by these proposed changes, since the Loss of Coolant Accident analyzed in the FSAR [Final Safety Analysis Report] assumes a complete break of the reactor coolant pressure boundary. The proposed changes to the P/T Limits curves do not change this assumption.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Bryan A. Snapp, Esquire, Assoc. General Counsel, PPL Services Corporation, 2 North Ninth St., GENTW3, Allentown, PA 18101–1179.

NRC Branch Chief: Meena K. Khanna.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of application for amendment: March 18, 2014.

Brief description of amendment: The amendment adopts Technical Specification (TS) Task Force (TSTF) change traveler TSTF–535, Revision 0, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs,'' at Columbia Generating Station. The notice of availability of TSTF–535, Revision 0, was published in the **Federal Register** on February 26, 2013 (78 FR 13100).

Date of issuance: November 12, 2014.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 228. A publicly-available version is in ADAMS under Accession No. ML14290A360; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–21: The amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register:*** July 22, 2014 (79 FR 42544).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 12, 2014.

No significant hazards consideration comments received: No.

Dominion Energy Kewaunee, Inc. (DEK), Docket No. 50–305, Kewaunee Power Station (KPS), Kewaunee County, Wisconsin

Date of amendment request: January 16, 2014, as supplemented by letters dated June 19, 2014, and September 9, 2014.

Brief description of amendment: The amendment authorizes revision to the Dominion Energy Kewaunee, Inc., emergency plan and emergency action level scheme to conform to the permanent shut down and defueled status of Kewaunee Power Station (KPS). The review considered the storage of spent nuclear fuel in the spent fuel pool and the independent spent fuel storage installation, and the low likelihood of any credible accident resulting in radiological releases requiring offsite protective measures. The U.S. Nuclear Regulatory Commission staff has concluded that the changes to the KPS emergency plan and emergency action level scheme would provide: (1) An adequate basis for an acceptable state of emergency preparedness, and (2) reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency based on the permanently shut down and defueled status of the KPS facility.

Date of issuance: October 31, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 214. A publicly-available version is in ADAMS under Accession No. ML14279A482; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–43: The amendment authorizes revision to the Dominion Energy Kewaunee, Inc., Renewed Facility Operating License emergency plan and emergency action level scheme.

*Date of initial notice in **Federal Register:*** August 5, 2014 (79 FR 45472). The supplemental letters dated June 19, 2014, and September 9, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2014.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: November 26, 2013, as supplemented by letters dated July 11, September 11, October 3, and October 16, 2014.

Brief description of amendment: The amendment revised Technical Specification (TS) 4.3.4, ''Heavy Loads,'' by modifying the limit imposed on the maximum weight that could travel over the irradiated fuel in the spent fuel pool. The amendment also revised TS 4.3.4 to reflect the removal of the energy absorbing pad from the spent fuel pool and installation of a leveling platform.

Date of issuance: October 31, 2014.

Effective date: As of the date of issuance, and shall be implemented prior to the start of the dry cask storage operations.

Amendment No.: 240. A publicly-available version is in ADAMS under Accession No. ML13346A026; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–35: Amendment revised the License and TSs.

*Date of notices in **Federal Register:*** July 22, 2014 (79 FR 42545), as supplemented on September 22, 2014 (79 FR 56608). The supplement dated July 11, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration (NSHC) determination as published in the **Federal Register** on July 22, 2014 (79 FR 42545).

The supplement dated September 11, 2014, expanded the scope of the application as originally noticed and, therefore, the September 11, 2014, supplement was published in the **Federal Register** on September 22, 2014 (79 FR 56608). The supplements dated October 3 and October 16, 2014, provided additional information that clarified the September 11, 2014, supplement, did not expand the scope as noticed, and did not change the NRC staff's proposed NSHC determination as published in the **Federal Register** on September 22, 2014 (79 FR 56608).

No significant hazards consideration comments received: Yes.

The notice provided an opportunity to submit comments on the Commission's proposed NSHC determination. Several comments were received and evaluated.

The Commission's related evaluation of the amendment and final NSHC determination, including the comments received, are contained in a safety evaluation dated October 31, 2014.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: December 19, 2013, as supplemented by letter dated June 25, 2014.

Description of amendment request: The amendment would change the Vermont Yankee Cyber Security Plan Implementation Schedule Milestone 8 full implementation date from December 15, 2015, to June 30, 2016. The amendment would also revise the existing operating license Security Plan license condition.

Date of Issuance: November 7, 2014.

Effective date: As of the date of issuance, and shall be implemented by December 15, 2014.

Amendment No.: 259. A publicly-available version is in ADAMS under Accession No. ML14206A710; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–28: Amendment revised the License.

*Date of initial notice in **Federal Register:*** February 27, 2014 (79 FR 11149). The supplement letter dated

June 25, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated November 7, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York

Date of application for amendment: October 7, 2013, as supplemented by letter dated June 18, 2014.

Brief description of amendment: The amendment modified the Nine Mile Point Units 1 and 2 Technical Specifications (TS) definition of ''Shutdown Margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 °F or a higher temperature that represents the most reactive state throughout the operating cycle. This change is needed to address new Boiling Water Reactor (BWR) fuel designs which may be more reactive at shutdown temperatures above 68 °F.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on November 19, 2012 (77 FR 69507), on possible amendments to revise the plant-specific TS, to modify the TS definition of ''Shutdown Margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 °F or a higher temperature that represents the most reactive state throughout the operating cycle, including a model safety evaluation and model no significant hazards consideration determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on February 26, 2013, (78 FR 13100).

Date of issuance: October 30, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Unit 1: 216, Unit 2: 146. A publicly-available version is in ADAMS under Accession No. ML14248A084; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License No. DPR–63 and NPF–69: Amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register:*** November 12, 2013 (78 FR 67411). The supplemental letter dated June 18, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 2014.

No significant hazards consideration comments received: No

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: October 4, 2013, as supplemented on April 29, 2014.

Brief description of amendment: The amendment changes the Site Emergency Plan (SEP) for the Monticello Nuclear Generating Plant (MNGP) by eliminating the Radwaste Operator position as one of the 60-minute responders.

Date of issuance: October 31, 2014.

Effective date: This amendment is effective as of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 183. A publicly-available version is in the ADAMS under Accession No. ML14196A328; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–22: This amendment revised the MNGP SEP.

*Date of initial notice in **Federal Register:*** July 8, 2014 (79 FR 38591).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2014.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: April 4, 2014.

Brief description of amendment: The amendment revised Technical Specification 3.5.1, ''ECCS [Emergency Core Cooling System]—Operating,'' by removing Condition F. Condition F provides for a 72-hour completion time to restore one core spray subsystem to an operable status when both core spray subsystems are inoperable. NSPM requested approval to remove the option of having a limiting condition of operation with both core spray subsystems inoperable based on an evaluation that at least one core spray subsystem is necessary to maintain adequate post-accident long-term core cooling.

Date of issuance: November 3, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 184. A publicly-available version is in ADAMS under Accession No. ML14246A449; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–22: This amendment revised the Renewed Facility Operating License and the Technical Specifications.

*Date of initial notice in **Federal Register:*** August 19, 2014 (79 FR 49107).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 3, 2014.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1, Washington County, Nebraska

Date of amendment request: February 10, 2014, as supplemented by letter dated June 9, 2014.

Brief description of amendment: The amendment revised Technical Specification Surveillance Requirement 3.2, ''Equipment and Sampling Tests,'' Table 3–5, ''Minimum Frequencies for Equipment Tests,'' Item 3 for the pressurizer safety valves from a refueling frequency (i.e., 18 months ± 25 percent) to be consistent with the Inservice Testing Program, and made editorial changes to Table 3–5.

Date of issuance: November 6, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 277. A publicly-available version is in ADAMS under Accession No. ML14279A275; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** July 8, 2014 (79 FR 38592).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated November 6, 2014.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: March 13, September 25 (two letters for Licensing Amendment Request (LAR) 13–16 and LAR 13–17) and October 3, 2013 (two letters for LAR 13–18 and LAR 13–19), as supplemented by letters dated October 3, 2013, and February 10 and June 6, 2014.

Brief description of amendment: The proposed amendment involves changes to the five Human Factors Engineering (HFE) Reports (Westinghouse Electric Company and the U.S. Nuclear Regulatory Commission reviewed these reports as part of the AP1000 Design Certification Rule) that are incorporated by reference in the VCSNS Updated Final Safety Analysis Report. These are:

- HFE Design Verification Plan (APP–OCS–GEH–120) (LAR 13–16)
- HFE Task Support Verification Plan (APP–OCS–GEH–220) (LAR 13–17)
- HFE Integrated System Validation (APP–OCS–GEH–320) (LAR 13–10)
- Human Engineering Discrepancy Resolution Process (APP–OCS–GEH–420) (LAR 13–18)
- Plant Startup HFE Design Verification Plan (APP–OCS–GEH–520) (LAR 13–19)

Date of issuance: July 31, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 16. A publicly-available version is in ADAMS under Accession No. ML14177A486; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Combined Licenses No. NPF–93 and NPF–94: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register:*** May 28, 2013 (78 FR 31984 for LAR 13–10), November 12, 2013 (78 FR 67412 for LAR 13–16, 78 FR 67411 for LAR 13–17, 78 FR 67413 for LAR 13–18, and 78 FR 67413 for LAR 13–19).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 2014.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas, Inc. Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: July 17, 2013, as supplemented by letters dated July 8, and July 11, 2014.

Brief description of amendment: The amendment revises Tier 2* and associated Tier 2 information, incorporated into the VCSNS Units 2 and 3 Updated Final Safety Analysis Report (UFSAR). Specifically, the amendment revises the following information related to fire area boundaries: (1) Various Annex Building and Turbine Building layout changes, (2) Turbine Building Stairwell S08 changes to support egress functions, and (3) an Annex Building Heating, Ventilation and Air Conditioning shaft UFSAR figure clarification.

Date of issuance: September 9, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 17. A publicly-available version is in ADAMS under Accession No. ML14218A687; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Combined Licenses No. NPF–93 and NPF–94: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register:*** October 1, 2013 (78 FR 60321). The supplements dated July 8 and July 11, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 9, 2014.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: April 29, 2014, as supplemented by letter dated May 27, 2014.

Brief description of amendment: The amendments revised the Cyber Security Plan Implementation Milestone No. 8 completion date and the physical protection license condition.

Date of issuance: September 29, 2014.

Effective date: As of its date of issuance and shall be implemented within 90 days.

Amendment Nos.: Unit 1–286, Unit 2–312, and Unit 3–217. A publicly-available version is in ADAMS under Accession No. ML14247A536; documents related to these amendments are listed in the Safety Evaluation (SE) enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–33, DPR–52, and DPR–68. The amendments revised the Operating Licenses.

Date of initial notice in ***Federal Register:*** July 8, 2014 (79 FR 38582). The supplemental letter dated May 27, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in the SE dated September 29, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 17th day of November 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–27630 Filed 11–24–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on December 3, 2014, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, December 3, 2014—12:00 p.m. until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2014 (79 FR 59307–59308).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: November 19, 2014.

Kathy D. Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–27961 Filed 11–24–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS Subcommittee on Metallurgy & Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Metallurgy & Reactor Fuels will hold a meeting on December 2, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, December 2, 2014—1:00 p.m.–5:00 p.m.

The Subcommittee will review Draft Regulatory Guide DG–1309, ''Guidelines for Evaluating the Effects of Light-Water Reactor Coolant Environments in Fatigue Analyses of Metal Components.'' The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: November 19, 2014.

Kathy D. Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–27962 Filed 11–24–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 4–6, 2014, 11545 Rockville Pike, Rockville, Maryland.

Thursday, December 4, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Proposed Rule for Mitigation of Beyond-Design-Basis Events (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding the proposed rule for mitigation of beyond-design-basis events (Near Term Task Force Recommendations 4, 7, 8, 9.1, 9.2, and 9.3). [**Note:** A portion of this meeting may be closed to protect unclassified safeguards information pursuant to 5 U.S.C. 552b(c)(3)]

10:45 a.m.–12:15 p.m.: Integration of Mitigating Strategies for Beyond-Design-Basis External Events and the Reevaluation of Flooding Hazards (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding the integration of mitigating strategies for beyond-design-basis external events and the reevaluation of flooding hazards.

1:15 p.m.–3:15 p.m.: Regulatory Gap Analysis of the Nuclear Regulatory Commission's Cost Benefit Guidance and Practices (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding the regulatory gap analysis of the NRC's cost benefit guidance and practices.

3:30 p.m.–5:00 p.m.: Branch Technical Position (BTP) 8–9, ''Open Phase Conditions in Electric Power System'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding draft BTP 8–9, ''Open Phase Conditions in Electric Power System,'' in Chapter 8, ''Electric Power,'' of the Standard Review Plan (SRP) for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition (NUREG–0800).

5:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

[**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

Friday, December 5, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:00 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

10:30 a.m.–12:00 p.m.: NRC Review Process for ASME (American Society of Mechanical Engineers) Code Cases (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff regarding the NRC staff review process for ASME code cases.

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

Saturday, December 6, 2014, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

11:30 a.m.–12:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: November 19, 2014.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2014–27959 Filed 11–24–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS), Meeting of the ACRS Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on December 3, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, December 3, 2014—8:30 a.m. until 12:00 p.m.

The Subcommittee will discuss the Braidwood Units 1 and 2 and Byron

Units 1 and 2 Combined License Renewal Applications. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Exelon Generation Company, and other interested persons regarding this matter. The combined Subcommittees will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Kent Howard (Telephone 301–415–2989 or Email: *Kent.Howard@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 13, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: November 19, 2014.

Kathy D. Weaver,

Acting Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–27964 Filed 11–24–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATES: Weeks of November 24, December 1, 8, 15, 22, 29, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of November 24, 2014

There are no meetings scheduled for the week of November 24, 2014.

Week of December 1, 2014—Tentative

There are no meetings scheduled for the week of December 1, 2014.

Week of December 8, 2014—Tentative

There are no meetings scheduled for the week of December 8, 2014.

Week of December 15, 2014—Tentative

Tuesday, December 16, 2014

9:00 a.m. Update on Research and Test Reactor Initiatives (Public Meeting) (Contact: Alexander Adams, 301–415–1127)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/*.

Thursday, December 18, 2014

9:30 a.m. Briefing on Equal Employment Opportunity, Diversity, and Small Business Programs (Public Meeting) (Contact: Larniece McKoy Moore, 301–415–1942)

This meeting will be Webcast live at the Web address—*http://www.nrc.gov/*.

Week of December 22, 2014—Tentative

There are no meetings scheduled for the week of December 22, 2014.

Week of December 29, 2014—Tentative

There are no meetings scheduled for the week of December 29, 2014.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at (301) 415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

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ADDITIONAL INFORMATION: The Briefing on Equal Employment Opportunity, Diversity, and Small Business Programs on December 11, 2014, has been rescheduled on December 18, 2014.

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The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/public-involve/public-meetings/schedule.html.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov.*

Dated: November 20, 2014.

Richard J. Laufer,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2014–27974 Filed 11–21–14; 11:15 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

[OPIC–162; OMB–3420–0019]

Submission for OMB Review–Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the

Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within 60 calendar-days of publication of this Notice.

ADDRESSES: Copies of the subject form may be obtained from the Agency submitting officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Renewal of an information collection without change.

Title: Self-Monitoring Questionnaire.

Form Number: OPIC–162.

Frequency of Use: One per investor per project per year.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 1,860 (4 hours per form).

Number of Responses: 465 per year.

Federal Cost: $47,356.

Authority for Information Collection: Sections 231, 231A, 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Self Monitoring Questionnaire is the principal document used by OPIC to monitor the developmental effects of OPIC's investment projects, monitor the economic effects on the U.S. economy, and collect information on compliance with environmental and labor policies.

Dated: November 17, 2014.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2014–27627 Filed 11–24–14; 8:45 am]

BILLING CODE 3195–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

[OPIC–248; OMB–3420–0032]

Submission for OMB Review; Comments Request

AGENCY: Overseas Private Investment Corporation (OPIC).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is renewing an information collection for OMB review and approval and requests public review and comment on the submission. Comments are being solicited on the need for the information; the accuracy of the Agency's burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received within 60 calendar-days of publication of this Notice.

ADDRESSES: Copies of the subject form may be obtained from the Agency submitting officer.

FOR FURTHER INFORMATION CONTACT: OPIC Agency Submitting Officer: Essie Bryant, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; (202) 336–8563.

Summary Form Under Review

Type of Request: Renewal of an information collection without change.

Title: Office of Investment Policy Questionnaire.

Form Number: OPIC–248.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institution (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 552 (2.4 hours per project)

Number of Responses: 230 per year.

Federal Cost: $23,424.

Authority for Information Collection: Sections 231, 231A, 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The Office of Investment Policy Questionnaire is the principal document used by OPIC to prepare a developmental impact profile and determine the projected impact on the United States, as well as to determine the project's compliance with environmental and labor policies, as consistent with OPIC's authorizing legislation.

Dated: November 17, 2014.

Nichole Cadiente,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2014–27628 Filed 11–24–14; 8:45 am]

BILLING CODE 3195–01–M

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery 3206–0257

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Office of the Chief Information Officer, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR) 3206–0257, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on September 12, 2014 (79 FR 54753) allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until December 26, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of the Chief Information Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: PRA Officer for the Office of Personnel Management or sent via electronic mail to *PRA@opm.gov*.

SUPPLEMENTARY INFORMATION: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Office of Personnel Management and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Office of Personnel Management's services will be unavailable.

The Office of Personnel Management will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Office of the Chief Information Officer, Office of Personnel Management.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 3206–0257.

Affected Public: General public.

Number of Respondents: 691,631.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 119,394 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–27953 Filed 11–24–14; 8:45 am]

BILLING CODE 6325–47–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from August 1, 2014, to August 31, 2014.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A authorities to report during August 2014.

Schedule B

No Schedule B authorities to report during August 2014.

Schedule C

The following Schedule C appointing authorities were approved during August 2014.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Office of the Under Secretary for Research, Education, and Economics.	Confidential Assistant	DA140100	8/4/2014
	Foreign Agricultural Service	Minister Counselor of Agriculture	DA140105	8/18/2014
	Office of the Assistant Secretary for Congressional Relations.	Confidential Assistant	DA140106	8/19/2014
		Legislative Analyst	DA140107	8/19/2014
	Office of Communications	Speech Writer	DA140110	8/22/2014
		Scheduler	DA140111	8/27/2014
DEPARTMENT OF COMMERCE	International Trade Administration	Senior Advisor (2)	DC140147	8/4/2014
			DC140155	8/26/2014
	National Oceanic and Atmospheric Administration.	Senior Advisor to the Under Secretary.	DC140148	8/4/2014
	Office of the Chief of Staff	Confidential Assistant	DC140152	8/15/2014
		Special Assistant	DC140158	8/25/2014
	Office of Under Secretary	Senior Advisor for Oceans and Atmosphere.	DC140151	8/18/2014
		Senior Advisor to the Under Secretary.	DC140159	8/28/2014
	Office of Public Affairs	Press Assistant	DC140153	8/18/2014
	Office of Legislative and Intergovernmental Affairs.	Director of Legislative Outreach	DC140154	8/18/2014
	Economic Development Administration.	Special Advisor	DC140150	8/20/2014
COMMODITY FUTURES TRADING COMMISSION.	Office of the Chairperson	Executive Assistant	CT140010	8/20/2014
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Commissioners	Special Assistant	PS140011	8/15/2014
		Special Assistant (Legal)	PS140012	8/20/2014
DEPARTMENT OF DEFENSE	Washington Headquarters Services	Defense Fellow	DD140128	8/12/2014
	Office of the Secretary	Special Assistant	DD140133	8/15/2014
DEPARTMENT OF EDUCATION	Office of the Deputy Secretary	Confidential Assistant	DB140100	8/6/2014
	Office of the Secretary	Special Assistant (2)	DB140099	8/7/2014
			DB140103	8/21/2014
	Office of Planning, Evaluation and Policy Development.	Special Assistant	DB140102	8/21/2014
DEPARTMENT OF ENERGY	Office of Management	Special Assistant	DE140095	8/12/2014
EXECUTIVE OFFICE OF THE PRESIDENT.	Council on Environmental Quality, Executive Office of the President.	Special Assistant (Energy/Climate Change).	OP140003	8/15/2014
FEDERAL ENERGY REGULATORY COMMISSION.	Federal Energy Regulatory Commission.	Confidential Assistant	DR140006	8/13/2014
		Program Analyst	DR140007	8/13/2014
FEDERAL HOUSING FINANCE AGENCY.	Federal Housing Finance Agency	Chief of Staff	HA140005	8/18/2014
GENERAL SERVICES ADMINISTRATION.	Regional Administrators	Special Assistant	GS140049	8/15/2014
	Office of Congressional and Intergovernmental Affairs.	Policy Advisor	GS140051	8/27/2014
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Intergovernmental and External Affairs.	Regional Director, New York, New York, Region II.	DH140116	8/4/2014
	Administration for Community Living.	Special Assistant	DH140117	8/4/2014
	Office of the Assistant Secretary for Preparedness and Response.	Special Assistant for Preparedness and Response.	DH140122	8/22/2014
DEPARTMENT OF HOMELAND SECURITY.	Office of the Under Secretary for National Protection and Programs Directorate.	Confidential Assistant	DM140218	8/7/2014
	Office of the Chief of Staff	Travel Operations Coordinator	DM140223	8/12/2014
	Office of the Assistant Secretary for Policy.	Policy Advisor	DM140227	8/21/2014
	Office of the Assistant Secretary for Public Affairs.	Press Secretary	DM140231	8/21/2014
		Press Assistant	DM140233	8/22/2014
		Assistant Press Secretary	DM140235	8/22/2014
	Office of the Assistant Secretary for Intergovernmental Affairs.	Intergovernmental Affairs Coordinator.	DM140228	8/28/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Secretary	Senior Policy Advisor	DU140042	8/7/2014
	Office of the Chief Human Capital Officer.	Director of Scheduling	DU140043	8/20/2014

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of Congressional and Intergovernmental Relations.	Senior Advisor	DU140045	8/20/2014
	Office of Administration	Scheduling and Advance Coordinator.	DU140047	8/27/2014
DEPARTMENT OF THE INTERIOR	Secretary's Immediate Office	Director of Digital Strategy	DI140066	8/11/2014
DEPARTMENT OF JUSTICE	Civil Rights Division	Senior Counsel	DJ140095	8/13/2014
	Office of Legislative Affairs	Confidential Assistant	DJ140110	8/15/2014
	Office of the Attorney General	Deputy White House Liaison	DJ140109	8/18/2014
		Director of Advance	DJ140116	8/26/2014
	Antitrust Division	Chief of Staff	DJ140114	8/20/2014
	Office of Justice Programs	Policy Advisor	DJ140117	8/25/2014
	Office of Legal Policy	Senior Counsel	DJ140115	8/26/2014
DEPARTMENT OF LABOR	Office of Congressional and Intergovernmental Affairs.	Legislative Officer	DL140080	8/5/2014
		Senior Legislative Officer	DL140086	8/5/2014
		Senior Legislative Assistant	DL140078	8/6/2014
	Occupational Safety and Health Administration.	Chief of Staff	DL140089	8/7/2014
	Office of the Secretary	Chief Economist	DL140090	8/18/2014
		Advisor	DL140091	8/28/2014
		Special Assistant (2)	DL140092	8/27/2014
			DL140093	8/28/2014
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of General Counsel	Special Projects Coordinator	NN140063	8/25/2014
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts	Scheduler (2)	NA140007	8/18/2014
			NA140009	8/21/2014
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Special Assistant	TS140006	8/5/2014
SECURITIES AND EXCHANGE COMMISSION.	Office of the Chief Accountant	Director, Office of the Chief Accountant.	SE140004	8/18/2014
DEPARTMENT OF STATE	Office of the United States Aids Coordinator.	Staff Assistant	DS140113	8/1/2014
	Office of International Information Programs.	Staff Assistant	DS140123	8/20/2014
	Office of the Under Secretary for Economic Growth, Energy, and the Environment.	Senior Advisor	DS140124	8/20/2014
	Bureau of African Affairs	Staff Assistant	DS140125	8/29/2014
DEPARTMENT OF TRANSPORTATION.	Office of the Secretary	Deputy White House Liaison	DT140050	8/18/2014
	Immediate Office of the Administrator.	Associate Administrator for Governmental, International, and Public Affairs.	DT140051	8/18/2014
DEPARTMENT OF THE TREASURY.	Office of the Assistant Secretary (Legislative Affairs).	Special Assistant	DY140108	8/4/2014
	Office of the Assistant Secretary (Public Affairs).	Spokesperson	DY140113	8/6/2014
	Office of the Secretary of the Treasury.	Special Assistant (2)	DY140114	8/6/2014
			DY140116	8/20/2014

The following Schedule C appointing authorities were revoked during August 2014.

Agency	Organization name	Position title	Authorization number	Vacate date
DEPARTMENT OF AGRICULTURE	Office of the Under Secretary for Rural Development.	Chief of Staff	DA110018	8/1/2014
DEPARTMENT OF COMMERCE	Office of Executive Secretariat	Confidential Assistant	DC130017	8/9/2014
	Office of the Chief of Staff	Confidential Assistant	DC140031	8/22/2014
	Bureau of the Census	Chief of Congressional Affairs	DC090152	8/23/2014
	National Oceanic and Atmospheric Administration.	Senior Policy Advisor	DC120036	8/23/2014
COMMISSION ON CIVIL RIGHTS	Commissioners	Special Assistant to the Commissioner.	CC130006	8/14/2014
DEPARTMENT OF EDUCATION	Office of the Secretary	Director, Scheduling and Advance	DB130012	8/9/2014
	Office of the Deputy Secretary	Confidential Assistant	DB130037	8/9/2014
	Office of the Under Secretary	Special Assistant	DB090133	8/15/2014

Agency	Organization name	Position title	Authorization number	Vacate date
DEPARTMENT OF ENERGY	Assistant Secretary for Congressional and Intergovernmental Affairs.	Special Assistant	DE120019	8/16/2014
FEDERAL ENERGY REGULATORY COMMISSION.	Office of the Chairman	Confidential Assistant	DR130006	8/23/2014
		Program Analyst	DR130007	8/23/2014
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Assistant Secretary for Public Affairs.	Communications Director for Health Care.	DH110106	8/1/2014
	Office of the Secretary	Special Assistant	DH140019	8/8/2014
	Office of the Assistant Secretary for Public Affairs.	Communications Director for Public Health.	DH120004	8/22/2014
DEPARTMENT OF HOMELAND SECURITY.	Office of the Under Secretary for Intelligence and Analysis.	Deputy Chief of Staff	DM140010	8/5/2014
	Office of the Assistant Secretary for Public Affairs.	Assistant Press Secretary	DM120084	8/9/2014
	Office of the Under Secretary for National Protection and Programs Directorate.	Cyber Security Strategist	DM130098	8/9/2014
	Office of the Assistant Secretary for Intergovernmental Affairs.	Intergovernmental Affairs Coordinator.	DM130061	8/22/2014
	Office of the Assistant Secretary for Policy.	Advisor to the Assistant Secretary for International Affairs and Chief Diplomatic Officer.	DM120079	8/23/2014
	Office of the Assistant Secretary for Public Affairs.	Deputy Press Secretary	DM120114	8/23/2014
	Office of the Assistant Secretary for Public Affairs.	Press Secretary	DM130168	8/23/2014
	Federal Emergency Management Agency.	Associate Director for Public Affairs/Press Secretary.	DM130178	8/23/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Chief Human Capital Officer.	Director of Scheduling	DU130030	8/23/2014
DEPARTMENT OF THE INTERIOR	Bureau of Safety and Environmental Enforcement.	Special Assistant to the Director	DI120033	8/9/2014
DEPARTMENT OF JUSTICE	Office of the Attorney General	Director of Advance	DJ140094	8/8/2014
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts	Scheduler	NA140007	8/25/2014
OFFICE OF MANAGEMENT AND BUDGET.	Office of the Director	Assistant to the Deputy Director	BO130026	8/9/2014
SMALL BUSINESS ADMINISTRATION.	Office of Congressional and Legislative Affairs.	Legislative Policy Advisor	SB140019	8/8/2014
	Office of the Administrator	Deputy Scheduler	SB130023	8/23/2014
		Director of Scheduling, Operations, and Advance.	SB140033	8/23/2014
DEPARTMENT OF STATE	Bureau of Conflict and Stabilization Operations.	Director of Policy and Programs	DS120068	8/9/2014

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–27934 Filed 11–24–14; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Public Availability of FY 2013 Service Contract Inventories

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (*Pub. L. 111–117*), the U.S. Office of Personnel Management is publishing this notice to advise the public of the availability of the FY 2013 Service Contract Inventory. This inventory provides information on FY 2013 service contract actions over $25,000. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The U.S. Office of Personnel Management has posted its inventory and a summary of the inventory on the Office of Personnel Management's homepage at the following link: *http://www.opm.gov/about-us/doing-business-with-opm/contracting-opportunities/#url=Business-Opportunities.*

FOR FURTHER INFORMATION CONTACT: William Neal Patterson at (202) 606–1984 or by mail at U.S. Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415. Please cite ''2013 Service Contract Inventory'' in all correspondence.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–27951 Filed 11–24–14; 8:45 am]

BILLING CODE 6325–44–P

OFFICE OF PERSONNEL MANAGEMENT

Senior Executive Service-Performance Review Board

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the OPM Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Carmen Garcia, Employee Services—OPM Human Resources, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, (202) 606–4999.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and considers recommendations to the appointing authority regarding the performance of the senior executive.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

The following have been designated as members of the Performance Review Board of the U.S. Office of Personnel Management:

Ann Marie Habershaw, Chief of Staff
Angela Bailey, Chief Operating Officer
Dennis Coleman, Chief Financial Officer
Jonathan Foley, Director—Office of Planning and Policy Analysis
Joseph Kennedy, Associate Director for Human Resources Solutions
Mark Reinhold, Associate Director for Employee Services and Chief Human Capital Officer
Kamala Vasagam, General Counsel
Veronica Villalobos, Director—Office of Diversity and Inclusion
Andrea Bright, Deputy Associate Director for Human Resources—Executive Secretariat

[FR Doc. 2014–27950 Filed 11–24–14; 8:45 am]

BILLING CODE 6325–45–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–8; Order No. 2254]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning removal of Return Receipt for Merchandise service from the Mail Classification Schedule. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 3, 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:

Table of Contents

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On November 17, 2014, the Postal Service filed a formal request to remove Return Receipt for Merchandise service from the Mail Classification Schedule (MCS).[1]

To support its Request, the Postal Service filed a copy of the Governors' Decision authorizing the request, a Statement of Supporting Justification required by 39 CFR 3020.32, and proposed changes to the MCS.

The Postal Service seeks to remove Return Receipt for Merchandise service from both the Market Dominant and Competitive parts of the MCS. Request at 1; Attachment C. The Postal Service notes that the service does not provide purchasers with the ability to track packages online and is therefore outdated given the availability of alternative Ancillary Services that provide overlapping or improved features compared to those offered by Return Receipt for Merchandise. *Id.* at 2. The Postal Service states that the volumes and revenues for the service have declined over the past few years and that removal would allow the Postal Service to simplify the entire Ancillary Services product. *Id.* 2–3. The Postal Service also asserts that removal of the service will improve customer satisfaction by requiring customers to adopt alternative services that provide online tracking and other improved features. *Id.* at 3.

[1] Request of the United States Postal Service to Remove Return Receipt for Merchandise Service from the Mail Classification Schedule, November 17, 2014 (Request).

II. Notice of Filings

The Commission establishes Docket No. MC2015–8 to consider the Request pertaining to the proposed removal of Return Receipt for Merchandise service from the MCS.

Interested persons may submit comments on whether the Postal Service's filings in the captioned docket are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3010, 39 CFR part 3015, and 39 CFR part 3020, subpart B and subpart E. Comments are due no later than December 3, 2014. The public portions of the filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Anne C. O'Connor to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2015–8 to consider the Postal Service's Request.
2. Pursuant to 39 U.S.C. 505, Anne C. O'Connor is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are due no later than December 3, 2014.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–27812 Filed 11–24–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Removal of Return Receipt for Merchandise Service From the Market-Dominant Product List

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service hereby provides notice that it has filed a request with the Postal Regulatory Commission to remove Return Receipt for Merchandise service from the Mail Classification Schedule's market-dominant product list.

DATES: *Effective date:* November 25, 2014.

FOR FURTHER INFORMATION CONTACT: John F. Rosato, 202–268–8597, or *john.f.rosato@usps.gov.*

SUPPLEMENTARY INFORMATION: On November 17, 2014, the United States Postal Service® (Postal Service) filed a request with the Postal Regulatory Commission to remove Return Receipt for Merchandise service from the Mail Classification Schedule's market-dominant product list, pursuant to 39 U.S.C. 3642. Approval of this request would simplify the Postal Service's Ancillary Services product by recognizing that: (1) Return Receipt for Merchandise service has become outmoded; and (2) equivalent or improved product features can be obtained by transitioning to Signature Confirmation™ service or Certified Mail® service (return receipt requested). Interested persons may comment on, or view documents pertinent to, this request at *http://www.prc.gov*, Docket No. MC2015–8.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–27805 Filed 11–24–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Transfer of First-Class Mail® Parcels to the Competitive Product List

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service hereby provides notice that it has filed a request with the Postal Regulatory Commission to transfer First-Class Mail Parcels from the Mail Classification Schedule's Market-Dominant Product List to its Competitive Product List.

DATES: *Effective date:* November 25, 2014.

FOR FURTHER INFORMATION CONTACT: John F. Rosato, 202–268–8597, or *john.f.rosato@usps.gov*.

SUPPLEMENTARY INFORMATION: On November 14, 2014 the United States Postal Service® filed a request with the Postal Regulatory Commission to transfer First-Class Mail Parcels from the Mail Classification Schedule's market-dominant product list to its competitive product list, pursuant to 39 U.S.C. 3642. The transfer would: (1) Remove First-Class Mail Parcels from the Market-Dominant Product List; and (2) replace it with a new ''retail'' subcategory within the competitive product list's First-Class Package Service product. The new retail subcategory would provide the same service standards and pricing structure as the current First-Class Mail Parcels product. Documents pertinent to this request are available at *http://www.prc.gov*, Docket No. MC2015–7.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–27806 Filed 11–24–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73641; File No. 4–678]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and the Miami International Securities Exchange, LLC

November 19, 2014.

On October 14, 2014, Miami International Securities Exchange, LLC (''MIAX'') and the Financial Industry Regulatory Authority, Inc. (''FINRA'') (together with MIAX, the ''Parties'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a plan for the allocation of regulatory responsibilities, dated October 13, 2014 (''17d–2 Plan'' or the ''Plan''). The Plan was published for comment on October 23, 2014.[1] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Securities Exchange Act of 1934 (''Act''),[2] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[3] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[4] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[5] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[6] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[7] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[8] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and

[1] *See* Securities Exchange Act Release No. 73383 (October 17, 2014), 79 FR 63448.

[2] 15 U.S.C. 78s(g)(1).

[3] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[4] 15 U.S.C. 78q(d)(1).

[5] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[6] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[7] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[8] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are common members of both MIAX and FINRA.[9] Pursuant to the proposed 17d–2 Plan, FINRA would assume certain examination and enforcement responsibilities for common members with respect to certain applicable laws, rules, and regulations. The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (Miami International Securities Exchange, LLC Rules Certification for 17d–2 Agreement with FINRA, referred to herein as the ''Certification'') that lists every MIAX rule for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to MIAX members that are also members of FINRA and the associated persons therewith (''Dual Members'').

Specifically, under the 17d–2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of MIAX that are substantially similar to the applicable rules of FINRA,[10] as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification (''Common Rules''). In the event that a Dual Member is the subject of an investigation relating to a transaction on MIAX, the plan acknowledges that MIAX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.[11]

Under the Plan, MIAX would retain full responsibility for surveillance, examination and enforcement with respect to trading activities or practices involving MIAX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties and obligations as a DEA pursuant to Rule 17d–1 under the Act; and any MIAX rules that are not Common Rules.[12]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[13] and Rule 17d–2(c) thereunder[14] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for common members that would otherwise be performed by MIAX and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to common members. Furthermore, because MIAX and FINRA will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that, under the Plan, MIAX and FINRA have allocated regulatory responsibility for those MIAX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a common member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Plan, MIAX will review the Certification, at least annually, or more frequently if required by changes in either the rules of MIAX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add MIAX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete MIAX rules included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be MIAX rules that are substantially similar to FINRA rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. Under the Plan, MIAX will also provide FINRA with a current list of common members and shall update the list no less frequently than once each quarter.[16] The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective a Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all MIAX rules that are substantially similar to the rules of FINRA for common members of MIAX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to MIAX rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a MIAX rule to the Certification that is not substantially similar to a FINRA rule; delete a MIAX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a MIAX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[17]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–678. The Parties shall notify all

[9] The proposed 17d–2 Plan refers to these common members as ''Dual Members.'' *See* Paragraph 1(c) of the proposed 17d–2 Plan.

[10] *See* paragraph 1(b) of the proposed 17d–2 Plan (defining Common Rules). *See also* paragraph 1(f) of the proposed 17d–2 Plan (defining Regulatory Responsibilities). Paragraph 2 of the Plan provides that annually, or more frequently as required by changes in either MIAX rules or FINRA rules, the parties shall review and update, if necessary, the list of Common Rules. Further, paragraph 3 of the Plan provides that MIAX shall furnish FINRA with a list of Dual Members, and shall update the list no less frequently than once each calendar quarter.

[11] *See* paragraph 6 of the proposed 17d–2 Plan.

[12] *See* paragraph 2 of the proposed 17d–2 Plan.

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Plan.

[16] *See* paragraph 3 of the Plan.

[17] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, common members, also would constitute an amendment to the Plan.

members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–678, between FINRA and MIAX, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

It is further ordered that MIAX is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4–678.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73647; File No. SR–NASDAQ–2014–087]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt an All-Inclusive Annual Listing Fee and Modify Certain Other Listing Fees

November 19, 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 7, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt an all-inclusive annual listing fee and modify certain other listing fees. While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on January 1, 2015.

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, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to adopt an all-inclusive annual listing fee, which will simplify billing and provide transparency and certainty to companies as to the annual cost of listing, modify annual fees for listed companies that remain on the existing fee schedule, and clarify certain fee rules.

Nasdaq understands from speaking with listed companies that many companies object to the number and in some cases the variable nature of certain of Nasdaq's listing fees. For example, a company may owe fees when it issues additional shares as a result of events that do not raise money and cannot always be forecasted or budgeted for by the company, such as the exercise by employees of stock options or the implementation of a reverse stock split. To address such concerns, Nasdaq has determined to create an alternative fee schedule, which eliminates fees related to the issuance of additional shares, record-keeping changes, and substitution listing events, thereby simplifying and clarifying for companies the annual fees to which they are subject. In addition, under this alternative fee structure, Nasdaq will also eliminate the fee for a written interpretation of the listing rules and for review by Nasdaq Staff of a compliance plan. As a result, companies subject to this alternative structure will pay only a single annual fee to Nasdaq, which will include all the ordinary costs of listing for the year.[3] This change will also benefit Nasdaq, by eliminating the multiple invoices that must be sent to a company each year[4] and providing more certainty as to revenue.

As detailed in the charts below, for companies listed on the Capital Market, other than ADRs and Closed-end Funds, the all-inclusive annual fee will range from $42,000 to $75,000; for ADRs listed on the Capital Market the all-inclusive annual fee will range from $37,000 to $45,000. On the Global and Global Select Markets, the all-inclusive annual fee for companies other than ADRs and Closed-end Funds will range from $45,000 to $155,000 and the all-inclusive annual fee for ADRs will range from $45,000 to $75,000. The all-inclusive annual fee for Closed-end Funds listed on any market tier will range from $30,000 to $100,000. In each case, a company's all-inclusive annual fee will be based on its total shares outstanding.[5]

While this alternative is being introduced in response to feedback from Nasdaq's listed-companies, Nasdaq also understands that this innovation may not be appealing to all companies and therefore proposes to allow currently listed companies the option to switch to the proposed all-inclusive annual fee schedule for 2015 or to wait until 2018, when it will become mandatory for all companies. However, Nasdaq will offer incentives to companies that voluntarily elect the all-inclusive annual fee schedule for 2015.[6] Specifically, any company that chooses to be subject to

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[18] 17 CFR 200.30–3(a)(34).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A company that receives a delisting determination or public reprimand letter must still pay fees for review of that decision by an independent Hearings Panel or the Nasdaq Listing and Hearing Review Council. Companies also will pay application and entry fees to list new classes of securities.

[4] In addition to the annual fee, companies are also billed quarterly for listing of additional shares fees and upon the occurrence of events that result in record keeping and substitution listing fees.

[5] In establishing the fee changes described in this rule filing, including the changes to the number and cut-off point of pricing tiers, Nasdaq considered various factors that distinguish companies, including market tier, shares outstanding, and security type, as well as the perceived use of various Nasdaq regulatory and support services by companies of various characteristics. Pricing for similar securities on other national securities exchanges was also considered. Based on this analysis, Nasdaq proposes to modify the number of fee tiers within the annual fee schedule to better align fees with the size of the companies that pay those fees and the use Nasdaq believes that companies of various sizes typically make of Nasdaq's services. In setting the all-inclusive annual fee, Nasdaq reviewed the billing history of more than 1,800 companies that had been listed on Nasdaq for at least four years to determine the fees assessed these companies for all listing-related services, including those assessed for listing of additional shares, record-keeping changes, substitution listing events, rule interpretations, and compliance plan reviews. Nasdaq established the all-inclusive annual fee for each security type and shares outstanding tier based on this analysis of historical fees paid and regulatory services used, taking into account the changes also proposed to the annual fee schedule.

[6] Companies may make this election on the NASDAQ OMX Listing Center Web site. A copy of the electronic form that will be used for this purpose is attached to the rule filing as Exhibit 3.

the all-inclusive annual fee beginning in 2015 will be billed for 2015, 2016 and 2017 based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of December 31, 2014. As such, regardless of any increase in the company's shares outstanding during that time, the tier upon which its all-inclusive annual fee is based will not increase until at least January 1, 2018. In addition, because listing of additional shares fees are billed based on a company's public filings, share changes in the last reporting period of 2014 could be billed after the company has opted in and, in many cases, not until 2015. In order to eliminate confusion by companies that elect to pay the all-inclusive annual fee, and therefore believe they should not receive any further listing of additional shares fee bills, Nasdaq proposes to forgive these listing of additional shares fees. Specifically, a company that elects to be subject to the all-inclusive annual fee will not be billed for listing of additional shares after it notifies Nasdaq of its election by filing the required form. As such, fees for shares issued in the final period of 2014, which otherwise could be billed during 2015, will be forgiven. Nasdaq does not believe that these incentives will have any adverse impact on the amount of funds available for its regulatory programs.

All companies that list after January 1, 2015 will be subject to the proposed all-inclusive annual fee. However, Nasdaq acknowledges that companies that have already applied to list, or apply in the near term, may have made their listing decision based on Nasdaq's current fee schedule. As such, Nasdaq proposes to make the following accommodation for any company that applied to list on Nasdaq prior to January 1, 2015, and lists after that date. Until December 31, 2017, such an applicant will be billed the all-inclusive annual fee based on the lower of its then-current total shares outstanding or the total shares outstanding reflected in information held by Nasdaq as of the date of listing. As such, regardless of any increase in shares outstanding, the tier upon which the all-inclusive annual fee is based for such companies will not increase until at least January 1, 2018.

The proposed rule change also raises the annual fees that will be paid by listed companies that remain on the existing fee schedule. The annual fee paid by most Capital Market companies last increased effective January 1, 2013.[7] Fees have not been increased on Global Market companies since January 1, 2010.[8] Since then, Nasdaq has invested in upgrades to the NASDAQ MarketSite, which houses a state-of-the-art digital broadcast studio and can be utilized as a New York venue by listed companies, and the MarketSite Tower. In addition, Nasdaq has invested in its online tools, including the Listing Center and Reference Library. The Listing Center allows companies to submit their notifications to Nasdaq electronically, using on-line forms that are pre-populated with much of the required information. The Reference Library contains more than 400 frequently asked questions describing the application of the listing rules, and summaries of approximately 450 interpretive letters and decisions of the Nasdaq Listing and Hearing Review Council. These tools, which provide transparency to the application of the listing rules and simplify some burdens of being a listed company, have had approximately 440,000 page views from January 1 to July 31, 2014. Nasdaq believes it is appropriate to modify its fees to allow continued investment in these initiatives and other innovative ideas that benefit listed companies and enhance the effectiveness of Nasdaq's regulatory program.[9]

The revised annual fees for most companies listed on the Capital Market will range from $32,000 to $45,000 based on total shares outstanding, compared with the current $32,000. The revised annual fees for most companies listed on the Global or Global Select Markets will range from $40,000 to $125,000 based on total shares outstanding, compared with the current range of $35,000 to $99,500.

The following charts summarize the current annual fee, the proposed annual fee and the proposed all-inclusive annual fee applicable to domestic and foreign companies, ADRs, and Closed-end Funds.

The revised fees for domestic and foreign companies, other than ADRs and Closed-end Funds, are as follows:

Total shares outstanding	2014 annual fee *	2015 annual fee *	2015 all-inclusive fee **
Global/Global Select Markets			
Up to 10 million shares	$35,000	$40,000	$45,000
10+ to 50 million shares	37,500	40,000	55,000
50+ to 75 million shares	46,500	46,500	75,000
75+ to 100 million shares	68,500	69,000	100,000
100+ to 125 million shares	89,000	93,000	125,000
125+ to 150 million shares	89,000	125,000	135,000

[7] Securities Exchange Act Release No. 68129 (November 1, 2012), 77 FR 66907 (November 7, 2012) (approving SR–NASDAQ–2012–120).

[8] Securities Exchange Act Release No. 61669 (March 5, 2010), 75 FR 11958 (March 12, 2010) (approving SR–NASDAQ–2009–081).

[9] The proposed all-inclusive annual fee described above was based off of the proposed increased annual fees and also reflects Nasdaq's investment in these initiatives and enhancements.

Total shares outstanding	2014 annual fee *	2015 annual fee *	2015 all-inclusive fee **
Over 150 million shares	99,500	125,000	155,000
Capital Market			
Up to 10 million shares	$32,000	$32,000	$42,000
10+ to 50 million shares	32,000	40,000	55,000
Over 50 million shares	32,000	45,000	75,000

The revised fees for ADRs and Closed-end Funds are as follows:

Total ADRs outstanding	NASDAQ Global/Global Select Market			NASDAQ Capital Market		
	2014 annual fee *	2015 annual fee *	2015 all-inclusive fee **	2014 annual fee *	2015 annual fee *	2015 all-inclusive fee **
ADRs						
Up to 10 million ADRs	$30,000	$40,000	$45,000	$32,000	$32,000	$37,000
10+ to 50 million ADRs	37,500	40,000	45,000	32,000	40,000	45,000
50+ to 75 million ADRs	42,500	46,500	52,500	32,000	40,000	45,000
Over 75 million ADRs	50,000	69,000	75,000	32,000	40,000	45,000

Total shares outstanding	NASDAQ Global/Global Select and Capital Markets		
	2014 annual fee *	2015 annual fee *	2015 all-inclusive fee **
Closed-end Funds			
Up to 5 million shares	$15,000	$22,500	$30,000
5 to 10 million shares	17,500	22,500	30,000
10 to 25 million shares	20,000	22,500	30,000
25 to 50 million shares	22,500	22,500	30,000
50+ to 100 million shares	30,000	35,000	50,000
100+ to 250 million shares	50,000	55,000	75,000
Over 250 million shares	75,000	80,000	100,000

* Company must also pay listing of additional shares, record-keeping, substitution listing, and certain regulatory fees.

** Company does not pay any additional listing of additional shares, record-keeping, substitution listing, or certain regulatory fees in connection with its continued listing.

Finally, Nasdaq proposes to make certain clarifying changes to the existing annual fee rule text and incorporate these same concepts in the proposed all-inclusive fee. First, Nasdaq proposes to clarify how annual fees (including the proposed all-inclusive annual fees) are assessed when a company first lists or transfers between market tiers. Specifically, Nasdaq proposes to codify its practice of pro-rating annual fees based on the month of a company's listing, and provide examples to demonstrate how this proration is applied. Nasdaq's rules already provide that annual fees previously paid are not refundable if a company's securities are removed from Nasdaq. Nasdaq proposes to continue to apply this provision to the proposed all-inclusive fee and to also clarify under both the annual fee and the all-inclusive fee that if a company is removed before it has paid the applicable fee, the fee is nonetheless owed and that Nasdaq will not waive the amount owed.[10] In recognition of the fact that a company does not get a refund or waiver of annual fees or all-inclusive annual fees if its securities are delisted, Nasdaq also proposes to clarify that if a company relists in the same year where it had previously paid an annual fee, that the company would not be subject to a second annual fee for that same year.

In the case of a company that transfers between Nasdaq's tiers, the proposed rule change would clarify that the annual fee or all-inclusive annual fee, as applicable, would be prorated based on the month of the company's transfer. However, no amount of the annual fee previously assessed or paid would be refunded if the prorated fee for the new market tier is lower.

The proposed rule would also modify the way a company is charged if it has securities listed on both the Global or Global Select Market and the Capital Market under both the standard annual fee and the all-inclusive annual fee. Presently, while Nasdaq's rules provide that Nasdaq will aggregate shares of all securities listed on the Global Market (including the Global Select Market) in calculating the fee for the Global Market and shares of all securities listed on the Capital Market in calculating the fee for the Capital Market, the rules do not address the situation where the same company has a security listed on each the Global or Global Select Market and the Capital Market. As a result, a company presently is charged separately for the securities on each market tier. Nasdaq believes that this is an inequitable result, and proposes to modify the rules such that in this situation shares listed on the Capital Market are not assessed a separate fee for the Capital Market, but instead are aggregated with the shares listed on the Global or Global Select Market in calculating the fee for that market.[11]

[10] This situation would most commonly arise when the Company delists early in the year before it has paid its annual fee invoice.

[11] This situation currently affects fewer than five companies, which have their common stock listed on the Global or Global Select Market and a secondary class listed on the Capital Market. Each of these companies would pay less under the

Nasdaq proposes to clarify that where Nasdaq rules waive fees in connection with certain merger situations, the company will receive a credit for the amount waived if the acquired company has already paid that fee. Conversely, in cases where the acquired company has not paid the fee, the forgiven fee will be treated as a waiver. The proposed rule will also extend those fee waivers and credits to companies paying the all-inclusive annual fee. In addition, the proposed rule change will specify which of the entities involved in a merger will receive the waiver or credit. Further, while the rule currently requires that a company apply for a fee waiver if it is applicable, Nasdaq proposes instead to apply these waivers and credits automatically for all eligible companies.

Nasdaq also proposes to delete current IM–5920–1, which provides a waiver for listed securities exempt from registration under Section 12(g) of the Act pursuant to Rule 12g3–2(b). After Nasdaq registered as a national securities exchange, these securities were initially permitted to list pursuant to an exemption from Section 12(a) of the Act.[12] This exemption expired on August 1, 2009, and companies described in the interpretive material can no longer be listed on Nasdaq.

The proposed rule change will also modify the fee accommodation available to companies that list upon emerging from bankruptcy to reflect the addition of the all-inclusive annual fee alternative. Under that rule, the annual fee for a company that lists upon emerging from bankruptcy is the minimum annual fee for the year of listing and the subsequent two full calendar years (the ''Bankruptcy Annual Fee Accommodation''). As revised, such a company can opt to transition to the all-inclusive annual fee for 2015, just like any other company. And, consistent with the current rule, a company that does so will pay the minimum all-inclusive annual fee until the end of its second full calendar year following listing. In this manner, irrespective of when the company listed, it will receive the benefit of the Bankruptcy Annual Fee Accommodation. Moreover, the company will receive the benefits of proposed IM–5910–1(b)(1) for the period after the Bankruptcy Annual Fee Accommodation ends until December 31, 2017.[13]

Last, Nasdaq proposes to modify a cross reference to the record-keeping fee in Rule 5250(e)(3), since that fee will not be payable by all companies, update the preamble to the listing fee section to reflect the changes discussed herein and remove from the rules certain effective dates that are no longer applicable.

While the changes proposed herein are effective upon filing, Nasdaq has designated that the changes be operative on January 1, 2015. Until January 1, 2015, Nasdaq will maintain the existing, applicable fee schedule in its online manual, and will also display the changes proposed herein as being effective in the future.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[14] in general and with Sections 6(b)(4) and (5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, and does not unfairly discriminate between customers, issuers, brokers or dealers.

As a preliminary matter, Nasdaq competes for listings with other national securities exchanges and companies can easily choose to list on, or transfer to, those alternative venues.[16] As a result, the fees Nasdaq can charge listed companies are constrained by the fees charged by its competitors and Nasdaq cannot charge prices in a manner that would be unreasonable, inequitable or unfairly discriminatory.

Nasdaq believes that the proposed all-inclusive annual fees are reasonable because Nasdaq is eliminating multiple fees in favor of a single annual fee for listed companies. Under the proposed fee structure, companies can pay less than they would if they remain on the existing structure and pay annual fees, listing of additional shares fees (which can be as much as $65,000 annually) or incur record-keeping or substitution listing fees. The proposed all-inclusive annual fees are also equitably allocated and not unfairly discriminatory because they will be assessed based on a company's shares outstanding, consistent with the way Nasdaq and other national securities exchanges charge fees today.[17] This allocation method, previously approved by the Commission, is not inequitable or unfairly discriminatory because companies with fewer shares outstanding tend to be smaller companies, which may use fewer of the Exchange's services and be more willing to forgo an exchange listing if it costs more. In addition, while companies may pay separate fees today for certain corporate actions, record-keeping events, and share issuances, as well as fees for written interpretations of listing rules and reviews of compliance plans, it is not inequitable or unfairly discriminatory to eliminate those fees because all companies will benefit similarly from that elimination in years where they otherwise would have had to pay these fees. In that regard, Nasdaq reviewed the historic activities of companies with various amounts of shares outstanding to assess the use of listing-related services, and established the all-inclusive annual fee for each security type and tier of outstanding shares based on this analysis.[18] Further, the expenses associated with maintaining the infrastructure to process share issuances and corporate actions and events and to review rule interpretation requests and compliance plans is part of Nasdaq's overhead, which helps Nasdaq protect investors and the public interest to the benefit of all listed companies. That necessary overhead does not vary materially based on the number of companies that utilize these services, and it is therefore equitable to spread their costs across all companies. All listed companies also benefit from the transparency provided when Nasdaq publishes summaries of its interpretive letters. As such, spreading the costs of such interpretations across all listed companies represents an equitable allocation of reasonable fees and is not unfairly discriminatory.

Nasdaq also believes that the proposed incentives offered to companies that elect the all-inclusive annual listing fee for 2015 are reasonable and not unfairly

proposed rule change than they would if Nasdaq continued to assess fees separately for each market tier.

[12] Securities Exchange Act Release No. 54241 (July 31, 2006), 71 FR 45359 (August 8, 2006).

[13] If the company initially listed in 2014, it would pay the minimum $45,000 all-inclusive annual fee for 2015 and 2016 and be subject to the all-inclusive annual fee in 2017 based on its total shares outstanding as of December 31, 2014. Alternatively, if the company initially listed in 2013, it would pay the minimum $45,000 all-inclusive annual fee for 2015 and be subject to the all-inclusive annual fee in 2016 and 2017 based on its total shares outstanding as of December 31, 2014. Fewer than 10 companies have listed on Nasdaq upon emerging from bankruptcy in 2013 or 2014.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] The Justice Department noted the intense competitive environment for exchange listings. *See* ''NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandon Their Proposed Acquisition Of NYSE Euronext After Justice Department Threatens Lawsuit'' (May 16, 2011), available at *http://www.justice.gov/atr/public/press_releases/2011/271214.htm.*

[17] *See* NYSE Listed Company Manual Section 902.03 (charging an annual fee per share); NYSE MKT Company Guide Section 141 (charging an annual fee based on tiers of outstanding shares).

[18] *See* footnote 5, *supra.*

discriminatory. These incentives are available equally to all companies and would provide the same benefit to all companies that make the election. In addition, as noted above, Nasdaq will accrue benefits from companies electing the all-inclusive annual listing fee structure, including by eliminating the multiple invoices that are sent to a company each year and providing more certainty as to revenue, and the incentives are designed to help Nasdaq capture these benefits sooner, which is a reasonable and non-discriminatory reason to provide the incentives to companies.

The proposed increase to the annual fee for companies that do not elect the all-inclusive fee, which increase is also reflected in the all-inclusive annual fee, is also an equitable allocation of reasonable fees and not unfairly discriminatory based on the enhancements Nasdaq has made since fees were last increased in 2010, for Global and Global Select Market companies, and 2013, for most Capital Market companies.[19] As described above, Nasdaq has invested in upgrades to the NASDAQ MarketSite and MarketSite Tower, and its online tools, including the Listing Center and Reference Library, to the benefit of all listed companies and their investors and prospective investors. The proposed increase also will help Nasdaq continue to invest in these initiatives and its regulatory programs.

Changes to the tier ranges for fees charged issuers that do not elect the all-inclusive fee, including ADRs and Closed-end Funds, are not unreasonable nor unfairly discriminatory because these changes were based on a review of the number and size of companies in the existing tier ranges, their historic use of listing-related services, and the fees charged by other markets.

Nasdaq believes that having lower maximum fees for ADRs under the proposed all-inclusive and standard annual fees is an equitable allocation of reasonable fees and not unfairly discriminatory because the U.S. listing is not typically an ADR's primary listing. In addition, because ADRs are foreign private issuers, which currently pay a maximum listing of additional shares fee of $7,500, it is appropriate to charge ADRs a lower all-inclusive annual fee than a domestic company, which could pay a listing of additional shares fee of up to $65,000. On the other hand, Nasdaq believes that it is no longer appropriate to grant a preference for listing of additional shares fees to foreign private issuers other than ADRs, because Nasdaq is generally the primary listing for such companies and other exchanges charge additional listing fees for these companies in the same manner as domestic companies. As a result, Nasdaq proposes that foreign private issuers other than ADRs pay the same all-inclusive annual fee as domestic issuers, even though they are subject to a lower listing of additional shares fee under the current fee schedule. Nasdaq would continue to base its fees for these companies only on the shares issued and outstanding in the United States, however, so to the extent a foreign private issuer has another listing, it would only pay fees on those shares that trade on Nasdaq. As a result, Nasdaq believes it is an equitable allocation of reasonable fees and not unfairly discriminatory to require foreign private issuers, other than ADRs, pay all-inclusive fees on the same schedule as domestic companies. In addition, in light of the historic benefit provided to foreign private issuers by way of a lower listing of additional shares fee, Nasdaq believes it is not unreasonable nor unfairly discriminatory to maintain that benefit until the existing annual fee schedule is completely phased out in 2018.

Nasdaq also believes that it is appropriate to maintain a separate fee schedule for Closed-end Funds based on their unique characteristics. These companies are particularly sensitive to the expenses they incur, given that they compete for investment dollars based on return. In addition, they need to issue shares as a primary means to expand their businesses and raise additional money to invest. As such, Nasdaq already applies a different annual fee and maximum quarterly listing of additional shares fee for these companies, and the proposed rule change maintains a separate, lower fee schedule for them, which remains an equitable allocation of reasonable fees that is not unfairly discriminatory. Nasdaq believes that continuing to assess separate fees for the review of delisting decisions by the Hearings Panels and the Nasdaq Listing and Hearing Review Council is an equitable allocation of reasonable fees that is not unfairly discriminatory. These reviews come only after Nasdaq staff has either allowed the company the maximum extension permitted under the listing rules or determined that such an extension is inappropriate. Such reviews are not an ordinary cost of a company's annual listing and any benefit from consideration by the Hearings Panel or Listing and Hearing Review Council is limited to the particular company that requests review and is not precedential with respect to other companies. As such, Nasdaq believes it is appropriate to exclude the fees associated with these activities from the all-inclusive annual fee.

Nasdaq believes that the proposed clarifying changes describing how fees are assessed when a company first lists or transfers between Nasdaq's tiers is an equitable allocation of reasonable fees. In addition, these changes and the addition of examples demonstrating the application of various rules will clarify Nasdaq's rules, and thereby 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. Nasdaq rules already provide that a company that is removed or voluntarily delists will not receive a refund of the listing fee. Clarifying that a company that transfers to the Capital Market from the Global or Global Select Market receives a credit for the fee previously assessed, but not a refund, aligns the treatment within the rules of these companies with that of companies that are removed or voluntarily delist. Similarly, clarifying that a company that paid an annual fee or all-inclusive annual fee for the year will not be subject to a second fee if it delists and relists in the same year assures that companies do not pay twice for the same services. As such, in each of these cases the company receives listing services for the year it paid the annual fee, and the proposed changes are therefore equitable allocations of reasonable fees.

Prorating fees for new listings based on the month of listing or transfer assures that companies are not subject to fees before listing and are not subject to the higher fees of a particular market tier before they are listed on that tier, subject to the constraints of Nasdaq's monthly billing cycles. The rules already allocate annual fees in this manner for companies that transfer between Nasdaq market tiers.[20] As such, this method of assessing fees is an equitable allocation of reasonable fees.

Aggregating shares listed on the Global or Global Select Market with shares listed on the Capital Market when calculating fees provides an equitable allocation of fees in a manner that is not unfairly discriminatory because it provides the same benefit to a company with shares on both market tiers as is available to a company with all of its shares on the Global or Global Select Market and such a company does

[19] *See* footnotes 7 and 8, *supra*.

[20] Nasdaq Rules 5910(c)(3), 5910(d)(6) and 5920(c)(5).

not receive any additional benefit from having some of its shares listed on the Capital Market.

A company that listed upon emerging from bankruptcy currently pays the minimum annual fee for the year of listing and subsequent two years. Allowing such companies that opt in to the all-inclusive annual fee to also pay the minimum fee on that fee schedule during the same period, and forgiving a portion of the all-inclusive annual fee in certain merger situations where the annual fee is similarly forgiven, is not unreasonable or unfairly discriminatory because these proposed changes extend benefits available to companies under the existing fee schedule to companies that will be on the all-inclusive fee schedule, thereby perpetuating features that the Commission has previously concluded satisfy the statutory requirements. Clarifying when a company receives a credit, instead of a waiver, and which company involved in a merger receives that credit or waiver clarifies Nasdaq's rules and is not unreasonable or unfairly discriminatory because these clarifications give effect to the intent of the current waivers while respecting the difference between the two entities involved in a merger.

Finally, Nasdaq believes that the proposed fees are consistent with the investor protection objectives of Section 6(b)(5) of the Act [21] in that they are designed to promote just and equitable principles of trade, to remove impediments to a free and open market and national market system, and in general to protect investors and the public interest. Specifically, the fees are designed, in part, to ensure that there are adequate resources for Nasdaq's listing compliance program, which helps to assure that listing standards are properly enforced and investors are protected.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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, as amended. The market for listing services is extremely competitive and listed companies may freely choose alternative venues based on the aggregate fees assessed, and the value provided by each listing. This rule proposal does not burden competition with other listing venues, which are similarly free to set their fees. Further, this proposed rule change would introduce an all-inclusive annual listing fee, which no other market currently offers and which may therefore increase competition with other listing venues. Nasdaq believes that this innovative fee proposal reflects the existing competition between listing venues and will further enhance such competition. For these reasons, Nasdaq does not believe that the proposed rule change will result in any burden on competition for listings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [22] and paragraph (f) of Rule 19b–4 thereunder.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors; or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–087 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–2014–087. 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–NASDAQ–2014–087 and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27879 Filed 11–24–14; 8:45 am]

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[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

[23] 17 CFR 240.19b–4(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73640; File No. SR–NYSEMKT–2014–93]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rules Concerning Supervision To Harmonize the Rules With Certain Financial Industry Regulatory Authority, Inc. Rules and Making Other Conforming Changes

November 19, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on November 5, 2014, NYSE MKT LLC (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under Rule 19b–4(f)(6) of the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its NYSE MKT rules concerning supervision to harmonize the rules with certain Financial Industry Regulatory Authority, Inc. (''FINRA'') rules and make other conforming change. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules concerning supervision to harmonize them with certain FINRA rules and make other conforming changes. Set forth below are descriptions of the harmonization process, the current NYSE MKT rules, and the proposed NYSE MKT rules. Specifically, the Exchange proposes to: (1) Adopt new rule text that is substantially similar to FINRA Rules 3110, 3120, 3150, and 3170; (2) delete the following rules: Rule 342—Equities (except for certain text in Rule 342.13—Equities regarding qualifications and exam requirements for individuals with supervisory responsibilities), Rule 351(e)—Equities, Rule 354—Equities, Rule 401—Equities, and Rule 401A—Equities; and (3) make other conforming changes.[4]

Background

On July 30, 2007, FINRA's predecessor, the National Association of Securities Dealers, Inc. (''NASD''), and NYSE Regulation, Inc. (''NYSER'') consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d–2 under the Act, New York Stock Exchange LLC (''NYSE''), NYSER, and FINRA entered into an agreement (the ''Agreement'') to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules'').[5] The Exchange became a party to the Agreement effective December 15, 2008.[6]

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, the Exchange, and NYSE of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[7]

FINRA recently harmonized NASD and FINRA Incorporated NYSE Rules and interpretations concerning supervision. More particularly, FINRA: (1) Adopted FINRA Rules 3110 and 3120 to largely replace NASD Rules 3010 and 3012, respectively; (2) incorporated into FINRA Rule 3110 and its supplementary material the requirements of NASD IM–1000–4, NASD IM–3010–1, FINRA Incorporated NYSE Rule 401A, and FINRA Incorporated NYSE Rule 342.21; (3) replaced NASD Rule 3010(b)(2) with new FINRA Rule 3170; (4) replaced NASD Rule 3110(i) with new FINRA Rule 3150; and (5) deleted the following FINRA Incorporated NYSE Rules and NYSE Rule Interpretations: (i) NYSE Rule 342 and related NYSE Rule Interpretations; (ii) NYSE Rule 343 and related NYSE Rule Interpretations; (iii) NYSE Rule 351(e) and related NYSE Rule Interpretation; (iv) NYSE Rule 354; (v) NYSE Rule 401; and (vi) NYSE Rule 401A.[8]

FINRA has announced that the effective date for its rule change will be December 1, 2014. The Exchange proposes to make its proposed rule change effective on the same date as FINRA and will announce the effective date via an Information Memo.[9]

Current Supervision Rules

Rule 342(a)—Equities requires each office, department or business activity of a member or member organization (including foreign incorporated branch offices) to be under the supervision and control of the member or member organization establishing it and of the personnel delegated such authority and responsibility. The person in charge of a group of employees must reasonably discharge his or her duties and obligations in connection with supervision and control of the activities of those employees related to the business of their employer and compliance with securities laws and regulations.

Rule 342(b)—Equities provides that the general partners or directors of each member organization must provide for appropriate supervisory control and must designate a general partner or principal executive to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations. This person must:

- Delegate to qualified principals or employees responsibility and authority

[3] 17 CFR 240.19b–4(f)(6).

[4] References to rules are to NYSE MKT rules unless otherwise indicated.

[5] *See* Exchange Act Release Nos. 56148 (Jul. 26, 2007), 72 FR 42146 (Aug. 1, 2007) (File No. 4–544) (order approving the Agreement); 56147 (Jul. 26, 2007), 72 FR 42166 (Aug. 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules'').

[6] *See* Exchange Act Release No. 60409 (Jul. 30, 2009), 74 FR 39353 (Aug. 6, 2009) (File No. 4–587) (order approving the amended and restated Agreement, adding the Exchange as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or the Exchange to the substance of any of the Common Rules.

[7] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.

[8] *See* Exchange Act Release No. 71179 (Dec. 23, 2013), 78 FR 79542 (Dec. 30, 2013) (SR–FINRA–2013–025).

[9] There is one exception. On April 22, 2014, the Commission issued an order approving proposed rule changes that coincided with related changes to Form BR. Specifically, the Exchange deleted Rule 343—Equities, and FINRA deleted the related FINRA Incorporated NYSE Rule and NYSE Rule Interpretations. The proposed changes became effective as of April 7, 2014. *See* FINRA Regulatory Notices 14–10 and 14–11 and Exchange Act Release No. 71988 (Apr. 22, 2014), 79 FR 23393 (Apr. 28, 2014) (SR–NYSEMKT–2014–34). *See also* Exchange Act Release No. 73346 (Oct. 14, 2014), 79 FR 62693 (Oct. 20, 2014) (SR–NYSEMKT–2014–88) (conforming amendments related to the deletion of NYSE MKT Rule 343—Equities).

for supervision and control of each office, department or business activity, and provide for appropriate procedures of supervision and control; and

• Establish a separate system of follow-up and review to determine that the delegated authority and responsibility is being properly exercised.

Rule 342(c)—Equities provides that prior consent of the Exchange must be obtained for each office established by a member or member organization, other than a main office.

Rule 342(d)—Equities provides that qualified persons acceptable to the Exchange must be in charge of:

• Any office of a member or member organization;

• Any regional or other group of offices; and

• Any sales department or activity.

Rule 342(e)—Equities provides that the amounts and types of credit extended by a member organization must be supervised by members or principal executives qualified by experience for such control in the types of business in which the member organization extends credit.

Supplementary Materials 342.10–.30—Equities provide additional guidance relating to the definition of branch offices, annual fees, foreign branch offices, the acceptability of supervisors, the experience of senior management, small offices, the supervision of registered representatives, the review of communications with the public, bookkeeping, the supervision of producing managers, information requests, trade review and investigation, the definition of related financial instrument, internal controls, annual branch office inspection, risk-based surveillance and branch office identification, criteria for inspection programs, and annual reports and certifications.

Rule 351(e)—Equities provides that each member not associated with a member organization and a principal executive of each member organization must take one or both of the following two actions in relation to the trades that are subject to the review procedures required by Rule 342.21(a)—Equities:

• Sign a written statement in the form specified in the rule and deliver it to the Exchange by the 15th day of the month following the calendar quarter in which the trade occurred.

• As to any such trade that is the subject of an internal investigation pursuant to Rule 342.21(b)—Equities, but has not been both resolved and included in the written statement, report in writing to the Exchange:

• The commencement of the internal investigation, the identity of the trade and the reason why the trade could not be the subject of the written statement (report by the 15th day of the month, following the calendar quarter in which the trade occurred);

• the quarterly progress of each open investigation (report by the 15th day of the month following the quarter); and

• the completion of the investigation, detailing the methodology and results of the investigation, any internal disciplinary action taken, and any referral of the matter to the Exchange, another self-regulatory organization (''SRO''), the Commission or another federal agency, and including, where no internal disciplinary action has been taken and no such referral has been made, a written statement in relation to the trade in the form specified below (report within one week after completion of the investigation).

Rule 351(e)—Equities also provides that when a statement pertains to one or more trades that have been the subject of an internal investigation pursuant to Rule 342.21(b)—Equities but as to which no internal disciplinary action has been taken and no referral of the matter to the Exchange, another SRO, or a federal agency has been made, the written statement must also refer to the particular trade(s) (rather than to the trades of a particular calendar quarter) and must omit the clause excepting trades reported as the subject of an investigation.

Rule 354(a)—Equities provides that, by April 1 of each year, each member organization must submit a copy of its Rule 342.30—Equities annual report on supervision and compliance to its control person(s) or, if the member organization has no control person, to the audit committee of its Board of Directors or its equivalent committee or group. In the case of a control person that is an organization (a ''controlling organization''), the member organization must submit the report to the general counsel of the controlling organization and to the audit committee of the controlling organization's Board of Directors or its equivalent committee or group.

Rule 354(b)—Equities provides that, for the purpose of Rule 354(a)—Equities, ''control person'' means a person who controls the member organization within the meaning of Rule 2—Equities otherwise than solely by virtue of being a director, general partner, or principal executive (or person occupying a similar status or performing similar functions) of the member organization.

Rule 401(b)—Equities provides that each member and member organization must maintain written policies and procedures, administered pursuant to the internal control requirements prescribed under Rule 342.23—Equities, specifically with respect to the following activities:

• Transmittals of funds (*e.g.,* wires, checks, etc.) or securities:

• from customer accounts to third-party accounts (*i.e.,* a transmittal that would result in a change of beneficial ownership);

• from customer accounts to outside entities (*e.g.,* banks, investment companies, etc.);

• from customer accounts to locations other than a customer's primary residence (*e.g.,* post office box, ''in care of'' accounts, alternate address, etc.); and

• between customers and registered representatives (including the hand-delivery of checks).

• Customer changes of address.

• Customer changes of investment objectives.

The policies and procedures required under Rule 401(b)(1), (2), and (3)—Equities must include a means/method of customer confirmation, notification, or follow-up that can be documented.

Rule 401A(a)—Equities provides that, for every customer complaint they receive that is subject to the reporting requirements of Rule 4530(d)—Equities,[10] members and member organizations must:

• Acknowledge receipt of the complaint within 15 business days of receiving it, and

• Respond to the issues raised in the complaint within a reasonable period of time.

Rule 401A(b)—Equities provides that each acknowledgement and response required by this rule must be conveyed to the complaining customer by an appropriate method. More specifically:

• Acknowledgements and responses to written complaints must be either:

• in writing, mailed to the complaining customer's last known address, or

• electronically transmitted to the email address from which the complaint

[10] Originally, firms had to acknowledge and respond to both written and oral customer complaints. However, as part of the effort to harmonize the NASD and NYSE MKT rules in the interim period before completion of the Consolidated FINRA Rulebook, current Rule 4530(d)—Equities was amended to limit the definition of ''customer complaint'' to include only written complaints, thereby making the definition substantially similar to that in FINRA Rule 4530(d). The Exchange adopted the text of FINRA Rule 4530 to replace comparable provisions in Rule 351. *See* Exchange Act Release No. 64784 (Jun. 30, 2011), 76 FR 39947 (Jul. 7, 2011) (SR–NYSEAmex–2011–42).

was sent (method only permissible for electronically transmitted complaints).

• Acknowledgements and responses to verbal complaints must be either:

• in writing, mailed to the complaining customer's last known address, or

• made verbally to the complaining customer, and recorded in a log of verbal acknowledgements and responses to customer complaints.

Rule 401A(c)—Equities provides that written records of the acknowledgements, responses, and logs required by this rule must be retained in accordance with Rule 440—Equities.

Proposed Rule Change

The Exchange proposes to delete the foregoing rules relating to supervision (except as noted below), which are, in main part, either duplicative of, or do not align with, the proposed supervision requirements discussed below, and adopt the text of FINRA Rules 3110, 3120, 3150, and 3170, subject to certain technical and conforming changes.[11] As noted in Rule 0—Equities, NYSE MKT rules that refer to NYSER, NYSER staff or departments, Exchange staff, and Exchange departments should be understood as also referring to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the Agreement, as applicable.

The Exchange proposes to retain the requirements contained in Rule 342.13(a) and (b)—Equities regarding qualifications and exam requirements for individuals with supervisory responsibilities. The proposed new version of Rule 342(a)—Equities, corresponding to current Rule 342.13(a)—Equities, would provide that any member or employee identified as in charge of: (1) any office of a member or member organization, (2) any regional or other group of offices, or (3) any sales department or activity must have a creditable record and pass the General Securities Sales Supervisor Qualification Examination (Series 9/10) or another examination acceptable to the Exchange. The proposed new version of Rule 342(a) would also adopt the current requirement contained in the Interpretation to NYSE Rule 342[12] that every branch office or sales manager must have at least three years' experience as a registered representative or substantial experience in a related sales or managerial position and must pass the Series 9/10.

Further, the proposed new version of Rule 342(a)—Equities would adopt the current examples of a related sales or managerial position in the Interpretation to NYSE Rule 342 and the requirement that in order to qualify as a supervisory person, a principal executive[13] should have at least three years' experience as a registered representative unless granted an exception. The proposed new version of Rule 342(a)—Equities would also incorporate from the related NYSE Interpretation that the General Securities Principal Examination (Series 24) is an acceptable alternative for persons whose duties do not include the supervision of options or municipal securities sales activity and that the examination requirement may be waived at the discretion of the Exchange. Finally, the proposed new version of Rule 342(a)—Equities would incorporate the requirement from the NYSE Interpretation that in the case of a firm applying for registered broker-dealer status, the supervisory candidates must have at least one year of direct experience or two years of related experience in the subject area to be supervised in addition to the requirements outlined above.

The proposed new version of Rule 342(b)—Equities, corresponding to current Rule 342.13(b)—Equities, would provide that the individuals designated as having day-to-day compliance responsibilities for their respective firms, or who supervise ten or more persons engaged in compliance activities, have the knowledge necessary to carry out their job responsibilities (*i.e.,* overall knowledge of the securities laws and Exchange rules) and pass the Compliance Official Examination (the ''Series 14'') or, in the case of compliance supervisors of member organizations that conduct a Designated Market Maker (''DMM'') business, the DMM Compliance Official Examination (the ''Series 14A''). The proposed new version of Rule 342(b)—Equities would also adopt the current requirement in the Interpretation to NYSE Rule 342 that member organizations engaged in a public business in addition to a DMM business must have a qualified compliance supervisor who has passed both the Series 14 and Series 14A Examinations. Finally, the proposed new version of Rule 342(b)—Equities would incorporate the following exemptions from the Series 14 Examination requirement contained in the Interpretation to NYSE Rule 342:

• Compliance supervisors at member organizations whose activities are solely related to execution of orders on the Exchange trading floor and who do not conduct any business with the public;

• Compliance supervisors at member organizations whose commissions and other fees from public business (retail and institutional) are under $500,000 in the preceding calendar year and who introduce to another broker-dealer; and

• Supervisors of ten or more persons whose compliance responsibilities are limited to the registration of member organization employees with the various regulators and SROs.

Proposed Rule 3110—Equities (Supervision)

Proposed Rule 3110—Equities is based primarily on requirements in the FINRA rulebook and current Rule 342—Equities relating to, among other things, supervisory systems, written procedures, internal inspections, and review of correspondence.

Proposed Rule 3110(a)—Equities

Proposed Rule 3110(a)—Equities would cover supervisory systems and would require each member organization to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules. Under the proposed rule, final responsibility for proper supervision would rest with the member organization. In addition, a member organization's supervisory system would be required to provide, at a minimum, for the following:

• The establishment and maintenance of written procedures as required by proposed Rule 3110—Equities.

• The designation, where applicable, of an appropriately registered principal with authority to carry out the supervisory responsibilities of the member organization for each type of business in which it engages for which

[11] The technical and conforming changes are that the Exchange would: (1) Substitute the term ''member organization'' for ''member,'' (2) substitute the term ''Exchange'' for ''FINRA,'' (3) change certain cross-references to FINRA rules to cross-references to Exchange rules, and (4) add supplementary material to define the term ''associated person'' in proposed Rules 3110—Equities, 3120—Equities, and 3150—Equities.

[12] Exchange Rule 342 is based on the counterpart rule of its NYSE affiliate, which recently amended its rules concerning supervision to harmonize with those of FINRA. *See* Exchange Act Release No. 73554 (Nov. 6, 2014), 79 FR 67508 (Nov. 13, 2014) (SR–NYSE–2014–56) (incorporating into NYSE Rule 342 the requirement from the related NYSE Interpretation that every branch office or sales manager must have at least three years' experience as a registered representative or substantial experience in a related sales or managerial position and must pass the Series 9/10).

[13] The Interpretation to NYSE Rule 342 refers to ''allied members,'' a category the NYSE and the Exchange eliminated and replaced with ''principal executive,'' which has substantially the same meaning. *See* Exchange Act Release Nos. 58549 (Sept. 15, 2008), 73 FR 54444 (Sept. 19, 2008) (SR–NYSE–2008–80); 559022 (Nov. 26, 2008), 73 FR 73683 (Dec. 3, 2008) (SR–NYSEALTR–2008–10).

registration as a broker-dealer is required.

• The registration and designation as a branch office or an office of supervisory jurisdiction (''OSJ'') of each location, including the main office, that meets the definitions contained in proposed Rule 3110(e)—Equities.[14]

• The designation of one or more appropriately registered principals in each OSJ and one or more appropriately registered representatives or principals in each non-OSJ branch office with authority to carry out the supervisory responsibilities assigned to that office by the member organization.

• The assignment of each registered person to an appropriately registered representative or principal who would be responsible for supervising that person's activities.

• The use of reasonable efforts to determine that all supervisory personnel are qualified, either by virtue of experience or training, to carry out their assigned responsibilities.

• The participation of each registered representative and registered principal, either individually or collectively, no less than annually, in an interview or meeting conducted by persons designated by the member organization at which compliance matters relevant to the activities of the representative and principal are discussed, which may occur in conjunction with the discussion of other matters and may be conducted at a central or regional location or at the representative's or principal's place of business.

Proposed Rule 3110(b)—Equities

In proposed Rule 3110(b)—Equities, the Exchange proposes to consolidate provisions from current Rule 401A—Equities relating to the review of customer complaints, with various provisions and rules from the FINRA rulebook that currently require written procedures, including provisions relating to the supervision and review of registered representatives' transactions and correspondence. In addition, proposed supplementary material, which is discussed in detail below, would codify and expand guidance in these areas.

Proposed Rule 3110(b)(1)—Equities would address written procedures and would require each member organization to establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations and applicable Exchange rules.

Under proposed Rule 3110(b)(2)—Equities, the supervisory procedures required by proposed Rule 3110(b)—Equities would include procedures for the review by a registered principal, evidenced in writing, of all transactions relating to the investment banking or securities business of the member organization. Consistent with FINRA Rule 3110(b)(3), proposed Rule 3110(b)(3)—Equities would be marked ''Reserved.''

Under proposed Rule 3110(b)(4)—Equities, the supervisory procedures required by proposed Rule 3110(b)—Equities would also include procedures for the review of incoming and outgoing written (including electronic) correspondence and internal communications relating to the member organization's investment banking or securities business and be appropriate for the member organization's business, size, structure, and customers. The supervisory procedures would require the member organization's review of:

• Incoming and outgoing written (including electronic) correspondence to properly identify and handle in accordance with firm procedures, customer complaints, instructions, funds and securities, and communications that are of a subject matter that require review under Exchange rules and federal securities laws; and

• Internal communications to properly identify those communications that are of a subject matter that require review under Exchange rules and federal securities laws.

Such reviews must be conducted by a registered principal and must be evidenced in writing, either electronically or on paper. Those communications include (without limitation):

• Communications between non-research and research departments concerning a research report's contents (Rule 472(b)(3)—Equities);

• Certain communications with the public that require a principal's pre-approval (Rule 2210—Equities); and

• The identification and reporting to the Exchange of customer complaints (Rule 4530—Equities).[15]

Proposed Rule 3110(b)(5)—Equities, would require a member organization's supervisory procedures to include procedures to capture, acknowledge, and respond to all written (including electronic) customer complaints, essentially incorporating the customer complaint requirement in current Rule 401A—Equities, including the limitation on including only written (including electronic) customer complaints. The Exchange believes that oral complaints are difficult to capture and assess, and that they raise competing views as to the substance of the complaint being alleged. Consequently, the Exchange believes that oral complaints do not lend themselves as effectively to a review program as written complaints, which are more readily documented and retained. However, the Exchange reminds member organizations that the failure to address any customer complaint, written or oral, may be a violation of Rule 2010—Equities.

Under proposed Rule 3110(b)(6)—Equities, the supervisory procedures required by proposed Rule 3110(b)—Equities must set forth the supervisory system established by the member organization pursuant to proposed Rule 3110(a)—Equities, and would include:

• The titles, registration status, and locations of the required supervisory personnel and the responsibilities of each supervisory person as these relate to the types of business engaged in, applicable securities laws and regulations, and Exchange rules.

• A record, preserved by the member organization for a period of not less than three years, the first two years in an easily accessible place, of the names of all persons who are designated as supervisory personnel and the dates for which such designation is or was effective.

• Procedures prohibiting associated persons who perform a supervisory function from:

• Supervising their own activities; and

• Reporting to, or having their compensation or continued employment determined by, a person or persons they are supervising.

• If a member organization determines, with respect to any of its supervisory personnel, that compliance with the preceding two bullets is not possible because of the member organization's size or a supervisory personnel's position within the firm, the member organization would be required to document:

• The factors the member organization used to reach such determination; and

[14] Although to date the Exchange and FINRA have used the same definition for ''branch office,'' the Exchange has not previously designated OSJs. As such, the requirements relating to OSJs described hereinafter would be new for member organizations.

[15] With respect to customer complaints, proposed Rule 3110(b)(5)—Equities also would affirmatively require members to capture, acknowledge, and respond to all written (including electronic) customer complaints.

• How the supervisory arrangement with respect to such supervisory personnel otherwise complies with proposed Rule 3110(a)—Equities.

• Procedures reasonably designed to prevent the supervisory system required pursuant to proposed Rule 3110(a)—Equities from being compromised due to the conflicts of interest that may be present with respect to the associated person being supervised, including the position of such person, the revenue such person generates for the firm, or any compensation that the associated person conducting the supervision may derive from the associated person being supervised.[16]

Proposed Rule 3110(b)(7)—Equities would require a member organization to keep and maintain a copy of its written supervisory procedures, or such relevant portions, in each OSJ and at each location where supervisory activities are conducted on behalf of the member organization. Each member organization would be required to promptly amend its written supervisory procedures to reflect changes in applicable securities laws or regulations, including Exchange rules, and as changes occur in its supervisory system. Each member organization would be responsible for promptly communicating its written supervisory procedures and amendments to all associated persons to whom such written supervisory procedures and amendments are relevant based on their activities and responsibilities.

Proposed Rule 3110(c)—Equities

Proposed Rule 3110(c)—Equities would cover internal inspections. Proposed Rule 3110(c)(1)—Equities would require each member organization to conduct a review, at least annually (on a calendar-year basis), of the businesses in which it engages. The review must be reasonably designed to assist the member organization in detecting and preventing violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Exchange rules. Each member organization would be required to review the activities of each office, which would include the periodic examination of customer accounts to detect and prevent irregularities or abuses. Each member organization would also be required to retain a written record of the date upon which each review and inspection is conducted.

In addition, proposed Rule 3110(c)(1)—Equities would require each member organization to inspect at least annually (on a calendar-year basis) every OSJ and any branch office that supervises one or more non-branch locations. Each member organization would also be required to inspect at least every three years every branch office that does not supervise one or more non-branch locations. In establishing how often to inspect each non-supervisory branch office, the member organization would be required to consider whether the nature and complexity of the securities activities for which the location is responsible, the volume of business done at the location, and the number of associated persons assigned to the location require the non-supervisory branch office to be inspected more frequently than every three years. If a member organization establishes a more frequent inspection cycle, the member organization would be required to ensure that at least every three years, the inspection requirements enumerated in proposed Rule 3110(c)(2)—Equities have been met. The member organization's written supervisory and inspection procedures would have to set forth the non-supervisory branch office examination cycle, an explanation of the factors the member organization used in determining the frequency of the examinations in the cycle, and the manner in which a member organization would comply with proposed Rule 3110(c)(2)—Equities if using more frequent inspections than every three years.

Under proposed Rule 3110(c)(1)—Equities, each member organization would also be required to inspect every non-branch location on a regular, periodic schedule. In establishing such schedule, the member organization would be required to consider the nature and complexity of the securities activities for which the location is responsible and the nature and extent of contact with customers. The member organization's written supervisory and inspection procedures would have to set forth the schedule and an explanation regarding how the member organization determined the frequency of the examination.

Proposed Rule 3110(c)(2)—Equities would require that the inspection and review by a member organization pursuant to proposed Rule 3110(c)(1)—Equities be reduced to a written report and kept on file by the member organization for a minimum of three years, unless the inspection is being conducted pursuant to proposed Rule 3110(c)(1)(C)—Equities and the regular periodic schedule is longer than a three-year cycle, in which case the report would have to be kept on file at least until the next inspection report has been written. If applicable to the location being inspected, proposed Rule 3110(c)(2)(A)—Equities would require that location's written inspection report to include, without limitation, the testing and verification of the member organization's policies and procedures, including supervisory policies and procedures in the following areas:

• Safeguarding of customer funds and securities;

• Maintaining books and records;

• Supervision of supervisory personnel;

• Transmittals of funds (*e.g.,* wires or checks, etc.) or securities from customers to third-party accounts; from customer accounts to outside entities (*e.g.,* banks, investment companies, etc.); from customer accounts to locations other than a customer's primary residence (*e.g.,* post office box, ''in care of'' accounts, alternate address, etc.); and between customers and registered representatives, including the hand-delivery of checks; and

• Changes of customer account information, including address and investment objectives changes and validation of such changes.

Under proposed Rule 3110(c)(2)(B)—Equities, the policies and procedures regarding transmittals of funds must include a means or method of customer confirmation, notification, or follow-up that can be documented. Member organizations could use reasonable risk-based criteria to determine the authenticity of the transmittal instructions. Under proposed Rule 3110(c)(2)(C)—Equities, the policies and procedures regarding changes in customer account information would have to include, for each change processed, a means or method of customer confirmation, notification, or follow-up that can be documented and that complies with Rules 17a–3(a)(17)(i)(B)(2) and 17a–3(a)(17)(i)(B)(3) under the Act.[17]

Pursuant to proposed Rule 3110(c)(2)(D)—Equities, if a member organization does not engage in all of the activities enumerated in the bullets immediately above at the location being inspected, the member organization would be required to identify those activities in the member organization's written supervisory procedures or the location's written inspection report and document in the member organization's written supervisory procedures or the

[16] The Exchange currently does not have a comparable rule.

[17] 17 CFR 240.17a–3(a)(17)(i)(B)(2) and 17 CFR 240.17a–3(a)(17)(i)(B)(3).

location's written inspection report that supervisory policies and procedures for such activities must be in place at that location before the member organization can engage in them.

Under proposed Rule 3110(c)(3)—Equities, for each inspection conducted pursuant to the proposed rule, a member organization would be required to:

• Have procedures reasonably designed to prevent the effectiveness of inspections from being compromised due to conflicts of interest that may be present with respect to the location being inspected, including but not limited to, economic, commercial, or financial interests in the associated persons and businesses being inspected; and

• Ensure that the person conducting an inspection is not an associated person assigned to the location or is not directly or indirectly supervised by, or otherwise reporting to, an associated person assigned to the location.[18]

By way of comparison, under current Rules 342.24—Equities and 342.25—Equities, each branch office must be inspected annually, unless the member organization obtained an exemption by submitting to the Exchange written policies and procedures for systematic risk-based surveillance of its branch offices, in which case each branch office must be inspected at least every three years. The proposed subject matter requirements for inspection reports are substantially the same as the current subject matter requirements.

Proposed Rule 3110(d)—Equities

Section 15(g) of the Act, adopted as part of the Insider Trading and Securities Fraud Enforcement Act of 1988,[19] requires every registered broker or dealer to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the broker or dealer or any associated person of the broker or dealer.[20] Current Rule 342.21—Equities sets forth specific supervisory procedures for compliance with Section 15(g) by requiring firms to review trades in Exchange-listed or Exchange-traded securities and related financial instruments that are effected for the member organization's account or for the accounts of the member organization's employees and family members. Current Rule 342.21—Equities also requires member organizations to promptly conduct an internal investigation into any trade the firm identifies that may have violated insider trading laws or rules.

Proposed Rule 3110(d)—Equities incorporates provisions of current Rule 342.21—Equities, with some modifications, and extends the requirement beyond Exchange-listed and Exchange-traded securities and related financial instruments to cover all securities.

Proposed Rule 3110(d)—Equities would cover transaction reviews and investigations. Proposed Rule 3110(d)(1)—Equities would require each member organization to include in its supervisory procedures a process for the review of securities transactions reasonably designed to identify trades that may violate the provisions of the Act, the rules thereunder, or Exchange rules prohibiting insider trading and manipulative and deceptive devices that are effected for the:

• Accounts of the member organization;

• Accounts introduced or carried by the member organization in which a person associated with the member organization has a beneficial interest or the authority to make investment decisions;

• Accounts of a person associated with the member organization that are disclosed to the member organization pursuant to Rule 407—Equities or NASD Rule 3050, as applicable; and

• Covered accounts.

Under proposed Rule 3110(d)(2)—Equities, each member organization would be required to promptly conduct an internal investigation into any such trade to determine whether a violation of those laws or rules has occurred.

In addition, under proposed Rule 3110(d)(3)—Equities, a member organization engaging in investment banking services would be required to file written reports with the Exchange, signed by a senior officer of the member organization, at such times and, without limitation, including such content, as follows:

• Within ten business days of the end of each calendar quarter, a written report describing each internal investigation initiated in the previous calendar quarter pursuant to proposed Rule 3110(d)(2)—Equities, including the identity of the member organization, the date each internal investigation commenced, the status of each open internal investigation, the resolution of any internal investigation reached during the previous calendar quarter, and, with respect to each internal investigation, the identity of the security, trades, accounts, associated persons of the member organization, or associated person of the member organization's family members holding a covered account, under review, and that includes a copy of the member organization's policies and procedures required by proposed Rule 3110(d)(1)—Equities.

• Within five business days of completion of an internal investigation pursuant to proposed Rule 3110(d)(2)—Equities in which it was determined that a violation of the provisions of the Act, the rules thereunder, or Exchange rules prohibiting insider trading and manipulative and deceptive devices had occurred, a written report detailing the completion of the investigation, including the results of the investigation, any internal disciplinary action taken, and any referral of the matter to the Exchange, another SRO, the SEC, or any other federal, state, or international regulatory authority.

For purposes of proposed Rule 3110(d)(4)—Equities, the following definitions would apply:

• The term ''covered account'' would include any account introduced or carried by the member organization that is held by:

• The spouse of a person associated with the member organization;

• A child of the person associated with the member organization or such person's spouse, provided that the child resides in the same household as or is financially dependent upon the person associated with the member organization;

• Any other related individual over whose account the person associated with the member organization has control; or

• Any other individual over whose account the associated person of the member organization has control and to whose financial support such person materially contributes.

• The term ''investment banking services'' would include, without limitation, acting as an underwriter, participating in a selling group in an offering for the issuer, or otherwise acting in furtherance of a public offering of the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital or equity lines of credit or serving as placement agent for the issuer or otherwise acting in furtherance of a private offering of the issuer.

[18] If a member organization determines that compliance with this requirement is not possible either because of a member organization's size or its business model, the member organization would be required to document in the inspection report both the factors the member organization used to make its determination and how the inspection otherwise complies with proposed Rule 3110(c)(1)—Equities.

[19] *See* Insider Trading and Securities Fraud Enforcement Act of 1988, Pub. L. 100–704, 102 Stat. 4677.

[20] 15 U.S.C. 78o(g).

Proposed Rule 3110(e)—Equities

Proposed Rule 3110(e)—Equities would define ''OSJ'' and ''branch office.'' As noted above, ''OSJ'' would be a new designation for the Exchange and the definition of the term would substantially mirror FINRA's definition. The term ''OSJ'' would mean any office of a member organization at which any one or more of the following functions take place:

- Order execution or market making;
- Structuring of public offerings or private placements;
- Maintaining custody of customers' funds or securities;
- Final acceptance (approval) of new accounts on behalf of the member organization;
- Review and endorsement of customer orders;
- Final approval of retail communications for use by persons associated with the member organization, pursuant to Rule 2210(b)(1)—Equities, except for an office that solely conducts final approval of research reports; or
- Responsibility for supervising the activities of persons associated with the member organization at one or more other branch offices of the member organization.

The definition of ''branch office'' would be substantially the same as current Rule 342.10—Equities. It would mean any location where one or more associated persons of a member organization regularly conducts the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or is held out as such, excluding:

- Any location that is established solely for customer service or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;
- Any location that is the associated person's primary residence, provided that:
  - Only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location;
  - The location is not held out to the public as an office and the associated person does not meet with customers at the location;
  - Neither customer funds nor securities are handled at that location;
  - The associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications and other communications to the public by such associated person;
  - The associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with proposed Rule 3110—Equities;
  - Electronic communications (*e.g.,* email) are made through the member organization's electronic system;
  - All orders are entered through the designated branch office or an electronic system established by the member organization that is reviewable at the branch office;
  - Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the member organization; and
  - A list of the residence locations is maintained by the member organization.
- Any location, other than a primary residence, that is used for securities business for less than 30 business days [21] in any one calendar year, provided the member organization complies with the first eight of the nine immediately preceding bullet points;
- Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office; [22]
- Any location that is used primarily to engage in non-securities activities and from which the associated person(s) effects no more than 25 securities transactions in any one calendar year; provided that any retail communication identifying such location also sets forth the address and telephone number of the location from which the associated person(s) conducting business at the non-branch locations are directly supervised;
- The floor of a registered national securities exchange where a member organization conducts a direct access business with public customers; or
- A temporary location established in response to the implementation of a business continuity plan.

Notwithstanding the exclusions for branch offices described above, any location that is responsible for supervising the activities of persons associated with the member organization at one or more non-branch locations of the member organization would be considered a branch office.

Proposed Supplementary Materials to Proposed Rule 3110—Equities

Proposed Supplementary Material .01 to Rule 3110—Equities would require a member organization's main office location to be registered and designated as a branch office or OSJ if it meets the definitions of a ''branch office'' or ''office of supervisory jurisdiction'' as set forth in proposed Rule 3110(e)—Equities. In general, the nature of activities conducted at a main office will satisfy the requirements of such terms.

Proposed Supplementary Material .02 to Rule 3110—Equities would provide that, in addition to the locations that meet the definition of OSJ in proposed Rule 3110(e)—Equities, each member organization must also register and designate other offices as OSJs as is necessary to supervise its associated persons in accordance with the standards set forth in proposed Rule 3110—Equities. In making a determination as to whether to designate a location as an OSJ, the member organization should consider the following factors:

- Whether registered persons at the location engage in retail sales or other activities involving regular contact with public customers;
- Whether a substantial number of registered persons conduct securities activities at, or are otherwise supervised from, such location;
- Whether the location is geographically distant from another OSJ of the firm;
- Whether the member organization's registered persons are geographically dispersed; and
- Whether the securities activities at such location are diverse or complex.

Proposed Supplementary Material .03 to Rule 3110—Equities would provide additional guidance relating to proposed Rule 3110(a)(4)—Equities, which would require a member organization to designate one or more appropriately registered principals in each OSJ with the authority to carry out the supervisory responsibilities assigned to that office (''on-site principal''). The proposed Supplementary Material would provide that the designated on-site principal for each OSJ must have a physical presence, on a regular and routine basis, at each OSJ for which the principal has supervisory responsibilities. Consequently, there would be a general presumption that a principal will not be designated and assigned to be the on-site principal pursuant to proposed Rule 3110(a)(4)—

[21] The term ''business day'' would not include any partial business day provided that the associated person spends at least four hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

[22] Where such office of convenience is located on bank premises, signage necessary to comply with applicable federal and state laws, rules and regulations and applicable rules and regulations of other SROs, and securities and banking regulators could be displayed and would not be deemed ''holding out'' for purposes of this section.

Equities to supervise more than one OSJ. If a member organization determines it is necessary to designate and assign one appropriately registered principal to be the on-site principal pursuant to proposed Rule 3110(a)(4)—Equities to supervise two or more OSJs, the member organization would be required to take into consideration, among others, the following factors:

- Whether the on-site principal is qualified by virtue of experience and training to supervise the activities and associated persons in each location;
- Whether the on-site principal has the capacity and time to supervise the activities and associated persons in each location;
- Whether the on-site principal is a producing registered representative;
- Whether the OSJ locations are in sufficiently close proximity to ensure that the on-site principal is physically present at each location on a regular and routine basis; and
- The nature of activities at each location, including size and number of associated persons, scope of business activities, the nature and complexity of products and services offered, volume of business done, the disciplinary history of persons assigned to such locations, and any other indicators of irregularities or misconduct.

The proposed Supplementary Material would provide that a member organization must establish, maintain, and enforce written supervisory procedures regarding the supervision of all OSJs. In all cases where a member organization designates and assigns one on-site principal to supervise more than one OSJ, the member organization would be required to document in the member organization's written supervisory and inspection procedures the factors used to determine why the member organization considers such supervisory structure to be reasonable, and the determination by the member organization will be subject to scrutiny.

Proposed Supplementary Material .04 to Rule 3110—Equities would provide that a member organization is not required to conduct in-person meetings with each registered person or group of registered persons to comply with the annual compliance meeting (or interview) required by proposed Rule 3110(a)(7)—Equities. A member organization that chooses to conduct compliance meetings using other methods (*e.g.,* on-demand webcast or course, video conference, interactive classroom setting, telephone, or other electronic means) would be required to ensure, at a minimum, that each registered person attends the entire meeting (*e.g.,* an on-demand annual compliance webcast would require each registered person to use a unique user ID and password to gain access and use a technology platform to track the time spent on the webcast, provide click-as-you go confirmation, and have an attestation of completion at the end of a webcast) and is able to ask questions regarding the presentation and receive answers in a timely fashion (*e.g.,* an on-demand annual compliance webcast that allows registered persons to ask questions via an email to a presenter or a centralized address or via a telephone hotline and receive timely responses directly or view such responses on the member organization's intranet site).

Proposed Supplementary Material .05 to Rule 3110—Equities would provide that a member organization could use a risk-based review system to comply with proposed Rule 3110(b)(2)—Equities' requirement that a registered principal review all transactions relating to the investment banking or securities business of the member organization. A member organization would not be required to conduct detailed reviews of each transaction if it is using a reasonably designed risk-based review system that provides the member organization with sufficient information that permits it to focus on the areas that pose the greatest numbers and risks of violation.

Proposed Supplementary Material .06 to Rule 3110—Equities would provide that, by employing risk-based principles, a member organization must decide the extent to which additional policies and procedures for the review of:

- Incoming and outgoing written (including electronic) correspondence that fall outside of the subject matters listed in proposed Rule 3110(b)(4)—Equities are necessary for its business and structure. If a member organization's procedures do not require that all correspondence be reviewed before use or distribution, the procedures must provide for:
  - The education and training of associated persons regarding the firm's procedures governing correspondence;
  - The documentation of such education and training; and
  - Surveillance and follow-up to ensure that such procedures are implemented and followed.
- Internal communications that are not of a subject matter that require review under Exchange rules and federal securities laws are necessary for its business and structure.

Proposed Supplementary Material .07 to Rule 3110—Equities would provide that the evidence of review required in proposed Rule 3110(b)(4)—Equities must be chronicled either electronically or on paper and must clearly identify the reviewer, the internal communication or correspondence that was reviewed, the date of review, and the actions taken by the member organization as a result of any significant regulatory issues identified during the review. Merely opening a communication would not be sufficient review.

Proposed Supplementary Material .08 to Rule 3110—Equities would provide that, in the course of the supervision and review of correspondence and internal communications required by proposed Rule 3110(b)(4)—Equities, a supervisor/principal may delegate certain functions to persons who need not be registered. However, the supervisor/principal would remain ultimately responsible for the performance of all necessary supervisory reviews, irrespective of whether he or she delegates functions related to the review. Accordingly, supervisors/principals would have to take reasonable and appropriate action to ensure delegated functions are properly executed and would be required to evidence performance of their procedures sufficiently to demonstrate overall supervisory control.

Proposed Supplementary Material .09 to Rule 3110—Equities would provide that each member organization must retain the internal communications and correspondence of associated persons relating to the member organization's investment banking or securities business for the period of time and accessibility specified in Rule 17a–4(b) under the Act. The names of the persons who prepared outgoing correspondence and who reviewed the correspondence would have to be ascertainable from the retained records, and the retained records would have to be readily available to the Exchange, upon request.

Proposed Supplementary Material .10 to Rule 3110—Equities would provide that a member organization's determination that it is not possible to comply with proposed Rules 3110(b)(6)(C)(i)—Equities or (b)(6)(C)(ii)—Equities prohibiting supervisory personnel from supervising their own activities and from reporting to, or otherwise having compensation or continued employment determined by, a person or persons they are supervising generally will arise in instances where:

- The member organization is a sole proprietor in a single-person firm;
- A registered person is the member organization's most senior executive officer (or similar position); or
- A registered person is one of several of the member organization's most

senior executive officers (or similar positions).

Proposed Supplementary Material .11 to Rule 3110—Equities would provide that a member organization may use electronic media to satisfy its obligation to communicate its written supervisory procedures, and any amendment thereto, pursuant to proposed Rule 3110(b)(7)—Equities, provided that:

- The written supervisory procedures have been promptly communicated to, and are readily accessible by, all associated persons to whom such supervisory procedures apply based on their activities and responsibilities through, for example, the member organization's intranet system;
- All amendments to the written supervisory procedures are promptly posted to the member organization's electronic media;
- Associated persons are notified when amendments relevant to their activities and responsibilities have been made to the written supervisory procedures;
- The member organization has reasonable procedures to monitor and maintain the security of the material posted to ensure that it cannot be altered by unauthorized persons; and
- The member organization retains current and prior versions of its written supervisory procedures in compliance with the applicable record retention requirements of Rule 17a–4(e)(7) under the Act.

Proposed Supplementary Material .12 to Rule 3110—Equities would provide that, in fulfilling its obligations under proposed Rule 3110(c)—Equities, each member organization must conduct a review, at least annually, of the businesses in which it engages. The review would have to be reasonably designed to assist in detecting and preventing violations of and achieving compliance with applicable securities laws and regulations and with Exchange rules. Each member organization would be required to establish and maintain supervisory procedures that must take into consideration, among other things, the firm's size, organizational structure, scope of business activities, number and location of the firm's offices, the nature and complexity of the products and services offered by the firm, the volume of business done, the number of associated persons assigned to a location, the disciplinary history of registered representatives or associated persons, and any indicators of irregularities or misconduct (*i.e.,* ''red flags''), etc. The procedures established and reviews conducted would have to provide that the quality of supervision at remote locations is sufficient to ensure compliance with applicable securities laws and regulations and with Exchange rules. A member organization would have to be especially diligent in establishing procedures and conducting reasonable reviews with respect to a non-branch location where a registered representative engages in securities activities. Based on the factors outlined above, member organizations might need to impose reasonably designed supervisory procedures for certain locations or may need to provide for more frequent reviews of certain locations.

Proposed Supplementary Material .13 to Rule 3110—Equities would provide additional guidance to proposed Rule 3110(c)(1)(C)—Equities, which would require a member organization to inspect on a regular periodic schedule every non-branch location. In establishing a non-branch location inspection schedule, there would be a general presumption that a non-branch location will be inspected at least every three years, even in the absence of any indicators of irregularities or misconduct (*i.e.,* ''red flags''). If a member organization establishes a longer periodic inspection schedule, the member organization would be required to document in its written supervisory and inspection procedures the factors used in determining that a longer periodic inspection cycle is appropriate.

Proposed Supplementary Material .14 to Rule 3110—Equities would provide that a member organization's determination that it is not possible to comply with proposed Rule 3110(c)(3)(B)—Equities with respect to who is not allowed to conduct a location's inspection will generally arise in instances where:

- The member organization has only one office; or
- The member organization has a business model where small or single-person offices report directly to an OSJ manager who is also considered the offices' branch office manager.

Proposed Supplementary Material .15 to Rule 3110—Equities would provide a definition for ''associated person'' for the purposes of proposed Rule 3110—Equities.

Proposed Rule 3120—Equities (Supervisory Control System)

Proposed Rule 3120(a)—Equities, which is based on FINRA Rule 3120(a), would provide that each member organization must designate and specifically identify to the Exchange one or more principals who must establish, maintain, and enforce a system of supervisory control policies and procedures that:

- Test and verify that the member organization's supervisory procedures are reasonably designed with respect to the activities of the member organization and its associated persons, to achieve compliance with applicable securities laws and regulations, and with applicable Exchange rules; and
- Create additional or amend supervisory procedures where the need is identified by such testing and verification.

Similar to the requirements of current Rule 342.30—Equities, the designated principal or principals would be required to submit to the member organization's senior management no less than annually, a report detailing each member organization's system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

Proposed Rule 3120(b)—Equities would provide that each report provided to senior management pursuant to proposed Rule 3120(a)—Equities in the calendar year following a calendar year in which a member organization reported $200 million or more in gross revenue must include, to the extent applicable to the member organization's business:

- A tabulation of the reports pertaining to customer complaints and internal investigations made to the Exchange during the preceding year; and
- Discussion of the preceding year's compliance efforts, including procedures and educational programs, in each of the following areas:
  - Trading and market activities;
  - Investment banking activities;
  - Antifraud and sales practices;
  - Finance and operations;
  - Supervision; and
  - Anti-money laundering.

The categories listed above are incorporated from the annual report content requirements of current Rule 342.30—Equities, which apply to all member organizations regardless of revenue. The proposed rule change seeks to mitigate compliance costs and burdens with respect to proposed Rule 3120—Equities' annual reporting requirements by requiring that only member organizations reporting $200 million or more in gross revenues in the preceding year include in their annual reports supplemental information from current Rule 342.30—Equities' annual report content requirements. The Exchange also believes that the proposed threshold strikes the appropriate balance as it encompasses larger member organizations, member

organizations engaged in significant underwriting activities and substantial trading activities or market making business, and member organizations with extensive sales platforms.

Proposed Rule 3120(c)—Equities would provide that, for purposes of proposed Rule 3120(b)—Equities, ''gross revenue'' is defined as:

- Total revenue as reported on FOCUS Form Part II or IIA (line item 4030) less commodities revenue (line item 3990), if applicable; or
- Total revenue as reported on FOCUS Form Part II CSE (line item 4030) less, if applicable:
  - Commissions on commodity transactions (line item 3991); and
  - Commodities gains or losses (line items 3924 and 3904).

Proposed Supplementary Material .01 to Rule 3120—Equities would provide a definition for ''associated person'' for the purposes of proposed Rule 3120—Equities.

Proposed Rule 3150—Equities (Holding of Customer Mail)

Proposed Rule 3150(a)—Equities would provide that a member organization may hold mail for a customer who will not be receiving mail at his or her usual address, provided that:

- The member organization receives written instructions from the customer that include the time period during which the member organization is requested to hold the customer's mail. If the requested time period included in the instructions is longer than three consecutive months (including any aggregation of time periods from prior requests), the customer's instructions must include an acceptable reason for the request (*e.g.,* safety or security concerns). Convenience is not an acceptable reason for holding mail longer than three months;
- The member organization:
  - Informs the customer in writing of any alternate methods, such as email or access through the member organization's Web site, that the customer may use to receive or monitor account activity and information; and
  - Obtains the customer's confirmation of the receipt of such information; and
- The member organization verifies at reasonable intervals that the customer's instructions still apply.

Proposed Rule 3150(b)—Equities would provide that, during the time that a member organization is holding mail for a customer, the member organization must be able to communicate with the customer in a timely manner to provide important account information (*e.g.,* privacy notices and the Securities Investor Protection Corporation information disclosures required by Rule 2266—Equities), as necessary.

Proposed Rule 3150(c)—Equities would provide that a member organization holding a customer's mail pursuant to proposed Rule 3150—Equities must take actions reasonably designed to ensure that the customer's mail is not tampered with, held without the customer's consent, or used by an associated person of the member organization in any manner that would violate Exchange rules or the federal securities laws.

The Exchange currently does not have a rule comparable to proposed Rule 3150—Equities. The Exchange believes that adding proposed Rule 3150—Equities would help protect customers.

Proposed Supplementary Material .01 to Rule 3150—Equities would provide a definition for ''associated person'' for the purposes of proposed Rule 3150—Equities.

Proposed Rule 3170—Equities (Tape Recording of Registered Persons by Certain Firms)

Proposed Rule 3170(a)—Equities would provide the following definitions for purposes of proposed Rule 3170—Equities:

- The term ''registered person'' would mean any person registered with the Exchange.
- The term ''disciplined firm'' would mean:
  - A member organization that, in connection with sales practices involving the offer, purchase, or sale of any security, has been expelled from membership or participation in any securities industry SRO or is subject to an order of the SEC revoking its registration as a broker-dealer;
  - A futures commission merchant or introducing broker that has been formally charged by either the Commodity Futures Trading Commission or a registered futures association with deceptive telemarketing practices or promotional material relating to security futures, those charges have been resolved, and the futures commission merchant or introducing broker has been closed down and permanently barred from the futures industry as a result of those charges; or
  - A futures commission merchant or introducing broker that, in connection with sales practices involving the offer, purchase, or sale of security futures is subject to an order of the SEC revoking its registration as a broker or dealer.
- The term ''disciplinary history'' would mean a finding of a violation by a registered person in the past five years by the SEC, an SRO, or a foreign financial regulatory authority of one or more of the following provisions (or comparable foreign provision) or rules or regulations thereunder:
  - Violations of the types enumerated in Section 15(b)(4)(E) of the Act;
  - Section 15(c) of the Act;
  - Section 17(a) of the Securities Act of 1933;
  - Rules 10b–5 and 15g–1 through 15g–9 under the Act;
  - NASD Rule 2110 (Standards of Commercial Honor and Principles of Trade) or FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade) or Rule 2010—Equities (Standards of Commercial Honor and Principles of Trade) or NYSE MKT Rule 476(a)(6) (Failure to Observe High Standards of Commercial Honor and Just and Equitable Principles of Trade) (only if the finding of a violation of NASD Rule 2110, FINRA Rule 2010, Rule 2010—Equities or NYSE MKT Rule 476(a)(6) is for unauthorized trading, churning, conversion, material misrepresentations or omissions to a customer, front-running, trading ahead of research reports or excessive markups), FINRA Rule 5280 (Trading Ahead of Research Reports), NASD Rule 2120 (Use of Manipulative, Deceptive or Other Fraudulent Devices) or FINRA Rule 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices) or Rule 2020—Equities (Use of Manipulative, Deceptive or Other Fraudulent Devices) or NYSE MKT Rule 476(a)(5) (effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance), NASD Rule 2310 (Recommendations to Customers (Suitability)) or FINRA Rule 2111 (Suitability) or Rule 405—Equities (Diligence as to Accounts), NASD Rule 2330 (Customers' Securities or Funds) or FINRA Rule 2150 (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts) or Rule 2150—Equities (Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts), NASD Rule 2440 (Fair Prices and Commissions), NASD Rule 3010 (Supervision) or FINRA Rule 3110 (Supervision) or Rule 3110—Equities (Supervision) or NYSE MKT Rule 342 (Offices—Approval, Supervision and Control) (failure to supervise only for both NASD Rule 3010, FINRA Rule 3110, Rule 3110—Equities or NYSE

MKT Rule 342), NASD Rule 3310 (Publication of Transactions and Quotations) or FINRA Rule 5210 (Publication of Transactions and Quotations), and NASD Rule 3330 (Payment Designed to Influence Market Prices, Other than Paid Advertising) or FINRA Rule 5230 (Payments Involving Publications that Influence the Market Price of a Security), and MSRB Rules G–19, G–30, and G–37(b) & (c).

• The term ''tape recording'' would include without limitation, any electronic or digital recording that meets the requirements of proposed Rule 3170—Equities.

• The term ''taping firm'' would mean:

• A member organization with at least five but fewer than ten registered persons, where 40% or more of its registered persons have been associated with one or more disciplined firms in a registered capacity within the last three years;

• A member organization with at least ten but fewer than twenty registered persons, where four or more of its registered persons have been associated with one or more disciplined firms in a registered capacity within the last three years;

• A member organization with at least twenty registered persons where 20% or more of its registered persons have been associated with one or more disciplined firms in a registered capacity within the last three years.

• For purposes of calculating the number of registered persons who have been associated with one or more disciplined firms in a registered capacity within the last three years pursuant to proposed Rule 3170(a)(5)—Equities, member organizations should not include registered persons who:

• Have been registered for an aggregate total of 90 days or less with one or more disciplined firms within the past three years; and

• Do not have a disciplinary history.

Proposed Rule 3170(b)—Equities would provide that each member organization that either is notified by the Exchange or otherwise has actual knowledge that it is a taping firm must establish, maintain, and enforce special written procedures for supervising the telemarketing activities of all of its registered persons. A taping firm required to establish, maintain, and enforce special written procedures pursuant to proposed Rule 3170(b)—Equities would have to establish and implement the procedures within 60 days of receiving notice from the Exchange or obtaining actual knowledge that it is a taping firm.

The procedures required by proposed Rule 3170(b)—Equities would include procedures for tape recording all telephone conversations between the taping firm's registered persons and both existing and potential customers and for reviewing the tape recordings to ensure compliance with applicable securities laws and regulations and applicable Exchange rules. The procedures would have to be appropriate for the taping firm's business, size, structure, and customers, and must be maintained for a period of three years from the date that the taping firm establishes and implements the procedures. All tape recordings made pursuant to the requirements of proposed Rule 3170(b)—Equities would have to be retained for a period of not less than three years from the date the tape was created, the first two years in an easily accessible place. Each taping firm would be required to catalog the retained tapes by registered person and date. By the 30th day of the month following the end of each calendar quarter, each taping firm subject to the requirements of proposed Rule 3170(b)—Equities would have to submit to the Exchange a report on the taping firm's supervision of the telemarketing activities of its registered persons.

Proposed Rule 3170(c)—Equities would provide that a member organization that becomes a taping firm for the first time may reduce its staffing levels to fall below the threshold levels within 30 days after receiving notice from the Exchange pursuant to the provisions of proposed Rule 3170(b)(1)—Equities or obtaining actual knowledge that it is a taping firm, provided the member organization promptly notifies the Exchange's Department of Member Regulation in writing of its becoming subject to the rule. Once the member organization has reduced its staffing levels to fall below the threshold levels, it could not rehire a person terminated to accomplish the staff reduction for a period of 180 days. On or prior to reducing staffing levels pursuant to proposed Rule 3170(c)—Equities, a member organization would be required to provide the Exchange's Department of Member Regulation with written notice identifying the terminated person(s).

Proposed Rule 3170(d)—Equities would provide that the Exchange may, in exceptional circumstances, taking into consideration all relevant factors, exempt any taping firm unconditionally or on specified terms and conditions from the requirements of proposed Rule 3170—Equities. A taping firm seeking an exemption would be required to file a written application with the Exchange [23] within 30 days after receiving notice from the Exchange or obtaining actual knowledge that it is a taping firm. A member organization that becomes a taping firm for the first time could elect to reduce its staffing levels pursuant to the provisions of proposed Rule 3170(c)—Equities or, alternatively, could seek an exemption pursuant to proposed Rule 3170(d)—Equities, as appropriate. A taping firm could not seek relief from proposed Rule 3170—Equities by both reducing its staffing levels pursuant to proposed Rule 3170(c)—Equities and requesting an exemption.

The Exchange does not currently have a rule comparable to proposed Rule 3170–Equities. The Exchange believes that adopting proposed Rule 3170–Equities would provide for more effective supervision of member organizations that have a significant number of registered persons with disciplinary history, thereby resulting is enhanced customer protection.

Conforming Changes

The Exchange also proposes to make certain conforming changes to Rules 476A, 36–Equities, 70–Equities, 86–Equities, 345–Equities, 405–Equities, 407–Equities, 408–Equities, 410–Equities, 416A–Equities, 472–Equities, and 2210–Equities to delete or update cross-references to the proposed rules as applicable. The Exchange also proposes certain technical changes within Rule 86–Equities, which are unrelated to this proposal.[24]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Section 6(b)(5) of the Act,[26] in particular, because it is designed to promote just and equitable

[23] FINRA Rule 3170(d) requires written applications for an exemption to be made pursuant to the FINRA Rule 9600 Series, which sets forth the procedures for seeking exemptive relief. The Exchange has not adopted the FINRA Rule 9600 Series, and therefore proposes that a taping firm seeking an exemption file a written application with the Exchange within 30 days after receiving notice from the Exchange or obtaining actual knowledge that it is a taping firm.

[24] The Exchange proposes to update a cross reference in Rule 86—Equities, which should refer to Rule 4522—Equities instead of Rule 440—Equities. *See* Exchange Act Release No. 64887 (Jul. 14, 2011), 76 FR 43357 (Jul. 20, 2011) (SR–NYSEAmex–2011–51). NYSE submitted a similar proposal at that time, which included the change to NYSE Rule 86 that the Exchange is proposing herein. *See* Exchange Act Release No. 64888 (Jul. 14, 2011), 76 FR 43366 (Jul. 20, 2011) (SR–NYSE–2011–33). The Exchange also proposes to update a reference to Rules 17a–3 and 17a–4 of the Act.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. In particular, Exchange member organizations that are also FINRA members are subject to Exchange supervisory rules and FINRA Rules 3110, 3120, 3150, and 3170, and harmonizing these rules by adopting proposed Rules 3110–Equities, 3120–Equities, 3150–Equities, and 3170–Equities would promote just and equitable principles of trade by requiring a single standard for supervision. The Exchange believes that to the extent it has proposed changes that differ from the FINRA version of the Exchange rules, such changes are generally technical in nature and do not change the substance of the proposed rules. The Exchange also believes that the proposed rule change would update and add specificity to the requirements governing supervision, which would promote just and equitable principles of trade and help to protect investors. As such the Exchange believes that the proposed rule change meets the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is not intended to address competitive issues but rather to achieve greater consistency between the Exchange's rules and FINRA's rules concerning supervision.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [27] and Rule 19b–4(f)(6) thereunder.[28] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[29] However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter period of time if such action is consistent with the protection of investors and the public interest.[30] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it allows the Exchange to immediately conform its supervision rules to corresponding FINRA rules. This will ensure that dual members of the Exchange and FINRA generally will be subject to a single set of rules governing supervision. As noted by the Exchange, the proposal will harmonize NYSE MKT and FINRA rules, resulting in less burdensome and more efficient regulatory compliance. In addition, the proposal will update and add specificity to the Exchange's requirements governing supervision, which will promote just and equitable principles of trade and help to protect investors. For these reasons, the Commission designates the proposed rule change to be operative upon filing.[31]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.[32]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2014–93 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–NYSEMKT–2014–93. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–93 and should be submitted on or before December 16, 2014.

[27] 15 U.S.C. 78s(b)(3)(A)(iii).

[28] 17 CFR 240.19b–4(f)(6).

[29] *Id.*

[30] 17 CFR 240.19b–4(f)(6)(iii).

[31] For purposes of waiving the 30-day operative delay, the SEC has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[32] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27839 Filed 11–24–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73644; File No. SR–NSCC–2014–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify That Federal Reserve Banks, Central Counterparties, and Central Securities Depositories Shall Not Be Considered Either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants''

November 19, 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 12, 2014, National Securities Clearing Corporation (''NSCC'') 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 NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(1)[4] thereunder. The proposed rule change was effective upon filing with the Commission. 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

The proposed rule change consists of amendments to Rule 64 Rules & Procedures (''Rules'') of NSCC in order to clarify that Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants'' as such terms are defined therein, as more fully described below.

[33] 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)(1).

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the Third Amended and Restated Shareholders Agreement, dated as of December 7, 2005 (''Shareholders Agreement''), by and among The Depository Trust & Clearing Corporation (''DTCC''), The Depository Trust Company (''DTC''), NSCC, Fixed Income Clearing Corporation (''FICC'') and the other parties thereto, and NSCC Rule 64: (1) Members (as such term is defined in the Rules[5]) other than non-U.S. based central securities depositories are required to be ''Mandatory Purchaser Participants'' (as such term is defined in Rule 64) and be parties to the Shareholders Agreement; (2) users whose use of NSCC is more limited and does not include the guaranteed services, *i.e.,* Fund Members, Insurance Carrier/Retirement Services Members, Municipal Comparison Only Members, and Mutual Fund/Insurance Services Members (as such terms are defined in the Rules), are permitted, but not required, to purchase and own shares of DTCC common stock (''Common Shares'') and be parties to the Shareholders Agreement; and (3) all other users *i.e.,* Data Services Only Members, Commission Billing Members, Settling Bank Only Members, Investment Manager/Agent Members, TPP Members, TPA Members, AIP Members, and AIP Settling Bank Only Members (as such terms are defined in the Rules), are not permitted to purchase and own Common Shares or be parties to the Shareholders Agreement.

NSCC is proposing to amend Rule 64, as marked on Exhibit 5 hereto, in order to make clear Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either Mandatory Purchaser Participants or Voluntary Purchaser Participants (as such terms are defined in Rule 64). NSCC has interpreted Rule 64 to exclude from its provisions: (1) Federal Reserve Banks, because it was never intended that such governmental authorities should be required to own shares in DTCC notwithstanding that they may use certain services of NSCC; and (2) central counterparties and central securities depositories, because link arrangements between NSCC and these entities are for the purpose of extending clearing agency services across borders or among closely related activities and products, but not for ownership purposes.

2. Statutory Basis

The proposed rule change is consistent with the Act, and the rules and regulations thereunder, in particular Section 17A(b)(3)(C) which requires that the rules of NSCC ''assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs . . . [and the Commission] may determine that the representation of participants is fair if they are afforded a reasonable opportunity to acquire voting stock of the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency.''[6] NSCC implements and meets this requirement through NSCC Rule 64, which afford NSCC's Members a reasonable opportunity to acquire voting stock indirectly in the clearing agency in reasonable proportion to their use of the clearing agency.[7] The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of this existing rule.

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change will not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify

[5] NSCC's Rules are *available at http://dtcc.com/legal/rules-and-procedures.aspx.*

[6] 15 U.S.C. 78q–1(b)(3)(C).

[7] *See* Commission orders approving NSCC and DTC's rule filings which implemented the current stock ownership structure that satisfies the fair representation requirements. Securities Exchange Act Release No. 41800 (August 27, 1999), 64 FR 48694 (September 7, 1999) (SR–NSCC–1999–10); and Securities Exchange Act Release No. 41786 (August 24, 1999), 64 FR 47882 (September 1, 1999) (SR–DTC–1999–17).

the Commission of any written comments received by NSCC.

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) [8] of the Act and paragraph (f) of Rule 19b–4 [9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2014–10 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–NSCC–2014–10. 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 NSCC and on NSCC's Web site at *http://dtcc.com/legal/sec-rule-filings.aspx.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2014–10 and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27842 Filed 11–24–14; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73645; File No. SR–ICEEU–2014–22]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to ICE Clear Europe Board Risk Committee

November 18, 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, ICE Clear Europe Limited (''ICE Clear Europe'') 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 primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to establish a risk committee (the ''Board Risk Committee'') which would advise the ICE Clear Europe Board (the ''Board'') on certain clearing house-wide risk management matters.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the amendments is for ICE Clear Europe to establish the Board Risk Committee. Establishment of the Board Risk Committee is required under Article 28 of the European Market Infrastructure Regulation (''EMIR''),[3] which will apply to ICE Clear Europe as an authorized central counterparty. The Board Risk Committee will advise the Board with respect to various firm-wide risk management matters, with the goal of enabling the Board to ensure that ICE Clear Europe (i) implements and maintains agreed risk management procedures, processes and controls, (ii) provides appropriate access to participation in its clearing services and (iii) appropriately considers the interests of non-clearing member users of cleared products, including with respect to account segregation and collateral protection. The activities of the Board Risk Committee will relate to all categories of products cleared at ICE Clear Europe, and are in addition to ICE Clear Europe's existing product-specific risk committees (F&O, CDS and FX).

Pursuant to its terms of reference, the Board Risk Committee will report directly to the Board and receive and review all recommendations from each of the product-specific risk committees. The Board Risk Committee will undertake at least annual reviews of business risk mitigation procedures and controls and will have oversight of all risks facing ICE Clear Europe, including counterparty credit risk (across all clearing services) and non-counterparty credit risk matters, such as operational and liquidity risk. The Board Risk Committee will also advise the Board

[3] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

regarding any arrangements that may materially impact the risk management of ICE Clear Europe, such as a significant change in its criteria for accepting clearing members, clearing in new markets, or outsourcing of certain functions. The advice of the Board Risk Committee is not required for the daily operations of ICE Clear Europe.

The Board Risk Committee will be provided (in addition to other relevant information) with results and analysis of back-testing, sensitivity testing, stress testing and reverse stress testing in respect of any review of margin models, methodologies and/or the liquidity risk management framework. The Board Risk Committee will also consider any other issues that may be referred to it by the Board and/or executive, including the exercise of discretion in relation to recovery arrangements under the Rules.

In the course of its work the Board Risk Committee may obtain external legal or other independent advice and secure the attendance of third parties with relevant experience and expertise if it considers this necessary.

The Board Risk Committee will consist of at least two and up to four Clearing Member representatives and at least two and up to four customer representatives, in each case appointed by the Chairman of the Board Risk Committee following consideration by the ICE Clear Europe Nominations Committee. The Chairman of the Board Risk Committee will be an independent non-executive director of ICE Clear Europe appointed by the Board and will be a full voting member of the committee. Any member of the Board Risk Committee may be removed by the Board without cause. The composition of the Board Risk Committee will be reviewed on an annual basis to determine whether the committee has appropriate representation of Clearing Members, customers and independent non-executive directors, and appropriate representation of expertise and experience in relevant risk disciplines, including market, credit and operational risk. Based on this review, the Chairman may determine to request the resignation of one or more committee members and/or appoint one or more additional committee members to achieve such appropriate representation.

The ICE Clear Europe Chief Risk Officer, President and other appropriate ICE Clear Europe staff members will attend Board Risk Committee meetings in a non-voting capacity. In addition, the chairs of any groups or committees involved in the development of risk policies and a representative from each of the markets cleared by ICE Clear Europe will have a right to attend, but not vote, at Board Risk Committee meetings. The Board Risk Committee may also invite external independent experts to attend meetings in a non-voting capacity. A quorum will be a minimum of four members, one of whom must be a customer representative and one of whom must be a Clearing Member representative. (The Chairman of the committee will count toward the quorum for this purpose.) Each Board Risk Committee member will have one vote and decisions of the Board Risk Committee will be made by a simple majority, provided that if the committee is evenly divided, the Chairman may cast a deciding vote (in addition to the Chairman's normal vote as a member of the committee). Meetings will be held as needed and at least quarterly.

(b) Statutory Basis

ICE Clear Europe believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [4] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[5] Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. The establishment of the Board Risk Committee is intended to enhance the governance structure and overall risk management of the Clearing House, in compliance with the requirements of EMIR. As described above, the Board Risk Committee is intended to advise the Board with respect to a range of enterprise-wide risk management matters across all product categories. It is also designed to provide appropriate representation for both Clearing Members and customers, and thereby to enable the Board to ensure that it provides appropriate access to participation in clearing services and that the interests of Clearing Members and customers are appropriately considered. As a result, ICE Clear Europe believes that the proposed rule change will promote the prompt and accurate clearance and settlement of cleared transactions, and in general is designed to protect investors and the public interest, within the meaning of Section 17A(b)(3)(F).[7] In addition, the change is consistent with the requirements of Rule 17Ad–22(d)(8),[8] which requires that a clearing agency have governance arrangements that are clear and transparent to fulfill the public interest requirements of Section 17A of the Act applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of the clearing agency's risk management procedures. As set forth above, the Board Risk Committee is intended to enhance the Board's ability to oversee enterprise-wide risk management for all product categories, and to provide representation to, and take into account the interests of, both Clearing Members and their customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The change will not affect the terms or conditions of any cleared contract or the standards or requirements for participation in or use of the Clearing House, and accordingly should not, in the Clearing House's view, affect the availability of clearing, access to clearing services or the costs of clearing for clearing members or other market participants. ICE Clear Europe further believes that the establishment of the Board Risk Committee will strengthen its risk management capabilities and governance, as required in order to comply with EMIR. As a result, ICE Clear Europe believes that any impact on competition is appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days of such date (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

[4] 15 U.S.C. 78q–1.

[5] 17 CFR 240.17Ad–22.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] 17 CFR 240.17Ad–22(d)(8).

organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–22 and should be submitted on or before December 16,2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27843 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73648; File No. SR–NASDAQ–2014–108]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify NASDAQ Rule 7018 Fees

November 19, 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 12, 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 Substance of the Proposed Rule Change

NASDAQ is proposing to modify NASDAQ Rule 7018 fees assessed for execution and routing securities listed on NASDAQ, the New York Stock Exchange (''NYSE'') and on exchanges other than NASDAQ and NYSE.

The text of the proposed rule change is available at *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 proposing to amend NASDAQ Rule 7018(1), (2) and (3) to modify fees assessed for execution and routing securities listed on NASDAQ (''Tape C''), NYSE (''Tape A'') and on exchanges other than NASDAQ and the NYSE (''Tape B''), respectively, (together, the ''Tapes'') as well as the opening and closing crosses (''Opening and Closing Crosses'') in NASDAQ Rule 7018(d) and (e).

The Exchange is proposing across all of the tapes (the ''Tapes'') an increase to the fee for a firm that executes against resting midpoint liquidity from $0.0027 per share executed to $0.0030 per share executed. NASDAQ is seeking to harmonize the remove rate for orders whether or not they execute against the midpoint so that the remove rate for orders is certain before the order is entered. Therefore, the Exchange is proposing to increase the charge from $0.0027 to $0.0030 per share executed across all the tapes.

NASDAQ is also proposing to eliminate across all of the tapes the current $0.00293 per share executed rebate for a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.10% of Consolidated Volume during the month, with shares executed in the Opening and Closing Cross that represent more than 0.20% of Consolidated Volume and orders entered through a single Nasdaq Market Center MPID that represent more than 0.50% of Consolidated Volume during the month. NASDAQ believes that the elimination of this rebate is warranted since it has failed to increase liquidity in Tape A, B or C securities or to provide members with additional incentive to improve market quality.

The Exchange is also proposing to modify and add new rebates across all of the tapes. Specifically, NASDAQ is proposing to expand and modify the credit for non-displayed orders (other than Supplemental Orders) that provide liquidity. The rebate will now include a $0.0025 per share executed for midpoint orders. It will be offered provided that

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the member adds an average daily volume of 5 million or more shares through midpoint orders during the month and either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and exchange-traded fund (''ETF'') options classes in a month as pursuant to Chapter XV, Section 2 of the Nasdaq Options Market (''NOM'') rules or adds 8 million shares of non-displayed liquidity (excluding retail price improvement orders). NASDAQ believes that this proposed credit will incentivize members to post more liquidity at the midpoint, which should improve price discovery for the benefit of investors.

NASDAQ also proposes to also modify this rebate for Tape C securities only. Specifically, the credit of $0.0014 per share executed tier for midpoint orders if the member provides an average daily volume of less than 5 million shares through midpoint orders during the month is proposed to be modified by decreasing it to $0.0010 per share executed. The Exchange believes that is no longer necessary to pay a higher rebate for adding liquidity in Tape C.

The Exchange is also proposing to modify across all of the tapes the existing credit for displayed Designated Retail Orders. The existing rebate of $0.0033 per share will remain, but the rebate will increase slightly to $0.0034 per share executed if the member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM rules. The Exchange believes that increasing the rebate will attract additional retail order flow.

NASDAQ also is proposing to modify an existing fee for Tape A and Tape B securities. The proposed fee cap of $5,000 per month pertains to both a DOT or LIST Order that executes in the NYSE opening or re-opening process combined with a LIST Order that executes in the NYSEArca and NYSEAmex opening or re-opening process if a member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM Rules. The Exchange believes that this will encourage firms that route options customer order flow and equity order flow that would qualify as retail to send more order flow to both NOM and NASDAQ. Additionally, NASDAQ is proposing to combine for Tape B securities the LIST order that executes in an exchange's re-opening process with the language noted above regarding the LIST order that executes in an exchange's opening process. Aside from simplifying the rule language by combining it for a LIST order that executes in the opening or re-opening process, this also serves to reduce and harmonize the fee for a LIST order that executes in an exchange's re-opening process from $0.001 to $0.0005 per share executed in the NYSEArca re-opening process.

NASDAQ Rules 7018(d) and (e) set forth fees assessed for executions received in the Opening and Closing Crosses. The rule provides a fee of $0.0003 per share executed assessed for all other quotes and orders not otherwise noted under the rules. The Exchange is proposing to increase the fee from $0.0003 to $0.0004 per share executed in the Opening and Closing Crosses. The proposed increases to the fees assessed for executions in the Closing and Opening Crosses will help the Exchange recapture some of the costs it incurs operating the cross system, while maintaining very low fees for the execution of orders in these crosses.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[4] 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 not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

NASDAQ believes that the increase across all of the tapes to the fee for a member that executes against resting midpoint liquidity from $0.0027 per share executed to $0.0030 per share executed is reasonable, equitably allocated and not unfairly discriminatory and will harmonize the remove rate for orders whether or not they execute against the midpoint so that the remove rate for orders is certain before the order is entered. The Exchange believes the increase is reasonable because the rate is consistent with the standard remove rate and members receive significant price improvement when accessing midpoint liquidity. The fee increase is equitably allocated and not unfairly discriminatory because the increase is being uniformly assessed across all of the tapes on all members that execute against resting midpoint liquidity. Further, the Exchange believes that the reduced remove rate for receiving a midpoint execution is no longer necessary because the reduction did not result in a meaningful change in midpoint activity.

The Exchange believes that the elimination across all of the tapes of the current $0.00293 per share executed rebate for a member with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.10% of Consolidated Volume during the month, with shares executed in the Opening and Closing Cross that represent more than 0.20% of Consolidated Volume and orders entered through a single Nasdaq Market Center MPID that represent more than 0.50% of Consolidated Volume during the month is consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory. Specifically, the Exchange believes it is equitable and not unfairly discriminatory because this tier is being eliminated for all members and across all tapes so no members are being disadvantaged. Additionally, only one member qualified for the rebate in October and removing the rebate will impact their total rebates received by less than 1%.

NASDAQ believes that the change across all tapes to the credit for non-displayed orders (other than Supplemental Orders) that provide liquidity is reasonable, equitably allocated and not unfairly discriminatory. The new tier for the rebate of $0.0025 per share executed for midpoint orders when the member adds an average daily volume of 5 million or more shares through midpoint orders during the month and either adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM rules or adds 8 million shares of non-displayed liquidity (excluding retail price improvement orders) is equitably allocated and not unfairly discriminatory because it treats all members uniformly since it is available to all members and across all tapes. The

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4) and (5).

Exchange believes that the proposed change is reasonable because it does not unfairly burden competition, but rather it will promote competition among member organizations to provide more meaningful non-displayed liquidity, specifically midpoint liquidity, on the Exchange to the benefit of investors and other members.

NASDAQ also proposes to modify the credit for non-displayed orders (other than Supplemental Orders) in one additional way for Tape C securities only. Specifically, the credit of $0.0014 per share executed tier for midpoint orders if the member provides an average daily volume of less than 5 million shares through midpoint orders during the month is proposed to be modified by decreasing it to $0.0010 per share executed. The Exchange believes that this rebate modification applicable to Tape C securities only is reasonable, equitably allocated and not unfairly discriminatory. NASDAQ believes that the proposed decrease to the rebate is reasonable because it remains a higher rebate than the rebates provided to other non-displayed liquidity in Tape C securities and, thus, still incentivizes members to add midpoint liquidity over other forms of non-displayed liquidity in Tape C and represents only a modest decrease from the current rebate level. NASDAQ believes that the proposed credit is equitably allocated and not unfairly discriminatory because the rebate for this tier is available and applies uniformly to members that are eligible that provide such liquidity with regard to Tape C securities. Additionally, all members have incentives available and equal opportunity to earn higher rebates for adding more liquidity.

NASDAQ believes that the modification of the existing rebate for Designated Retail Orders is consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory. The existing rebate of $0.0033 per share will remain, but the rebate will increase slightly to $0.0034 per share executed if the member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM rules. The Exchange believes that the increase to the rebate under certain circumstances is reasonable because it is intended to incentivize liquidity for Designated Retail Orders and thereby improve overall liquidity in the marketplace. The modified rebate is equitably allocated and not unfairly discriminatory because it is available to all members that satisfy the criteria, regardless of the exchange upon which it is executed. The Exchange notes that rebates linked to options volume is not novel and that the Exchange has other tiers available for members based on options volume.[5]

The Exchange also believes that the modification to another existing fee that is for Tape A and Tape B securities is reasonable, equitably allocated and not unfairly discriminatory. Specifically, the fee is [sic] and relates to both a DOT or LIST Order that executes in the NYSE opening or re-opening process, and is combined with a LIST Order that executes in the NYSEArca and NYSEAmex opening or re-opening process for purposes of a cap of $0.0005 per share executed not to exceed $5,000 per month. This applies if a member adds Customer and/or Professional liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of 1.40% or more of national customer volume in multiply-listed equity and ETF options classes in a month as pursuant to Chapter XV, Section 2 of the NOM Rules. The Exchange believes that the cap on total charges is reasonable because it provides additional incentives for members to utilize the Exchange router to access liquidity at away markets, as well as provide additional incentives to add options liquidity to receive this routing benefit. This cap is also equitably allocated and not unfairly discriminatory because all members have an equal opportunity to receive this incentive should they choose to avail themselves of this benefit. As noted above, incentives and benefits that combine options and equities volume is [sic] not novel.

NASDAQ also believes that, in connection with the rebate above, combining for Tape B securities the LIST order that executes in an exchange's re-opening process with the LIST order that executes in an exchange's opening process, as well as reducing the fee from $0.001 to $0.0005 per share executed in the NYSEArca re-opening process is reasonable, equitably allocated and not unfairly discriminatory. Specifically, the Exchange believes that reducing the fee for the NYSEArca re-opening process is reasonable because it incentivizes members to utilize the Exchange router to access liquidity at away markets. Additionally, this fee reduction is equitably allocated and not unfairly discriminatory because the reduced fee harmonizes the fee for a LIST order that executes in an exchange's re-opening process and applies to all members.

Lastly, NASDAQ believes that the changes to the fees assessed for participation the Opening and Closing Crosses are consistent with an equitable allocation of a reasonable fee and not unfairly discriminatory. Specifically, the Exchange is proposing to increase the fee from $0.0003 to $0.0004 per share executed in the Opening and Closing Crosses. The Exchange believes that the fees are reasonable because supporting the crosses requires capital investment to maintain a system that facilitates an orderly auction process, and the proposed increases are designed to offset the costs the Exchange incurs in operating the crosses. Moreover, the proposed fees are equitably allocated because they apply a fee on all members that benefit from participation in the Opening and Closing Crosses, and are based on the type of order entered and contribution to market quality. Similarly, the proposed fees are not unfairly discriminatory because they are based on the type of order executed in the crosses and the benefit to market quality that such orders provide. NASDAQ believes that the proposal to increase the charges assessed for executions in the crosses is reasonable, equitably allocated and not unfairly discriminatory because the increased fees are identical in amount and apply to all members that elect to participate in the crosses and receive an execution. Moreover, NASDAQ does not believe that the increased fees will negatively impact participation in the crosses as current rates assessed for the open and closing cross continue to be materially less than the standard fee for accessing liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[6] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because

[5] *See* Exchange Rule 7018.

[6] 15 U.S.C. 78f(b)(8).

competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, the changes to routing fees and credits do not impose a burden on competition because NASDAQ's routing services are optional and are the subject of competition from other exchanges and broker-dealers that offer routing services, as well as the ability of members to develop their own routing capabilities. The slightly increased fees for execution in the NASDAQ crosses are reflective of a need to support and improve NASDAQ systems, which in turn benefit market quality and ultimately, competition. In sum, if the changes proposed herein are unattractive to market participants, it is likely that NASDAQ will lose market share as a result.

Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–108 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 Number SR–NASDAQ–2014–108. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–108 and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27845 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73646; File No. SR–BX–2014–056]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Rule 7018(a) with Respect to Execution and Routing of Orders in Securities Priced at $1 or More Per Share

November 19, 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 12, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make minor clarifying changes to Rule 7018(a) with respect to execution and routing of orders in securities priced at $1 or more per share.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make minor clarifying changes concerning the use and definition of the term ''Consolidated Volume'' provided in Rule 7018(a). Consolidated Volume is currently defined as the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month, excluding executed orders with a size of less than one round lot.[3] Consolidated Volume is used as a measure in determining member firm liability for certain charges, and eligibility for certain credits, for participation in BX. The Exchange compares a member firm's equity transactions in BX to Consolidated Volume to determine how impactful its particular order activity in BX is in relation to overall equity market volume. The definition of Consolidated Volume is currently provided under the QMM Tier 1 eligibility requirements of Rule 7018(a), although the term is used in preceding portions of the rule. In an effort to make the rule clearer, the Exchange is proposing to move the definition of Consolidated Volume to the beginning of Rule 7018(a). The Exchange is also capitalizing the term in certain fees and credits, which currently precede the definition of Consolidated Volume under the rule, to make clear that they reference the defined term. Lastly, the Exchange is proposing to delete duplicative language from Rule 7018(a)(2) under the QMM Tier 1 eligibility requirements that concerns the exclusion of the day of the annual Russell Investments Indexes. The Exchange notes that the language is included in the definition of Consolidated Volume and is therefore redundant.

The Exchange is also proposing to clarify the definition of Consolidated Volume. The current definition of Consolidated Volume does not expressly state that it encompasses transactions in equity securities only. As noted above, Consolidated Volume is used to determine how impactful a member firm's order activity in BX is in relation to overall equity market volume, thus allowing the Exchange to consider the member firm's contribution to BX as compared to what market participants provide to the larger equity markets. The Exchange believes that adding language to make clear that the Consolidated Volume includes only equities volume will serve to avoid possible misinterpretation that the rule may include volume outside of the equities markets. Accordingly, the Exchange is proposing to add language to the definition of Consolidated Volume under Rule 7018(a) to clarify that it applies only to equity securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Specifically, the proposed changes further these objectives because they make the rule more clear, thereby helping avoid potential investor confusion on how the credits and charges that use the definition are applied. The Exchange notes that it is not changing how the rule is applied in any way, and therefore the fees and credits thereunder continue to be reasonable and equitably allocated among member firms.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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, as amended. Specifically, the proposed changes do not alter the meaning or application of the fees and credits provided under Rule 7018(a), and therefore do not affect competition in any respect.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period to allow the Exchange to immediately implement changes to rule language that will serve to enhance the clarity concerning the application of fees assessed and credits provided under the rule. The Commission believes that the proposed rule change will enhance clarity and avoid possible misinterpretation of the rule. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[3] For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the Exchange excludes the date of the annual reconstitution of the Russell Investments Indexes from both total Consolidated Volume and the member's trading activity.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] 15 U.S.C. 78s(b)(3)(a)(ii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2014–056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2014–056. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–BX–2014–056* and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27844 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73642; File No. SR–FICC–2014–08]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify That Federal Reserve Banks, Central Counterparties, and Central Securities Depositories Shall Not Be Considered Either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants'' and Registered Investment Companies Shall Be Considered ''Voluntary Purchaser Participants''

November 19, 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 12, 2014, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FICC. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder.[4] The proposed rule change was effective upon filing with the Commission. 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

The proposed rule change consists of amendments to Rule 49 of the Rulebook of the Government Securities Division (''GSD'' and its Rulebook, ''GSD Rules'') of FICC, and Rule 39 of the Clearing Rules of the Mortgage-Backed Securities Division (''MBSD'' and its Clearing Rules, ''MBSD Rules'') of FICC in order to clarify that Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants,'' and further to clarify that Registered Investment Companies shall be considered ''Voluntary Purchaser Participants,'' as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the Third Amended and Restated Shareholders Agreement, dated as of December 7, 2005 (''Shareholders Agreement''), by and among The Depository Trust & Clearing Corporation (''DTCC''), The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), FICC, and the other parties thereto, and MBSD Rule 39, Clearing Members (as such term is defined in the MBSD Rules[5]) other than non-U.S. based central securities depositories are required to be ''Mandatory Purchaser Participants'' (as such term is defined in MBSD Rule 39) and be parties to the Shareholders Agreement, and all other users are not permitted to purchase and own shares of DTCC common stock (''Common Shares'') or be parties to the Shareholders Agreement. Further, pursuant to the Shareholders Agreement and GSD Rule 49: (1) Netting Members (as such term is defined in the GSD Rules[6]) other than non-U.S. based central securities depositories are required to be ''Mandatory Purchaser Participants'' (as such term is defined in the GSD Rules) and be parties to the Shareholders Agreement; (2) Comparison-Only Members (as such term is defined in the GSD Rules) are permitted, but not required to purchase and own Common Shares and be parties to the Shareholders Agreement; and (3)

[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)(1).

[5] MBSD Rules are *available at http://dtcc.com/legal/rules-and-procedures.aspx.*

[6] GSD Rules are *available at http://dtcc.com/legal/rules-and-procedures.aspx.*

Sponsored Members (as such term is defined in the GSD Rules) are not permitted to purchase and own Common Shares or be parties to the Shareholders Agreement.

FICC is proposing to amend MBSD Rule 39 and GSD Rule 49, as marked on Exhibit 5 hereto, in order to make clear Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either Mandatory Purchaser Participants or Voluntary Purchaser Participants. FICC has interpreted MBSD Rule 39 and GSD Rule 49 to exclude from their provisions: (1) Federal Reserve Banks, because it was never intended that such governmental authorities should be required to own shares in DTCC, notwithstanding that they may use certain services of FICC; and (2) central counterparties and central securities depositories, because link arrangements between FICC and these entities are for the purpose of extending clearing agency services across borders or among closely related activities and products, but not for ownership purposes.

FICC is also proposing to amend MBSD Rule 39 and GSD Rule 49 in order to make clear Registered Investment Companies (as such term is defined in the MBSD Rules and the GSD Rules) (''RICs'') in any membership category shall be considered Voluntary Purchaser Participants. As Voluntary Purchaser Participants, RICs would be permitted, but not required, to purchase and own Common Shares and be parties to the Shareholders Agreement. Regulatory requirements applicable to RICs, including limitations on the amount of illiquid securities these entities are permitted to hold on an on-going basis and requirements that stock purchases receive shareholder approval, significantly restrict the ability of RICs to participate in a mandatory stock purchase. These restrictions are unique to RICs. FICC would consider the applicability of the requirements in MBSD Rule 39 and GSD Rule 49 to any new members, as necessary.

2. Statutory Basis

The proposed rule change is consistent with the Act, and the rules and regulations thereunder, in particular Section 17A(b)(3)(C) which requires that the rules of FICC ''assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs . . . [and the Commission] may determine that the representation of participants is fair if they are afforded a reasonable opportunity to acquire voting stock of the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency.'' [7] FICC implements and meets this requirement through MBSD Rule 39 and GSD Rule 49, which afford MBSD and GSD users a reasonable opportunity to acquire voting stock indirectly in the clearing agency in reasonable proportion to their use of the clearing agency.[8] The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of these existing rules.

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change will not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [9] of the Act and paragraph (f) of Rule 19b–4 [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2014–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2014–08. 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 FICC and on FICC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2014–08 and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27840 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78q–1(b)(3)(C).

[8] *See* Commission orders approving NSCC and DTC's rule filings which implemented the current stock ownership structure that satisfies the fair representation requirements. Securities Exchange Act Release No. 41800 (August 27, 1999), 64 FR 48694 (September 7, 1999) (SR–NSCC–1999–10); and Securities Exchange Act Release No. 41786 (August 24, 1999), 64 FR 47882 (September 1, 1999) (SR–DTC–1999–17).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73643; File No. SR–DTC–2014–11]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify That Federal Reserve Banks, Central Counterparties, and Central Securities Depositories Shall Not Be Considered Either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants''

November 19, 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 12, 2014, The Depository Trust Company (''DTC'') 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 DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) thereunder.[4] The proposed rule change was effective upon filing with the Commission. 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

The proposed rule change consists of amendments to Rule 31 of the Rules and Procedures (''Rules'') of DTC in order to clarify that Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either ''Mandatory Purchaser Participants'' or ''Voluntary Purchaser Participants,'' as such terms are defined therein, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to the Third Amended and Restated Shareholders Agreement, dated as of December 7, 2005 (''Shareholders Agreement''), by and among The Depository Trust & Clearing Corporation (''DTCC''), DTC, National Securities Clearing Corporation (''NSCC''), Fixed Income Clearing Corporation (''FICC'') and the other parties thereto, and DTC Rule 31, Participants (as such term is defined in the Rules [5]) other than (i) non-U.S. based central securities depositories, or (ii) Limited Participants (as such term is defined in the Rules) are required to be ''Mandatory Purchaser Participants'' (as such term is defined in Rule 31) and be parties to the Shareholders Agreement. Limited Participants are not permitted to purchase and own shares of DTCC common stock (''Common Shares'') or be parties to the Shareholders Agreement.

DTC is proposing to amend Rule 31, as marked on Exhibit 5 hereto, in order to make clear Federal Reserve Banks, central counterparties, and central securities depositories shall not be considered either Mandatory Purchaser Participants or Voluntary Purchaser Participants (as such term is defined in Rule 31). DTC has interpreted Rule 31 to exclude from its provisions: (1) Federal Reserve Banks, because it was never intended that such governmental authorities should be required to own shares in DTCC, notwithstanding that they may use certain services of DTC; and (2) central counterparties and central securities depositories, because link arrangements between DTC and these entities are for the purpose of extending clearing agency services across borders or among closely related activities and products, but not for ownership purposes.

2. Statutory Basis

The proposed rule change is consistent with the Act, and the rules and regulations thereunder, in particular Section 17A(b)(3)(C) which requires that the rules of DTC ''assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs . . . [and the Commission] may determine that the representation of participants is fair if they are afforded a reasonable opportunity to acquire voting stock of the clearing agency, directly or indirectly, in reasonable proportion to their use of such clearing agency.'' [6] DTC implements and meets this requirement through DTC Rule 31, which afford DTC's participants a reasonable opportunity to acquire voting stock indirectly in the clearing agency in reasonable proportion to their use of the clearing agency.[7] The proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of this existing rule.

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change will not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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) [8] of the Act and paragraph (f) of Rule 19b–4 [9] 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:

[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)(1).

[5] DTC's Rules are *available at http://dtcc.com/legal/rules-and-procedures.aspx.*

[6] 15 U.S.C. 78q–1(b)(3)(C).

[7] *See* Commission orders approving NSCC and DTC's rule filings which implemented the current stock ownership structure that satisfies the fair representation requirements. Securities Exchange Act Release No. 41800 (August 27, 1999), 64 FR 48694 (September 7, 1999) (SR–NSCC–1999–10); and Securities Exchange Act Release No. 41786 (August 24, 1999), 64 FR 47882 (September 1, 1999) (SR–DTC–1999–17).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

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–DTC–2014–11 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–DTC–2014–11. 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 DTC and on DTC's Web site at *http://dtcc.com/legal/sec-rule-filings.aspx.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2014–11 and should be submitted on or before December 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–27841 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73649; File No. S7–04–09]

Order Extending Temporary Conditional Exemption for Nationally Recognized Statistical Rating Organizations From Requirements of Rule 17g–5 Under the Securities Exchange Act of 1934 and Request for Comment

November 19, 2014.

I. Introduction

On May 19, 2010, the Securities and Exchange Commission (''Commission'') conditionally exempted, with respect to certain credit ratings and until December 2, 2010, nationally recognized statistical rating organizations (''NRSROs'') from certain requirements in Rule 17g–5(a)(3)[1] under the Securities Exchange Act of 1934 (''Exchange Act''), which had a compliance date of June 2, 2010.[2] Pursuant to the Order, an NRSRO is not required to comply with Rule 17g–5(a)(3) until December 2, 2010 with respect to credit ratings where: (1) The issuer of the structured finance product is a non-U.S. person; and (2) the NRSRO has a reasonable basis to conclude that the structured finance product will be offered and sold upon issuance, and that any arranger linked to the structured finance product will effect transactions of the structured finance product after issuance, only in transactions that occur outside the U.S. (''covered transactions'').[3] On November 23, 2010, the Commission extended the conditional temporary exemption until December 2, 2011.[4] On November 16, 2011, the Commission extended the conditional temporary exemption until December 2, 2012.[5] On November 26, 2012, the Commission extended the conditional temporary exemption until December 2, 2013.[6] On November 22, 2013, the Commission extended the conditional temporary exemption until December 2, 2014.[7] The Commission is extending the temporary conditional exemption exempting NRSROs from complying with Rule 17g–5(a)(3) with respect to rating covered transactions until December 2, 2015.

II. Background

Rule 17g–5 identifies, in paragraphs (b) and (c) of the rule, a series of conflicts of interest arising from the business of determining credit ratings.[8] Paragraph (a) of Rule 17g–5[9] prohibits an NRSRO from issuing or maintaining a credit rating if it is subject to the conflicts of interest identified in paragraph (b) of Rule 17g–5 unless the NRSRO has taken the steps prescribed in paragraph (a)(1) (*i.e.,* disclosed the type of conflict of interest in Exhibit 6 to Form NRSRO in accordance with Section 15E(a)(1)(B)(vi) of the Exchange Act[10] and Rule 17g–1)[11] and paragraph (a)(2) (*i.e.,* established and is maintaining and enforcing written policies and procedures to address and manage conflicts of interest in accordance with Section 15E(h) of the Exchange Act).[12] Paragraph (c) of Rule 17g–5 specifically prohibits seven types of conflicts of interest. Consequently, an NRSRO is prohibited from issuing or maintaining a credit rating when it is subject to these conflicts regardless of whether it had disclosed them and established procedures reasonably designed to address them.

In December 2009, the Commission adopted subparagraph (a)(3) to Rule 17g–5. This provision requires an NRSRO that is hired by an arranger to determine an initial credit rating for a structured finance product to take certain steps designed to allow an NRSRO that is not hired by the arranger to nonetheless determine an initial credit rating—and subsequently monitor that credit rating—for the structured finance product.[13] In particular, under Rule 17g–5(a)(3), an NRSRO is prohibited from issuing or maintaining a credit rating when it is subject to the conflict of interest identified in paragraph (b)(9) of Rule 17g–5 (*i.e.,* being hired by an arranger to determine a credit rating for a structured finance product)[14] unless it has taken the steps

[1] *See* 17 CFR 240.17g–5(a)(3).

[2] *See* Exchange Act Release No. 62120 (May 19, 2010), 75 FR 28825 (May 24, 2010) (''Order'').

[3] *See id.* at 28827–28 (setting forth conditions of relief).

[4] *See* Exchange Act Release No. 63363 (Nov. 23, 2010), 75 FR 73137 (Nov. 29, 2010) (''First Extension Order'').

[5] *See* Exchange Act Release No. 65765 (Nov. 16, 2011), 76 FR 72227 (Nov. 22, 2011) (''Second Extension Order'').

[6] *See* Exchange Act Release No. 34–68286 (Nov. 26, 2012), 77 FR 71201 (Nov. 29, 2012) (''Third Extension Order'').

[7] *See* Exchange Act Release No. 34–70919 (Nov. 22, 2013), 78 FR 70984 (Nov. 27, 2013) (''Fourth Extension Order'').

[8] 17 CFR 240.17g–5(b) and (c).

[9] 17 CFR 240.17g–5(a).

[10] 15 U.S.C. 78o–7(a)(1)(B)(vi).

[11] 17 CFR 240.17g–1.

[12] 15 U.S.C. 78o–7(h).

[13] *See* 17 CFR 240.17g–5(a)(3); *see also* Exchange Act Release No. 61050 (Nov. 23, 2009), 74 FR 63832 (Dec. 4, 2009) (''Adopting Release'') at 63844–45.

[14] Paragraph (b)(9) of Rule 17g–5 identifies the following conflict of interest: issuing or maintaining a credit rating for a security or money market instrument issued by an asset pool or as part of any asset-backed or mortgage-backed securities

Continued

prescribed in paragraphs (a)(1) and (2) of Rule 17g–5 (discussed above) and the steps prescribed in new paragraph (a)(3) of Rule 17g–5.[15] Rule 17g–5(a)(3), among other things, requires that the NRSRO must:

- Maintain on a password-protected Internet Web site a list of each structured finance product for which it currently is in the process of determining an initial credit rating in chronological order and identifying the type of structured finance product, the name of the issuer, the date the rating process was initiated, and the Internet Web site address where the arranger represents the information provided to the hired NRSRO can be accessed by other NRSROs;
- Provide free and unlimited access to such password-protected Internet Web site during the applicable calendar year to any NRSRO that provides it with a copy of the certification described in paragraph (e) of Rule 17g–5 that covers that calendar year;[16] and
- Obtain from the arranger a written representation that can reasonably be relied upon that the arranger will, among other things, disclose on a password-protected Internet Web site the information it provides to the hired NRSRO to determine the initial credit rating (and monitor that credit rating) and provide access to the Web site to an NRSRO that provides it with a copy of the certification described in paragraph (e) of Rule 17g–5.[17]

The Commission stated in the Adopting Release that subparagraph Rule 17g–5(a)(3) is designed to address conflicts of interest and improve the quality of credit ratings for structured finance products by making it possible for more NRSROs to rate structured finance products.[18] For example, the Commission noted that when an NRSRO is hired to rate a structured finance product, some of the information it relies on to determine the rating is generally not made public.[19] As a result, structured finance products frequently are issued with ratings from only the one or two NRSROs that have been hired by the arranger, with the attendant conflict of interest that creates.[20] The Commission stated that subparagraph Rule 17g–5(a)(3) was designed to increase the number of credit ratings extant for a given structured finance product and, in particular, to promote the issuance of credit ratings by NRSROs that are not hired by arrangers.[21] The Commission's goal in adopting the rule was to provide users of credit ratings with more views on the creditworthiness of structured finance products.[22] In addition, the Commission stated that Rule 17g–5(a)(3) was designed to reduce the ability of arrangers to obtain better than warranted ratings by exerting influence over NRSROs hired to determine credit ratings for structured finance products.[23] Specifically, by opening up the rating process to more NRSROs, the Commission intended to make it easier for the hired NRSRO to resist such pressure by increasing the likelihood that any steps taken to inappropriately favor the arranger could be exposed to the market through the credit ratings issued by other NRSROs.[24]

Rule 17g–5(a)(3) became effective on February 2, 2010, and the compliance date for Rule 17g–5(a)(3) was June 2, 2010.

III. Extension of Conditional Temporary Extension

In the Order, the Commission requested comment generally, but also on a number of specific issues.[25] The Commission received six comment letters in response to this solicitation of comment.[26] The commenters expressed concern that the extraterritorial application of Rule 17g–5(a)(3) could, in the commenter's view, among other things, disrupt local securitization markets,[27] inhibit the ability of local firms to raise capital,[28] and conflict with local laws.[29] Several commenters also

transaction that was paid for by the issuer, sponsor, or underwriter of the security or money market instrument. 17 CFR 240.17g–5(b)(9).

[15] 17 CFR 240.17g–5(a)(3).

[16] Paragraph (e) of Rule 17g–5 requires that an NRSRO seeking to access the hired NRSRO's Internet Web site during the applicable calendar year must furnish the Commission with the following certification:

The undersigned hereby certifies that it will access the Internet Web sites described in 17 CFR 240.17g–5(a)(3) solely for the purpose of determining or monitoring credit ratings. Further, the undersigned certifies that it will keep the information it accesses pursuant to 17 CFR 240.17g–5(a)(3) confidential and treat it as material nonpublic information subject to its written policies and procedures established, maintained, and enforced pursuant to section 15E(g)(1) of the Act (15 U.S.C. 78o–7(g)(1)) and 17 CFR 240.17g–4. Further, the undersigned certifies that it will determine and maintain credit ratings for at least 10% of the issued securities and money market instruments for which it accesses information pursuant to 17 CFR 240.17g–5(a)(3)(iii), if it accesses such information for 10 or more issued securities or money market instruments in the calendar year covered by the certification. Further, the undersigned certifies one of the following as applicable: (1) In the most recent calendar year during which it accessed information pursuant to § 17 CFR 240.17g–5(a)(3), the undersigned accessed information for [Insert Number] issued securities and money market instruments through Internet Web sites described in 17 CFR 240.17g–5(a)(3) and determined and maintained credit ratings for [Insert Number] of such securities and money market instruments; or (2) The undersigned previously has not accessed information pursuant to 17 CFR 240.17g–5(a)(3) 10 or more times during the most recently ended calendar year.

[17] In particular, under paragraph (a)(3)(iii) of Rule 17g–5, the arranger must represent to the hired NRSRO that it will: (1) Maintain the information described in paragraphs (a)(3)(iii)(C) and (a)(3)(iii)(D) of Rule 17g–5 available at an identified password-protected Internet Web site that presents the information in a manner indicating which information currently should be relied on to determine or monitor the credit rating; (2) Provide access to such password-protected Internet Web site during the applicable calendar year to any NRSRO that provides it with a copy of the certification described in paragraph (e) of Rule 17g–5 that covers that calendar year, provided that such certification indicates that the nationally recognized statistical rating organization providing the certification either: (i) determined and maintained credit ratings for at least 10% of the issued securities and money market instruments for which it accessed information pursuant to paragraph (a)(3)(iii) of Rule 17g–5 in the calendar year prior to the year covered by the certification, if it accessed such information for 10 or more issued securities or money market instruments; or (ii) has not accessed information pursuant to paragraph (a)(3) of Rule 17g–5 10 or more times during the most recently ended calendar year; (3) Post on such password-protected Internet Web site all information the arranger provides to the NRSRO, or contracts with a third party to provide to the NRSRO, for the purpose of determining the initial credit rating for the security or money market instrument, including information about the characteristics of the assets underlying or referenced by the security or money market instrument, and the legal structure of the security or money market instrument, at the same time such information is provided to the NRSRO; and (4) Post on such password-protected Internet Web site all information the arranger provides to the NRSRO, or contracts with a third party to provide to the NRSRO, for the purpose of undertaking credit rating surveillance on the security or money market instrument, including information about the characteristics and performance of the assets underlying or referenced by the security or money market instrument at the same time such information is provided to the NRSRO.

[18] Adopting Release at 63844.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *See* Order at 28828.

[26] Letter from Masamichi Kono, Vice Commissioner for International Affairs, Financial Services Agency, Japan, dated Nov. 12, 2010 (''Japan FSA Letter''); Letter from Masaru Ono, Executive Director, Securitization Forum of Japan, dated Nov. 12, 2010 (''SFJ Letter''); Letter from Rick Watson, Managing Director, Association for Financial Markets in Europe/European Securitisation Forum, dated Nov. 11, 2010 (''AFME Letter''); Letter from Jack Rando, Director, Capital Markets, Investment Industry Association of Canada, dated Sep. 22, 2010 (''IIAC Letter''); Letter from Christopher Dalton, Chief Executive Officer, Australian Securitisation Forum, dated Jun. 27, 2010 (''AuSF Letter''); Letter from Takefumi Emori, Managing Director, Japan Credit Rating Agency, Ltd. (''JCR''), dated Jun. 25, 2010 (''JCR Letter'').

[27] *See* Japan FSA Letter; SFJ Letter; AFME Letter; JCR Letter; AuSF Letter.

[28] *See* AFME Letter; JCR Letter; AuSF Letter.

[29] *See* Japan FSA Letter; AFME Letter; JCR Letter; AuSF Letter; IIAC Letter. With respect to local laws, we note that the European Commission in recent months has issued a relevant proposal for amendments to the European Union Regulation on Credit Ratings. *See* ''Regulation of the European

requested that the conditional temporary exemption be extended or made permanent.[30] The First Extension Order again solicited public comment on issues raised in connection with the extra-territorial application of Rule 17g–5(a)(3).[31] One commenter requested that the Order be made permanent, citing many of the same reasons set forth in prior comment letters.[32] The Second Extension Order again solicited public comment on issues raised in connection with the extra-territorial application of Rule 17g–5(a)(3).[33] Commenters supported the exemption regarding the extra-territorial application of the Rule,[34] with one of those commenters again requesting that the Order be made permanent.[35] The Third Extension Order again solicited public comment on issues raised in connection with the extra-territorial application of Rule 17g–5(a)(3). No comments were received. The Fourth Extension Order again solicited public comment on issues raised in connection with the extra-territorial application of Rule 17g–5(a)(3). One comment was received and the commenter supported the exemption regarding the extra-territorial application of the Rule.[36]

Given the continued concerns about potential disruptions of local securitization markets, and because the Commission's consideration of the issues raised will benefit from additional time to engage in further dialogue with interested parties and to monitor market and regulatory developments, the Commission believes extending the conditional temporary exemption until December 2, 2015 is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Parliament and of the Counsel on amending Regulation (EC) No 1060/2009 on credit rating agencies'' (available at *http://ec.europa.eu/internal_market/securities/docs/agencies/100602_proposal_en.pdf*).

[30] *See* Japan FSA Letter; SFJ Letter; AFME Letter; JCR Letter.

[31] *See* Letter from Tom Deutsch, Executive Director, American Securitization Forum, and Chris Dalton, Chief Executive Officer, Australian Securitization Forum, dated Aug. 9, 2011 (''ASF/AuSF Letter 1''); Letter from Jack Rando, Director, Capital Markets, Investment Industry Association of Canada, dated Nov. 2, 2011 (''IIAC Letter 2'').

[32] *See* ASF/AuSF Letter 1.

[33] Letter from Chris Barnard to the Commission, dated Nov. 23, 2011 (''Barnard Letter''); Letter from Tom Deutsch, Executive Director, American Securitization Forum and Chris Dalton, Chief Executive Officer, Australian Securitisation Forum, dated Aug. 28, 2012 (''ASF/AuSF Letter 2'').

[34] *See* Barnard Letter; ASF/AuSF Letter 2.

[35] *See* ASF/AuSF Letter 2.

[36] *See* Letter from Chris Barnard to the Commission, dated Nov. 26, 2013.

IV. Request for Comment

The Commission believes that it would be useful to continue to provide interested parties opportunity to comment. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/exorders.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–04–09 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–04–09. This file number should be included on the subject line if email is used. To help us 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/exorders.shtml*). Comments are also available for Web site viewing and printing in the Commission's Public Reference Room, 100 F St. NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. 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.

V. Conclusion

For the foregoing reasons, the Commission believes it would be necessary or appropriate in the public interest and consistent with the protection of investors to extend the conditional temporary exemption exempting NRSROs from complying with Rule 17g–5(a)(3) with respect to rating covered transactions until December 2, 2015.

Accordingly,

It is hereby ordered, pursuant to Section 36 of the Exchange Act, that a nationally recognized statistical rating organization is exempt until December 2, 2015 from the requirements in Rule 17g–5(a)(3) (17 CFR 240.17g–5(a)(3)) for credit ratings where:

(1) The issuer of the security or money market instrument is not a U.S. person (as defined under Securities Act Rule 902(k)); and

(2) The nationally recognized statistical rating organization has a reasonable basis to conclude that the structured finance product will be offered and sold upon issuance, and that any arranger linked to the structured finance product will effect transactions of the structured finance product after issuance, only in transactions that occur outside the U.S.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2014–27846 Filed 11–24–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Bravo Enterprises Ltd.; Immunotech Laboratories, Inc.; Myriad Interactive Media, Inc.; Wholehealth Products, Inc.; Order of Suspension of Trading

November 20, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of the issuers listed below.

1. Bravo Enterprises Ltd. is a Nevada corporation with its principal place of business in Patchogue, New York. Questions have arisen concerning the accuracy and adequacy of publicly disseminated information, including information about the relationship between the company's business prospects and the current Ebola crisis. The company is quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group Inc. (''OTC Link''), under the stock symbol OGNG.

2. Immunotech Laboratories, Inc. is a Nevada corporation with its principal place of business in Monrovia, California. Questions have arisen concerning the accuracy and adequacy of publicly disseminated information, including information about the relationship between the company's business prospects and the current Ebola crisis. The company is quoted on OTC Link under the stock symbol IMMB.

3. Myriad Interactive Media, Inc. is a Delaware corporation with its principal place of business in Toronto, Canada. Questions have arisen concerning the accuracy and adequacy of publicly disseminated information, including information about the relationship between the company's business prospects and the current Ebola crisis.

The company is quoted on OTC Link under the stock symbol MYRY.

4. Wholehealth Products, Inc. is a Nevada corporation with its principal place of business in Anaheim, California. Questions have arisen concerning the accuracy and adequacy of publicly disseminated information, including information about the relationship between the company's business prospects and the current Ebola crisis. The company is quoted on OTC Link under the stock symbol GWPC.

The Commission is of the opinion that the public interest and the protection of investors require the suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST, on November 20, 2014, through 11:59 p.m. EST, on December 4, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–27881 Filed 11–20–14; 11:15 am]

BILLING CODE 8011–01–P

SELECTIVE SERVICE SYSTEM

Computer Matching Between the Selective Service System and the Department of Education

AGENCY: Selective Service System.

ACTION: Notice.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, the following information is provided:

1. Name of participating agencies.

The Selective Service System (SSS) and the Department of Education (ED).

2. Purpose of the match.

The purpose of this matching program is to ensure that the requirements of Section 12(f) of the Military Selective Service Act [50 U.S.C. App. 462 (f)] are met. This program has been in effect since December 6, 1985.

3. Authority for conducting the matching.

Computerized access to the Selective Service Registrant Registration Records (SSS–9) enables ED to confirm the registration status of applicants for assistance under Title IV of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1070 et. seq.). Section 12(f) of the Military Selective Service Act (MSSA), as amended [50 U.S.C. App. 462(f)], denies eligibility for any form of assistance or benefit under Title IV of the HEA to any person required to present himself for and submit to registration under Section 3 of the MSSA [50 U.S.C. App. 453] who fails to do so in accordance with that section and any rules and regulations issued under that section. In addition, Section 12(f)(2) of the MSSA specifies that any person required to present himself for and submit to registration under Section 3 of the MSSA must file a statement with the institution of higher education where the person intends to attend or is attending that he is in compliance with the MSSA. Furthermore, Section 12(f)(3) of the MSSA authorizes the Secretary of Education, in agreement with the Director of the Selective Service, to prescribe methods for verifying the statements of compliance filed by students.

Section 484(n) of the HEA [20 U.S.C. 1091(n)], requires the Secretary to conduct data base matches with SSS, using common demographic data elements, to enforce the Selective Service registration provisions of the MSSA [50 U.S.C. App. 462(f)], and further states that appropriate confirmation of a person shall fulfill the requirement to file a separate statement of compliance.

4. Categories of records and individuals covered.

1. Federal Student Aid Application File (18–11–01).

Individuals covered are men born after December 31, 1959, but at least 18 years old by January 1 of the applicable award year.

2. Selective Service Registration Records (SSS–9).

5. Inclusive dates of the matching program.

Commence on January 2, 2015 or 40 days after copies of the matching agreement are transmitted simultaneously to the Committee on Government Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget, whichever is later, and remain in effect for eighteen months unless earlier terminated or modified by agreement of the parties.

6. Address for receipt of public comments or inquires.

Mr. Darren Lloyd, Selective Service System, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Dated: November 14, 2014.

Lawrence G. Romo,

Director.

[FR Doc. 2014–27903 Filed 11–24–14; 8:45 am]

BILLING CODE 8015–01–P

DEPARTMENT OF STATE

[Public Notice 8953]

Determination

Pursuant to the authority vested in the Secretary of State by the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* (''the Act''), and delegated to me as the Under Secretary of State for Management in Delegation of Authority No. 198, dated September 16, 1992, and consistent with my March 9, 2014 determination that the Taipei Economic and Cultural Representative Office in the United States (TECRO), including its subsidiary offices known as Taipei Economic and Cultural Offices (TECOs) and its personnel, is a ''foreign mission'' within the meaning of the Act (22 U.S.C. 4302(a)(3)(A)), I hereby confirm and determine that it is reasonably necessary to achieve the purposes set forth in 22 U.S.C. 4304(b), to require that TECRO, its subsidiary offices, persons duly notified to and accepted by AIT as designated employees of TECRO at its primary office or one of its subsidiary offices, including the heads of such offices, and family members of such designated employees who enjoy any immunity from legal process in the United States, shall be subject to the requirements regarding liability insurance set forth in 22 CFR part 151, and shall obtain from the Office of Foreign Missions driver licenses, title and registration documents, license plates and other such requisites for the operation, ownership, or maintenance of a motor vehicle. I further confirm and determine that the Office of Foreign Missions is authorized to issue driver's licenses to immediate family members of TECO designated employees who do not enjoy any immunity from legal process. This determination shall not apply with respect to any person who is a national of, or is permanently resident in, the United States.

Dated: October 29, 2014.

Patrick F. Kennedy,

Under Secretary for Management.

[FR Doc. 2014–27932 Filed 11–24–14; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF STATE

[Public Notice 8955]

Determination and Certification Regarding Assistance to Fiji

ACTION: Notice.

SUMMARY: On October 24, 2014, the Deputy Secretary of State took the following action: ''Pursuant to the authority vested in me as Deputy Secretary of State, including by section 7008 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014 (Div. K, Pub. L. 113–76), as carried forward by the Continuing Appropriations Resolution, 2014 (Pub. L. 113–64), and similar provisions in prior year Acts, Executive Order 12163, as amended, and State Department Delegation of Authority No. 245–1, I hereby determine and certify that, subsequent to the termination of assistance to the Government of Fiji after that country's December 2006 military coup, a democratically elected government has taken office in Fiji.

''This Determination and Certification shall be reported to Congress and published in the **Federal Register**.''

(Signed William J. Burns, Deputy Secretary of State)

This Determination and Certification has been reported to Congress.

Dated: October 29, 2014.

J. Paul Reid,

Acting Deputy Assistant Secretary of State, Bureau of East Asian and Pacific Affairs.

[FR Doc. 2014–27933 Filed 11–24–14; 8:45 am]

BILLING CODE 4710–30–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Vehicle Theft Prevention Standard; Mazda Motor Corporation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Mazda Motor Corporation's (Mazda) petition for an exemption of the (confidential) vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Mazda also requested confidential treatment for specific information in its petition. The agency will address Mazda's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2016 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated August 1, 2014, Mazda requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Mazda (confidential) vehicle line beginning with MY 2016. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Mazda provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the (confidential) vehicle line. Mazda stated that its MY 2016 (confidential) vehicle line will be equipped with a passive, transponder based, electronic engine immobilizer antitheft device as standard equipment. Key components of its antitheft device will include a powertrain control module (PCM), immobilizer control module, security indicator light, coil antenna, transmitter with transponder key (transponder key), low frequency (LF) antenna, radio frequency (RF) antenna and low frequency unit (LFU). The device will not provide any visible or audible indication of unauthorized vehicle entry (*i.e.,* flashing lights or horn alarm) as standard equipment. Mazda's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

The integration of the set/unset device (transponder key) into the immobilizer system prevents any inadvertent actuation of the system. Mazda stated that the antitheft device is deactivated when the ignition is initially engaged by pressing the ''Engine Start'' pushbutton while simultaneously depressing the brake pedal. Activation of the device occurs when the operator disengages the ignition by pressing the ''Engine Start'' pushbutton when the vehicle is parked.

Mazda further stated that there are two methods of initiating the antitheft device operation process. The first process is used when the transponder key can be detected. Specifically, the immobilizer control unit sends a signal to the transponder key using its LF antenna to request a transponder code. The transponder code is then sent through the RF receiver back to the immobilizer control unit to authenticate the code and determine its validity. The second process is used when the transponder key cannot be detected by the immobilizer control unit (*i.e.,* discharged battery). For this process, communication between the transponder key and the immobilizer control unit begins when the transponder key is passed over the coil antenna located in the ''Engine Start'' pushbutton. The immobilizer control module then communicates with the transponder key to determine key validity. Mazda stated that if the code from the transponder key matches with the code from the immobilizer control module by either process, the immobilizer control module compares its code with the code from the PCM when the ''Engine Start'' pushbutton is pressed and the brake pedal is depressed simultaneously. Mazda stated that the vehicle's engine can only be started if the code from the immobilizer control module matches the code previously programmed into the PCM. If the codes do not match, the engine will not start.

Mazda also stated that the immobilizer device incorporates a light-emitting diode (LED) indicator which provides information on the status of the antitheft device. Specifically, when the ignition is initially engaged, the LED illuminates continuously for 3 seconds to indicate the ''unset'' state of the system. When the ignition is disengaged, a flashing LED indicates the ''set'' state of the device, providing a visual confirmation that the vehicle is protected by the immobilizer device.

In addressing the specific content requirements of § 543.6, Mazda provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Mazda conducted tests based on its own specified standards. Mazda provided a detailed list of the tests conducted (*i.e.,* electromagnetic

radiation, electric conduction, and climatic, mechanical and chemical environments) and believes that the device is reliable and durable since it complied with its own specified requirements for each test. Mazda also stated that its device is extremely reliable and durable because it does not have any moving parts, and that any attempt to slam-pull the ignition will have no effect on a thief's ability to start the vehicle without the correct code being transmitted to the electronic control modules.

In support of its belief that its antitheft device will be as effective as compliance with the parts-marking requirements in reducing and deterring vehicle theft, Mazda also compared its device to other similar devices previously granted exemptions by the agency. Mazda stated that its antitheft device has features similar to the Ford Motor Company's (Ford) Passive Anti-Theft System (PATS). The PATS antitheft device was previously approved for exemption from the requirements of Part 541 and installed on the Mazda Tribute, (manufactured by Ford), the Ford Focus, the Ford Five Hundred and the Ford Taurus X vehicle lines. The agency granted in full the petition for the Mazda Tribute vehicle line beginning with model year 2010, (see 73 FR 40447, July 14, 2008), the Ford Focus vehicle line beginning with model year 2006, (see 71 FR 7824, February 14, 2006), the Ford Five Hundred beginning with model year 2007 (see 71 FR 52206, September 1, 2006), and the Ford Taurus X vehicle line beginning with model year 2008, (see 72 FR 20400, April 24, 2007). The agency notes the average theft rate for the Mazda Tribute and Ford Focus vehicle lines using three MYs' data (2010-preliminary 2012) are 1.560 and 0.14216 respectively. Current theft rate data is not available for the Ford Five Hundred and the Taurus X vehicle lines because they are no longer being produced.

Mazda also provided data on the effectiveness of other similar antitheft devices installed on vehicle lines in support of its belief that its device will be at least as effective as those comparable devices. Specifically, Mazda stated that its device was installed on certain MY 1996

Ford vehicles as standard equipment, (*i.e.,* all Ford Mustang GT, Cobra, Taurus LX, SHO and Sable LS models). In MY 1997, Mazda installed its immobilizer device on the entire Ford Mustang vehicle line as standard equipment. When comparing 1995 model year Mustang vehicle thefts (without immobilizers) with MY 1997 Mustangs vehicle thefts (with immobilizers), Mazda referenced the National Crime Information Center's theft information which showed that there was a 70% reduction in theft experienced when comparing MY 1997 Mustang vehicle thefts (with immobilizers) to MY 1995 Mustang vehicle thefts (without immobilizers). Mazda also stated that the Highway Loss Data Institute's (HLDI) September 1997 Theft Loss Bulletin reported an overall theft loss decrease of approximately 50% for both the Ford Mustang and Taurus models upon installation of an antitheft immobilization device. The agency notes that current theft rate data for MYs 2010 through preliminary 2012 are 2.2392, 1.7365 and 2.2115 respectively for the Ford Mustang vehicle line. Additionally, Mazda referenced a July 2000 HLDI news release which reported that when comparing theft loss data before and after equipping vehicle with passive immobilizer devices, the data showed an average theft reduction of approximately 50% for vehicle with immobilizer devices.

Mazda stated that it believes that since its device is functionally equivalent to other comparable manufacturer's devices that have already been granted parts-marking exemptions by the agency, along with the evidence of reduced theft rates for vehicle lines equipped with similar devices and advanced technology of transponder electronic security, the Mazda immobilizer device will have the potential to achieve the level of effectiveness equivalent to those vehicle already exempted by the agency. The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Based on the supporting evidence submitted by Mazda on its device, the agency believes that the antitheft device for the (confidential) vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Mazda has provided adequate reasons for its belief that the antitheft device for the Mazda (confidential) vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Mazda provided about its device.

The agency concludes that the device will provide the four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Mazda's petition for exemption for the Mazda (confidential) vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Mazda decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Mazda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a

modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR 1.95

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27887 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Final Decision on Proposed Airport Access Restriction

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The FAA has completed its review of the application for an airport noise and access restriction submitted by Los Angeles World Airports (LAWA) for the Los Angeles International Airport (LAX). The FAA determined that the application does not provide substantial evidence that the proposed restriction meets three of the six statutory conditions for approval under the Airport Noise and Capacity Act of 1990 (ANCA). The FAA's decision was signed on November 7, 2014, and transmitted to LAWA on November 8, 2014.

DATES: *Effective date:* November 25, 2014. The effective date of the FAA's decision on the application for a mandatory noise and access restriction at LAX is November 7, 2014.

FOR FURTHER INFORMATION CONTACT: James Byers, Airport Planning and Environmental Division, APP–400, 800 Independence Avenue SW., Washington, DC 20591. Email address: *jim.byers@faa.gov;* telephone: 202–267–3007.

SUPPLEMENTARY INFORMATION: This Notice also announces the availability of the FAA's final agency order disapproving the proposed access restriction at *http://faa.gov/airports/environmental/airport_noise/part_161/.*

The Airport Noise and Capacity Act of 1990 (hereinafter referred to as ''the Act'' or ''ANCA'') provides notice, review, and approval requirements for airports seeking to impose noise or access restrictions on Stage 3 aircraft operations that become effective after October 1, 1990. 49 U.S.C. 47521 *et seq.*

ANCA established a 180-day review period for the application. Under 14 CFR 161.313(c)(4)(ii), the review period starts on the date of receipt of the complete application, which was May 22, 2014.

On January 30, 2013, the FAA received an application from LAWA under Title 14, Code of Federal Regulations, 14 CFR part 161, seeking the FAA's review of a proposed Stage 3 aircraft noise and access restriction at LAX. The FAA reviewed the application in accordance with 14 CFR 161.313(a), and determined it to be incomplete in the areas of Noise Exposure Maps (NEMs); Noise Study Area; Technical Data Supporting Noise Impact Analysis; and Cost Benefit Analysis. The FAA sent notice of this decision to LAWA on March 1, 2013. On March 15, 2013, the FAA provided LAWA with additional information regarding the types of information and analysis required to complete the application.

On March 28, 2013, LAWA stated its intent to revise the Part 161 application and resubmit it for further review. On July 5, 2013, FAA received a ''Supplemental Analysis'' from LAWA. The FAA reviewed the Supplemental Analysis and determined that the application continued to be incomplete in the areas of Airport Noise Study Area and Noise Contours; Technical Data Supporting Noise Impact Analysis; and Cost Benefit Analysis. The FAA sent notice of this decision to LAWA on August 2, 2013. On August 20, 2013, LAWA stated its intent to supplement the Part 161 application and resubmit it to the FAA. On May 12, 2014, FAA received LAWA's supplemented application, followed by an errata sheet on May 22, 2014. On June 10, 2014, FAA determined LAWA's application to be complete. On June 27, 2014, the FAA published a notice in the **Federal Register** announcing its determination that LAWA's application was complete and inviting public comments. 79 FR 36577. The FAA received 21 separate comments, which the FAA considered during its evaluation of the LAWA application.

By law, the FAA may only approve a noise or access restriction affecting the operations of Stage 3 aircraft if the applicant demonstrates, by substantial evidence, that each of six statutory conditions have been met. These six statutory conditions of approval are:

- Condition 1: The restriction is reasonable, nonarbitrary, and nondiscriminatory;
- Condition 2: The restriction does not create an undue burden on interstate or foreign commerce;
- Condition 3: The proposed restriction maintains safe and efficient use of the navigable airspace;
- Condition 4: The proposed restriction does not conflict with any existing Federal statute or regulation;
- Condition 5: The applicant has provided adequate opportunity for public comment on the proposed restriction; and
- Condition 6: The proposed restriction does not create an undue burden on the national aviation system.

The FAA evaluated LAWA's application under the provisions of ANCA and 14 CFR 161.317 and determined that the application satisfies the requirements under Condition 3, Condition 5, and Condition 6. However, the application does not satisfy the requirements under Condition 1, Condition 2, or Condition 4. Therefore, in accordance with the requirements set forth in ANCA, the FAA disapproved the application on November 7, 2014.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on November 17, 2014.

Elliott Black,

Director, Office of Airport Planning and Programming.

[FR Doc. 2014–27815 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Random Drug and Alcohol Testing Percentage Rates of Covered Aviation Employees for the Period of January 1, 2015, Through December 31, 2015

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA has determined that the minimum random drug and alcohol testing percentage rates for the period January 1, 2015, through December 31, 2015, will remain at 25 percent of safety-sensitive employees for random drug testing and 10 percent of safety-sensitive employees for random alcohol testing.

FOR FURTHER INFORMATION CONTACT: Ms. Vicky Dunne, Office of Aerospace Medicine, Drug Abatement Division, Program Policy Branch (AAM–820), Federal Aviation Administration, 800 Independence Avenue SW., Room 806,

Washington, DC 20591; Telephone (202) 267–8442.

Discussion: Pursuant to 14 CFR 120.109(b), the FAA Administrator's decision on whether to change the minimum annual random drug testing rate is based on the reported random drug test positive rate for the entire aviation industry. If the reported random drug test positive rate is less than 1.00%, the Administrator may continue the minimum random drug testing rate at 25%. In 2013, the random drug test positive rate was 0.485%. Therefore, the minimum random drug testing rate will remain at 25% for calendar year 2015.

Similarly, 14 CFR 120.217(c), requires the decision on the minimum annual random alcohol testing rate to be based on the random alcohol test violation rate. If the violation rate remains less than 0.50%, the Administrator may continue the minimum random alcohol testing rate at 10%. In 2013, the random alcohol test violation rate was 0.091%. Therefore, the minimum random alcohol testing rate will remain at 10% for calendar year 2015.

SUPPLEMENTARY INFORMATION: If you have questions about how the annual random testing percentage rates are determined please refer to the Code of Federal Regulations Title 14, section 120.109(b) (for drug testing), and 120.217(c) (for alcohol testing).

Issued in Washington, DC, on November 13, 2014.

James R. Fraser,

Federal Air Surgeon.

[FR Doc. 2014–27829 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Safety Advisory 2014–02]

Roadway Worker Authority Limits—Importance of Clear Communication, Compliance With Applicable Rules and Procedures, and Ensuring That Appropriate Safety Redundancies Are in Place in the Event of Miscommunication or Error

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2014–02 to reemphasize the importance of clear communication and compliance with applicable rules and procedures regarding roadway worker authority limits on controlled track. FRA believes it is necessary to issue this advisory in light of the miscommunication or error involved in recent roadway worker incidents that occurred at locations that were either outside of authority limits or within authority limits that were no longer protected due to dispatcher error. This safety advisory recommends that railroads monitor their employees for compliance with existing applicable rules and procedures and that they also examine their train dispatching systems, rules, and procedures to ensure that appropriate safety redundancies are in place in the event of miscommunication or error. In addition, this safety advisory recommends that if a railroad determines that appropriate safety redundancies are not in place, the railroad should adopt electronic technology that would provide appropriate safety redundancies, and adopt certain interim safety measures and procedures at least until such technology is in place.

FOR FURTHER INFORMATION CONTACT: Kenneth Rusk, Staff Director, Track Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6236; or Anna Nassif Winkle, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6166.

SUPPLEMENTARY INFORMATION:

Background

FRA is concerned about the infrequent, but repetitive incidents involving roadway workers being struck or nearly struck by trains that appear to be due to miscommunication or error regarding the roadway workers' authority limits or location in relation to the authority limits. This safety advisory discusses six such incidents, three of which resulted in four employee fatalities. However, there have been other close-call incidents involving similar circumstances that did not result in fatalities but further highlight the need for this safety advisory. Information regarding some of the incidents discussed below is based on FRA's preliminary findings and the respective railroad's reporting to date. The probable causes and contributing factors, if any, have not yet been established for all of these incidents and nothing in this safety advisory is intended to attribute a cause to these incidents, or place responsibility for these incidents on the acts or omissions of any person or entity.

The following is a summary of the circumstances involved in each of the incidents:

In November 2013, a BNSF Railway Co. (BNSF) lead welder was killed when his welding truck collided with an eastbound freight train on a single main track at a location that was outside of his roadway work group's limits of authority. It appears from FRA's preliminary investigation that the two-man work group set on the track at a location outside of their authority limits after the workers disagreed regarding the extent of the authority limits and after not being able to quickly resolve the discrepancy because the screen displaying their authority was not visible at the time they set on the track. The foreman was apparently attempting to ''wake up'' the computer screen as the operator was setting their vehicle on and operating over the track, rather than remaining clear of the track until the discrepancy could be resolved, as required by the railroad's good faith challenge procedures.

In May 2013, a Metro-North Commuter Railroad Co. (Metro-North) track foreman was struck and killed by a passenger train in Danbury, Connecticut, after a student dispatcher prematurely removed the control signal blocking devices that had been established for the track foreman's work group, and cleared the signal for the passenger train. Investigation by FRA and the National Transportation Safety Board (NTSB) determined that the student dispatcher assumed that the foreman no longer needed the main track after the dispatcher had lined the foreman-piloted locomotive crane into an out-of-service track. Several weeks prior to this incident, a very similar incident occurred on the same railroad. However, in that situation, the roadway worker detected the advancing train movement in sufficient time to move away from the track and avoid being struck by the train.

In May 2013, a CSX Transportation, Inc. (CSX) hi-rail vehicle collided with a CSX train while traveling southward on the CSX Florence Division, Charlotte Subdivision. The hi-rail was operating under an EC–1 authority (a form of exclusive track occupancy), but was struck when it encountered the northbound CSX train at milepost (MP) 340.52. This location was approximately one and one-quarter miles outside of the authority limits the track inspector operating the vehicle had requested and was granted (*i.e.,* from MP 339.1 to MP 339.3). FRA's investigation also determined that in requesting authority from the dispatcher, the track inspector stated his location as MP 339.5, which

was approximately two-tenths of a mile outside of the authority limits he requested; however, neither the dispatcher nor the operator caught that the initial point of entry was outside of the authority limits being requested during the radio transmission of the authority. In addition, when the track inspector completed his work, he had planned on exiting at the same point that he had entered the track, but decided that the highway traffic at the crossing at that location was too heavy to safely take off the hi-rail, so he continued south, thinking that he could exit the track at the crossing located at MP 340.88, but was struck in a curve before reaching that crossing. The track inspector received minor injuries from the head-on collision, and no train crew injuries were reported.

In April 2013, a Metro-North roadway work group in a hi-rail truck mistakenly reported to the dispatcher that they were in the clear, south of an interlocking. However, FRA's investigation determined that the truck was in fact still inside the limits of the interlocking. Minutes later, a commuter train struck and destroyed the vehicle. The occupants vacated the vehicle seconds before it was struck, and there were no injuries to the employees or the passengers.

In March 2013, a Kansas City Southern Railway Co. (KCS) hi-rail vehicle operating northward on KCS' Shreveport Subdivision collided with the side of a BNSF freight train that was operating on Union Pacific Railroad Co. track through a KCS interlocking at Texarkana, Texas. FRA's investigation determined that the KCS section foreman that was operating the hi-rail vehicle had been looking for potential washouts after heavy rains, and indicated to FRA that he attempted to stop his hi-rail vehicle short of the interlocking after realizing his close proximity, but failed to do so due to wet rail conditions. The KCS hi-rail truck entered the limits of the interlocking (outside of his limits of authority) and collided with the 74th and 75th cars in the BNSF train that was operating on signal indication through the interlocking. The collision resulted in significant damage to the hi-rail vehicle, and minimal damage to the rolling stock. The section foreman was not injured.

In January 2007, a Massachusetts Bay Commuter Railroad Co., LLC dispatcher prematurely lifted an exclusive track occupancy that was providing on-track safety for a roadway work group in Woburn, Massachusetts, and a commuter train struck and killed two roadway workers in the group and seriously injured two others. The track gang had a valid Form D, Line 4 (a form of exclusive track occupancy) with a main track out of service. Just prior to the incident, a hi-rail vehicle asked for and received permission from the roadway worker in charge (RWIC) of the authority limits to enter the out-of-service area. When the hi-rail vehicle cleared the authority limits, the operator of the hi-rail broadcast this information via a radio communication. Investigation by FRA and the NTSB determined that the dispatcher lifted the blocking devices after having accepted that communication as the track gang foreman having cleared the limits, rather than the operator of the hi-rail vehicle having cleared the limits. FRA notes this incident in particular, since it gave rise to NTSB safety recommendations, as discussed in footnote 1.

The above incidents represent the various types of errors that can occur by various employees in establishing, removing, or adhering to roadway worker authority limits, and highlight the importance of clear communication and the need for railroads to monitor their employees for compliance with existing applicable rules and procedures. In addition, the range of possible errors also highlights the need for railroads to examine their train dispatching systems, rules, and procedures to ensure that appropriate safety redundancies [1] are in place in the event that an employee fails to comply with such rules and procedures.

FRA believes that the probability of the incidents described above occurring could be significantly reduced by installation of Positive Train Control (PTC). Until such time that PTC is implemented, and for locations where PTC is not required, FRA recommends that railroads adopt one or more electronic technologies that may serve to fill the technology gap. Examples of such technology already in use include the following systems:

- Enhanced Employee Protection System—With this system, when an RWIC secures a track authority, he or she is provided a code via a beeper-like device that is not provided to the dispatcher issuing the authority. The system is designed so that the dispatcher cannot remove the blocking devices that are preventing the clearing of the absolute signal until the RWIC provides him or her with the issued code. Thus, the dispatcher cannot remove the associated on-track safety provided by the authority without the knowledge and agreement of the RWIC. This system is currently in use on a northeastern commuter railroad.
- Hi-Rail Limits Compliance System—This system relies upon a global positioning system location transponder that is mounted in a hi-rail or roadway maintenance machine and linked to the dispatching office. When the vehicle or machine is operated within a mile of the authority limits, the operator will be alerted via a yellow warning light on the transponder. When the vehicle or machine is operated within one-half mile of the authority limits, the operator will be alerted via a yellow flashing light on the transponder. If the operator operates the vehicle or machine outside of his or her authority limits or sets on a main track for which he or she does not have authority, the operator will be alerted via a red warning light and the dispatcher is immediately notified as well, so that appropriate action can be taken. This system is currently in use on a number of subdivisions of a Class 1 railroad.
- Train Approach Warning System (TAWS)—For this system, an electronic alerter device is utilized at interlockings to detect an approaching train on any track and provide both visual and audible indicators to roadway workers via a personal beeper device on their person and at their bungalow, once the system is activated. This on-track safety system has been utilized under FRA waiver by a major Class 1 railroad at selected interlockings since 2001.

Recommended Action

In light of the miscommunication or error involved in roadway worker incidents that have occurred at locations that were either outside of the respective roadway workers' authority limits or within authority limits that

[1] The incident that occurred in January 2007 in Woburn, Massachusetts, resulted in three NTSB Safety Recommendations to FRA, two of which are addressed, or partially addressed, in this safety advisory. Safety Recommendation R–08–05 recommended that FRA ''[a]dvise railroads of the need to examine their train dispatching systems and procedures to ensure that appropriate safety redundancies are in place for establishing protection and preventing undesired removal of protection for roadway workers receiving track occupancy authority,'' and Safety Recommendation R–08–06 recommended that FRA ''[r]equire redundant signal protection, such as shunting, for maintenance-of-way work crews who depend on the train dispatcher to provide signal protection.'' Although this safety advisory adopts Safety Recommendation R–08–05 and recommends safety redundancies in general that would also seemingly address the recommendation in R–08–05, it does not recommend a position on shunting, as FRA has specifically invited comment on this issue from the railroad industry and other interested parties in a notice of proposed rulemaking on Railroad Workplace Safety; Roadway Worker Protection Miscellaneous Revisions (see 77 FR 50324, Aug. 20, 2012), and that issue will be addressed in the final rule.

were no longer protected due to dispatcher error, FRA recommends that railroads take the following actions to promote the safety of roadway workers:

1. Increase monitoring of their employees for compliance with existing applicable rules and procedures, particularly those involving the establishment, removal, or verification of track authority, and good faith challenges.

2. Examine their train dispatching systems, rules, and procedures to ensure that appropriate safety redundancies are in place.

3. If a railroad determines that appropriate safety redundancies are not in place, adopt electronic technology that would provide appropriate safety redundancies. At least until such technology is in place, and as an immediate first step to the adoption of such technology, railroads should—

a. Stress the importance of dispatchers being advised of the work plans by the RWIC when securing track occupancy authority;

b. Forbid student dispatchers by general order or bulletin from removing blocking devices until confirmation is received by the dispatcher providing supervision; and

c. Require student dispatchers to secure confirmation from the supervising dispatcher prior to the removal of blocking devices.

d. With regard to inadvertent and unauthorized hi-rail movement outside the limits of authority, instruct roadway workers that prior to passing any absolute signal, a roadway worker should verify the limits of his or her authority as follows:

i. For roadway workers traveling with other occupants in a vehicle, verify the limits with another occupant within the vehicle by verbally reviewing the authority;

ii. For roadway workers acting in the capacity of a lone worker (or otherwise traveling alone in a vehicle that is the first vehicle in the roadway work group to pass the absolute signal), announce over the radio the location and intent to pass the absolute signal; and

iii. In either case, if the roadway worker or roadway work group is relying upon an electronic authority, and the electronic device displaying that authority malfunctions, the roadway worker must either secure a hard copy of the authority or vacate the track until he or she can verify the authority.

FRA encourages railroads to take actions that are consistent with the preceding recommendations and to take other actions to help ensure the safety of the Nation's railroad employees and the general public. FRA may modify this Safety Advisory 2014–02, issue additional safety advisories, or take other appropriate actions it deems necessary to ensure the highest level of safety on the Nation's railroads, including pursuing other corrective measures under its rail safety authority.

Robert C. Lauby,

Associate Administrator for Safety and Chief Safety Officer.

[FR Doc. 2014–27955 Filed 11–21–14; 11:15 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

U.S. Merchant Marine Academy Board of Visitors Notice of Meeting

AGENCY: Maritime Administration, DOT.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in Sunshine Act of 1976 (5 U.S.C. 552b, as amended) and 41 CFR 102–3.150, The U.S. Department of Transportation, Maritime Administration (MARAD) announces that the following U.S. Merchant Marine Academy (''Academy'') Board of Visitors (BoV) meeting will take place:

1. *Date:* December 8, 2014.

2. *Time:* 1000. Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location.

3. *Location:* The Crabtree Room of the Library on the Academy campus, Kings Point, New York.

4. *Purpose of the Meeting:* The purpose of this meeting is to update BoV members on Academy issues, and for the BoV to review the progress of ongoing capital and maintenance improvements.

5. *Public Access to the Meeting:* Pursuant to the Federal Advisory Committee Act (5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165) and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

FOR FURTHER INFORMATION CONTACT: The BoV's Designated Federal Officer or Point of Contact is Brian Blower; 202 366–2765; *Brian.Blower@dot.gov*.

SUPPLEMENTARY INFORMATION: Any member of the public is permitted to file a written statement with the Academy BoV. Written statements should be sent to the Designated Federal Officer at: Brian Blower; 1200 New Jersey Ave. SE., W28–313, Washington, DC 20590 or via email at *Brian.Blower@dot.gov*. Please contact the Designated Federal Officer for information on submitting comments via fax. Written statements must be received no later than three working days prior to the next meeting in order to provide time for member consideration. By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the BoV.

Authority: 46 U.S.C. 51312; 5 U.S.C. app. 552b; 41 CFR parts 102–3.140 through 102–3.165.

By Order of the Maritime Administrator.

Dated: November 20, 2014.

Thomas M. Hudson,

Acting Secretary, Maritime Administration.

[FR Doc. 2014–27963 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0033]

Reports, Forms, and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comments. The ICR describes the nature of the information collection and its expected burden.

DATES: Written comments must be received on or before December 26, 2014.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Lisa Gavin, Office of Crash Avoidance Standards (NVS–121), U.S. Department of Transportation, National Highway Traffic Safety Administration, West Building, W43–432, 1200 New Jersey Avenue SE., Washington, DC 20590. Email address: *lisa.gavin@dot.gov*. Ms.

Gavin's telephone number is (202) 366–9291.

SUPPLEMENTARY INFORMATION: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). In compliance with these requirements, this notice announces that the following information collection request has been forwarded to OMB. A **Federal Register** notice soliciting comments on the following information collection was published on May 27, 2014 (79 FR 30230). No comments were received on that notice.

Title: Recruitment and Debriefing of Human Subjects for Research Related to Motor Vehicle Gear Selection Controls.

OMB Control Number: 2127—New.

Type of Request: New information collection.

Form Numbers: 1263 and 1264.

Requested Expiration Date of Approval: Three years from the approval date.

Abstract: The introduction of electronically-controlled transmissions has allowed much greater freedom in the design of driver interfaces, with the result that drivers are being confronted with new and different types of gear selector controls—joysticks, push buttons, rotary knobs, etc. This information collection is incidental to the recruitment of participants for human-factors studies designed to measure the ability of drivers to adapt to unfamiliar types of gear-selection controls. There is no known published usability research related to these new types of driver interfaces.

The proposed studies will examine driver response to non-traditional gear selector configurations in routine and emergency simulated driving scenarios, noting driver confusion, distraction and unintended consequences due to the unconventional gear selector configuration. The research method consists of driving simulations to collect objective and subjective data about six different gear selector types. Approximately 500 drivers will respond to the request for participants. It is estimated that of the 500 respondents, 360 will ultimately be recruited and participate. The estimated burden hours were calculated for the pre- and post-experiment questionnaires and for performing the driving tasks for the 500 respondents accordingly.

Participants will be tested individually in a driving simulator located at the Volpe National Transportation Systems Center (Volpe Center), which will conduct this research under an Intra-Agency Agreement (IAA) with NHTSA. The information being collected consists of that required for scheduling appointments and for balancing the subject sample across age groups, gender, and previous driving experience with various motor vehicle gear selector configurations. The experimental data will contain the demographic and past-experience descriptors for each participant, but no personally identifiable information. During or after the experimental sessions, participants may be queried regarding their perceptions and preferences about various aspects of gear-selection controls.

Affected Public: Participants for the driving simulator experiment will be selected from a list of eligible individuals who reside in the Boston area and have indicated to Volpe Center staff that they would like to participate in this experiment. All participants will be asked the same recruitment questions.

Respondents: Drivers with a valid driver license.

Estimated Number of Respondents: 500.

Estimated Number of Respondents Selected: 360.

Estimated Total Annual Burden: 595 hours (1 hour and 38 minutes per selected respondent and 3 minutes per respondent not selected.)

Frequency of Collection: One time.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.95.

R. Ryan Posten,

Associate Administrator for Rulemaking, National Highway Traffic Safety Administration.

[FR Doc. 2014–27884 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2014–0116]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes an existing collection of information for 49 CFR part 574, Tire Identification and Recordkeeping, for which NHTSA intends to seek renewed OMB approval.

DATES: Comments must be received on or before January 26, 2015.

ADDRESSES: Comments must refer to the docket number cited at the beginning of this notice, and may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* 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.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal Holidays. Telephone: 1–800–647–2251.

Instructions: All submissions must include the docket number for this document. Please identify the collection of information for which a comment is provided by referencing the OMB Control Number, 2127–0050. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Abigail Morgan, NHTSA, 1200 New Jersey Avenue SE., Room W43–467, NVS–122, Washington, DC 20590. Telephone: (202) 366–6005.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) How to enhance the quality, utility, and clarity of the information to be collected;

(4) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

Title: Tire Identification and Recordkeeping.

OMB Control Number: 2127–0050.

Form Number: This collection of information uses no standard form.

Type of Request: Extension of a currently approved collection of information.

Summary of the Collection of Information: 49 U.S.C. 30117(b) requires each tire manufacturer to collect and maintain records of the first purchasers of new tires. To carry out this mandate, 49 CFR part 574, Tire Identification and Recordkeeping, requires tire dealers and distributors to record the names and addresses of retail purchasers of new tires and the identification numbers(s) of the tires sold. A specific form is provided to tire dealers and distributors by tire manufacturers for recording this information. The completed forms are returned to the tire manufacturers where they are retained for not less than five years. Part 574 requires independent tire dealers and distributors to provide a registration form to consumers with the tire identification number(s) already recorded and information identifying the dealer/distributor. The consumer can then record his/her name and address and return the form to the tire manufacturer via U.S. mail, or alternatively, the consumer can provide this information electronically on the tire manufacturer's Web site if the tire manufacturer provides this capability. Additionally, motor vehicle manufacturers are required to record the names and addresses of the first purchasers (for purposes other than resale), together with the identification numbers of the tires on the new vehicle, and retain this information for not less than five years.

Description of the Need for the Information and the Use of the Information: The information is used by a tire manufacturer after it or the agency determines that some of its tires either fail to comply with an applicable safety standard or contain a safety related defect. With the information, the tire manufacturer can notify the first purchaser of the tire and provide them with any necessary information or instructions to remedy the non-compliance situation or safety defect.

Without this information, efforts to identify the first purchaser of tires that have been determined to be defective or nonconforming pursuant to Sections 30118 and 30119 of Title 49 U.S.C. would be impeded. Further, the ability of the purchasers to take appropriate action in the interest of motor vehicle safety may be compromised.

Description of the Likely Respondents (Including Estimated Number and Proposed Frequency of Response to the Collection of Information): We estimate that the collection of information affects 10 million respondents annually. This group consists of approximately 20 tire manufacturers, 59,000 new tire dealers and distributors, and 10 million consumers who choose to register their tire purchases with tire manufacturers. A response is required by motor vehicle manufacturers upon each sale of a new vehicle and by non-independent tire dealers with each sale of a new tire. A consumer may elect to respond when purchasing a new tire from an independent tire dealer.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information: The estimated burden is as follows:

New tire dealers and distributors: 59,000.

Consumers: 10,000,000.

Total tire registrations (manual): 54,000,000.

Total tire registration hours (manual): 225,000.

Recordkeeping hours (manual): 25,000.

Total annual tire registration and recordkeeping hours: 250,000.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27891 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2014—0111]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on the extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before January 26, 2015.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, Ground level, 1200 New Jersey Ave. SE., Washington, DC 20590 by any of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery/Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 1–800–647–5527.
- *Fax:* (202) 493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.regulations.gov* .

Docket: For access to the docket to read background documents or comments received, go to the street address listed above. The internet access to the docket will be at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Hisham Mohamed, NHTSA 1200 New Jersey Ave. SE., West Building, Room W43–437, NVS–131, Washington, DC 20590.

Mr. Mohamed's telephone number is (202) 366–0307. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: 49 CFR 575—Consumer Information Regulations (sections 103 and 105).

OMB Control Number: 2127–0049.

Form Number: None.

Affected Public: Motor vehicle manufacturers of light trucks and utility vehicles.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: NHTSA must ensure that motor vehicle manufacturers comply with 49 CFR part 575, Consumer Information Regulation Part 575.103 Truck-camper loading and Part 575.105 Utility Vehicles. Part 575.103, requires that manufacturers of light trucks that are capable of accommodating slide-in campers provide information on the cargo weight rating and the longitudinal limits within which the center of gravity for the cargo weight rating should be located. Part 575.105, requires that manufacturers of utility vehicles affix a sticker in a prominent location alerting drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated.

Estimated Annual Burden: 300 hours.

Number of Respondents: 15.

Based on prior years' manufacturer submissions, the agency estimates that 15 responses will be submitted annually. Currently 19 light truck manufacturers comply with 49 CFR part 575. These manufacturers file one response annually and submit an additional response when they introduce a new model. Changes are rarely filed with the agency, but we estimate that at least three manufacturers will alter their information because of model changes. The light truck manufacturers gather only pre-existing data for the purposes of this regulation. Based on previous years' manufacturer information, the agency estimates that light truck manufacturers use a total of 20 hours; to gather and arrange the data in its proper format (9 hours), to distribute the information to its dealerships and attach labels to light trucks that are capable of accommodating slide-in campers (4 hours), and to print the labels and utility vehicle information in the owner's manual or a separate document included with the owner's manual (7 hours). The estimated annual burden hour is 300 hours. This number reflects the total responses (15) times the total hours (20). Prior years' manufacturer information indicates that it takes an average of $37.00 per hour for professional and clerical staff to gather data, distribute and print material. Therefore, the agency estimates that the annual cost associated with the burden hours is $11,100 ($37.00 per hour × 300 burden hours).

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27889 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2014–0115]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on extension of a currently approved collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes an existing collection of information for motor vehicle tire and rim labeling requirements for which NHTSA intends to seek renewed OMB approval.

DATES: Comments must be received on or before January 26, 2015.

ADDRESSES: Comments must refer to the docket number cited at the beginning of this notice, and may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* 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.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal Holidays. Telephone: 1–800–647–2251.

Instructions: All submissions must include the docket number for this document. Please identify the collection of information for which a comment is provided by referencing the OMB Control Number, 2127–0503. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Abigail Morgan, NHTSA, 1200 New Jersey Avenue SE., Room W43–467, NVS–122, Washington, DC 20590. Telephone: (202) 366–6005.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) How to enhance the quality, utility, and clarity of the information to be collected;

(4) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

Title: Tires and Rims Labeling.

OMB Control Number: 2127–0503.

Type of Request: Extension of a currently approved collection of information.

Form Number: This collection of information uses no standard form.

Abstract: The labeling of motor vehicle tires and rims with the information required by the regulations and standards benefits motor vehicle manufacturers and consumers. Primarily, these labeling requirements help ensure that tires are mounted on appropriate rims and that the rims and tires are mounted on vehicles for which they were intended. If tires and rims were not labeled, mismatching of tire and rim sizes would likely occur, often resulting in poor tire performance. The absence of the vehicle label specifying vehicle loads, axle loads, and recommended tire inflation pressure would likely result in improper tire selection by a tire dealer or vehicle owner. Mismatching of rims and tires can greatly reduce the performance of tires, may cause tire and rim failure, and may result in vehicle handling and stability problems, which could result in loss of vehicle control.

Federal Motor Vehicle Safety Standard (FMVSS) Nos. 109, 117, 119, 129, and 139 establish a fixed format for the labeling requirements to be placed into or onto both sidewalls of tires manufactured for use on motor vehicles. Each new tire manufacturer, brand name owner, and retreader must use these guidelines to label each tire manufactured by engraving tire and retreaded tire molds with the appropriate labeling information.

FMVSS Nos. 110 and 120 specify a fixed format for the placard labeling requirements to be placed on each motor vehicle. In addition, FMVSS Nos. 110 and 120 require that additional information be labeled onto the finished rim used on vehicles covered by this standard.

Affected Public: Business or other for profit.

Estimated Annual Burden: 274,491 hours.

Estimated Number of Respondents: 1,800.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27890 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2014–2127–0008]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before January 26, 2015.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQ.''
- *Hand Delivery:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Randy Reid, Office of Defects Investigation (NVS–210), National Highway Traffic Safety Administration, 1200 New Jersey Ave SE., W48–311, Washington, DC 20590. Randy Reid's phone number is 202–366–4383 and his email address is *randy.reid@dot.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: Consumer Complaint Information.

Type of Request: Extension of a currently approved collection.

Abstract: Chapter 301 of title 49 of the United States Code, the Secretary of Transportation is authorized to require manufacturers of motor vehicles and motor vehicle equipment to conduct owner notification and remedy, *i.e.,* a recall campaign, when it has been determined that a safety defect exists in the performance, construction, components, or materials in motor vehicles and motor vehicle equipment. To make this determination, the National Highway Traffic Safety Administration (NHTSA) solicits information from vehicle owners which is used to identify and evaluate possible safety-related defects and provide the necessary evidence of the existence of such a defect. Under the Authority of chapter 301 of Title 49 of the United States Code, the Secretary of Transportation is authorized to require manufacturers of motor vehicle and motor vehicle equipment which do not comply with the applicable Federal motor vehicle safety standards or contains a defect that relates to motor vehicle safety to notify each owner that their vehicle contains a safety defect or noncompliance. Also, the manufacturer of motor vehicle replacement equipment presented for remedy pursuant to such notification shall cause such defect or noncompliance to be remedied without charge. In the case of a motor vehicle presented for remedy pursuant to such notification, the manufacturer shall cause the vehicle remedied by whichever of the following means he elects: (1) By repairing such vehicle; (2) by replacing such motor vehicle without charge; or (3) by refunding the purchase price less depreciation. To ensure these objectives are being met, NHTSA audits recalls conducted by manufacturer. These audits are performed on a randomly selected number of vehicle owners for verification and validation purposes.

Affected Public: Individuals and households.

Estimated Total Annual Burden Hours: 11,814.

Number of Respondents: 47,256.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: November 20, 2014.

Randy Reid,

Chief, Correspondence Research Division, Office of Defects Investigation.

[FR Doc. 2014–27922 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Ford Motor Company

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Ford Motor Company's (Ford) petition for an exemption of the MKX vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Ford also requested confidential treatment for specific information in its petition. The agency will address Ford's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2016 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated August 18, 2014, Ford requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Lincoln MKX vehicle line beginning with MY 2016. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Lincoln MKX vehicle line. Ford stated that the Model Year (MY) 2016 Lincoln MKX will be installed with its Intelligent Access with Push button Start (IAwPB) passive, electronic immobilizer device using encrypted transponder technology as standard equipment on the entire vehicle line. Key components of the IAwPB device will include an electronic key fob, remote function actuator (RFA), body control module (BCM), powertrain control module (PCM) and a passive immobilizer. Ford further stated that its Lincoln MKX vehicle line will be offered with a perimeter alarm system as standard equipment. The perimeter alarm system activates a visible and audible alarm if unauthorized access is attempted. Ford's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Ford stated that the device's integration of the transponder into the normal operation of the ignition key assures activation of the system. Ford stated that the start sequence is initiated when the 'StartStop' button is pressed. Specifically, the transceiver module sends a signal to the keyfob through the RF antenna. The keyfob responds with a High Frequency (UHF) over the air signal that includes the keycode, back to the transceiver module. Once the key is validated, starting of the engine is authorized by sending a separate encrypted message to the BCM/RFA and then the powertrain control module PCM. Ford stated that the powertrain will function only if the keycode matches the unique identification keycode previously programmed into the BCM/RFA. If the codes do not match, the vehicle will be inoperable. Ford stated that an electronic key will be programmed into the vehicle during system initialization performed at the manufacturing plant. Ford further stated that if the programmed key is not present in the vehicle, the engine will not start. Ford also pointed out that in addition to the programmed key, there are two modules that must be matched together in order to start the vehicle, adding an additional level of security to both systems. Ford stated that the BCM and the PCM share security data that, during vehicle assembly, form matched modules that must be together in order to start the vehicle. Ford further stated that no owner/operator actions are required to deactivate the device because it functions automatically each time an engine start sequence occurs.

In addressing the specific content requirements of 543.6, Ford provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Ford conducted tests based on its own specified standards. Ford provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its own specified requirements for each test.

Ford stated that it's MY 2016 Lincoln MKX vehicle line will also be equipped with several other standard antitheft features common to Ford vehicles, (*i.e.,* hood release located inside the vehicle, counterfeit resistant VIN labels and secondary VINs, cabin accessibility only with the use of a valid key fob).

Ford compared the device proposed for its vehicle line with other devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Ford stated that it believes that the standard installation of the IAwPB device would be an effective deterrent against vehicle theft.

Ford stated that its antitheft device was installed on all MY 1996 Ford Mustang GT and Cobra models and other selected models. Ford stated that in the 1997 model, its antitheft device was extended to the complete Ford Mustang vehicle line as standard equipment. Ford also stated that according to the National Insurance Crime Bureau (NICB) theft statistics, MY 1997 Mustangs installed with the SecuriLock device showed a 70% reduction in theft rate compared to the MY 1995 Mustangs.

Ford stated that starting with MY 2013, the IAwPB was offered as standard equipment on the Lincoln MKZ. Ford also reported that beginning with MY 2010, the its antitheft device was installed as standard equipment on all of its North American Ford, Lincoln and Mercury vehicles but was offered as optional equipment on its 2010 F-series Super Duty pickups, Econoline and Transit Connect vehicles. Ford further stated that beginning with MY 2010, the IAwPB was standard equipment on the Lincoln MKT vehicles; starting with MY 2011, the device was offered as standard equipment on the Lincoln MKX and optionally on the Lincoln MKS, Taurus, Edge, Explorer and the Focus vehicles and beginning with MY 2013, the device was offered as optional equipment on the Ford Fusion, C-Max and Escape vehicles.

Ford stated that the proposed antitheft device is a newer generation of the system that was offered in MY 2014 Ford Edge vehicle line. The Ford Edge vehicle line was granted a parts-marking exemption on January 18, 2013 by NHTSA (See 78 FR 4192) beginning with its MY 2014 vehicles. The agency notes that current theft rate data for MYs 2010 through preliminary 2012 are 0.8783, 0.7824 and 0.7371 respectively for the Ford Edge vehicle line.

The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Ford has provided adequate reasons for its belief that the antitheft device for the Lincoln MKX vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Ford provided about its device.

Based on the supporting evidence submitted by Ford on the device, the agency believes that the antitheft device for the Lincoln MKX vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Ford's petition for exemption for the Lincoln MKX vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Ford decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. § 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR 1.95.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27886 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Toyota

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full Toyota Motor North America, Inc.'s, (Toyota) petition for an exemption of the Sienna vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with the 2016 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated July 1, 2014, Toyota requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Sienna vehicle line beginning with MY 2016. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Toyota provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Sienna vehicle line. Toyota stated that the MY 2016 Sienna vehicle line will be installed with an engine immobilizer device as standard equipment. Toyota also stated that it will offer two entry/start systems on its Sienna vehicle line. Specifically, Toyota stated that the Sienna vehicle line will be offered with a ''smart entry and start system'' or a ''remote keyless entry (RKE) and start system''. Key components of the ''smart entry and start system'' are an engine immobilizer device, a certification electronic control unit (ECU), engine switch, steering lock ECU, security indicator, door control receiver, electrical key and an electronic control module (ECM). The ''RKE and start system'' components are an engine

immobilizer device, transponder key ECU assembly, transponder key coil, security indicator, ignition key and an ECM. Toyota further stated that it will offer an audible and visual alarm as standard equipment on its XLE and Limited trim level models and as optional equipment on its L, LE, and SE trim level models.

Toyota stated that its ''smart entry and start system'' will allow the driver to start the engine by pressing the engine switch button located on the instrument panel. Once the driver pushes the engine switch button, the certification ECU verifies the electrical key. When the key is verified, the certification ECU and steering lock ECU receive confirmation of the valid key, and the certification ECU allows the ECM to start the engine. Toyota stated that its ''smart entry and start system'' immobilizer device is activated when the engine switch is pushed from the ''ON'' status to any other ignition status. The certification ECU performs a calculation for the immobilizer device then the certification ECU performs the calculation activating the immobilizer device and signaling the ECM. The device is deactivated when the doors are unlocked and the device recognizes the key code.

Toyota stated that once the key is inserted into the key cylinder for the ''RKE and start system'', the transponder chip in the key sends the key ID codes to the transponder key ECU assembly to verify the code. Once the code has been verified, the immobilizer device will allow the ECM to start the engine. Activation of the immobilizer device in the ''RKE and start system'' occurs when the ignition key is turned from the ''ON'' status or any other position and/or the key is removed. Deactivation of the immobilizer device in the ''RKE and start system'' occurs when the door is unlocked and the key is turned to the ''ON'' position.

Toyota stated that the device will be installed with a security indicator feature which will provide the status of the immobilizer device for its Sienna vehicle line. When the immobilizer device is activated, the security indicator flashes continuously. When the immobilizer device is not activated, the security indicator is off. Additionally, Toyota stated that there will be position switches installed on the vehicle to protect its hood and doors. The position switch for the hood will sense the lock releasing when the hood is opened inappropriately from outside of the vehicle. The door position switches will sense the vehicle's key cylinder rotation and the door's locked/unlocked status. Toyota stated that attempting to open the doors without using the proper key will trigger activation of the antitheft device. Toyota further stated that all the doors of its Sienna vehicle line can be locked by using either a key, a wireless switch or a smart entry system.

Toyota's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of § 543.6, Toyota provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Toyota conducted tests based on its own specified standards. Toyota provided a detailed list of the tests conducted (*i.e.,* high and low temperature, strength, impact, vibration, electro-magnetic interference, etc.). Toyota stated that it believes that its device is reliable and durable because it complied with its own specific design standards and the antitheft device is installed on other vehicle lines for which the agency has granted a parts-marking exemption. Toyota stated that the antitheft device is already installed as standard equipment on its MY 2015 Sienna and plans to continue installation of the device on its MY 2016 and later vehicles. The theft rate for the Toyota Sienna vehicle line using an average of three model years' data (MYs 2009–2011) is 0.7345, well below the 3.5826 median theft rate. As an additional measure of reliability and durability, Toyota stated that its vehicle key cylinders are covered with casting cases to prevent the key cylinder from easily being broken. Toyota further stated that there are also so many key cylinder combinations and key plates for its gutter keys, making it very difficult to unlock the doors without using a valid key.

Toyota also compared its proposed device to other devices NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements (*i.e.,* Toyota Camry, Corolla, Lexus LS, Lexus ES, RAV4, Highlander, Prius and the Lexus GS vehicle lines). These lines have all been granted parts-marking exemptions by the agency. The theft rates for these lines using an average of three model years' data (2009–2011) are 1.2602, 1.3295, 0.7258, 0.3175, 0.5682, 0.5669, 0.2675 and 0.6315 respectively. Therefore, Toyota has concluded that the antitheft device proposed for its Sienna vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements. Toyota believes that installing the immobilizer device as standard equipment reduces the theft rate and expects the Sienna to experience comparable effectiveness ultimately being more effective than parts-marking labels.

Based on the evidence submitted by Toyota, the agency believes that the antitheft device for the Sienna vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Toyota has provided adequate reasons for its belief that the antitheft device for the Toyota Sienna vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Toyota provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Toyota's petition for exemption for the Toyota Sienna vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking

requirements of the Theft Prevention Standard.

If Toyota decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Toyota wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR part 1.95.

R. Ryan Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2014–27888 Filed 11–24–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for International Affairs; Survey of U.S. Ownership of Foreign Securities as of December 31, 2014

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice and in accordance with 31 CFR part 129, the Department of the Treasury is informing the public that it is conducting a mandatory survey of ownership of foreign securities by U.S. residents as of December 31, 2014. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. The reporting form SHCA (2014) and instructions may be printed from the Internet at: *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx#shc*.

Definition: Pursuant to 22 U.S.C. 3102 a United States person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The reporting panel is based upon the data submitted for the 2011 Benchmark survey and the June 2012 TIC report Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents (TIC SLT). Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What To Report: This report will collect information on holdings by U.S. residents of foreign securities, including equities, long-term debt securities, and short-term debt securities (including selected money market instruments).

How To Report: Completed reports can be submitted electronically or mailed to the Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001. Inquiries can be made to the survey staff of the Federal Reserve Bank of New York at (212) 720–6300 or email: *SHC.help@ny.frb.org*. Inquiries can also be made to Dwight Wolkow at (202) 622–1276, email: *comments2TIC@do.treas.gov*.

When To Report: Data must be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by April 3, 2015.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0146. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 48 hours per respondent for end-investors and custodians that file Schedule 3 reports covering their securities entrusted to U.S. resident custodians, 145 hours per respondent for large end-investors filing Schedule 2 reports, and 545 hours per respondent for large custodians of securities filing Schedule 2 reports. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Attention Administrator, International Portfolio Investment Data Reporting Systems, Room 5422, Washington, DC 20220, and to OMB, Attention Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2014–27916 Filed 11–24–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of 10 individuals and 14 entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the 10 individuals and 14 entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on November 19, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220. Telephone Number: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On November 19, 2014, the Director of OFAC designated the following 10 individuals and 14 entities whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. ARREDONDO ORTIZ, Carlos Arturo (a.k.a. ''MATEO''); DOB 22 Nov 1966; POB Itagui, Antioquia, Colombia; citizen Colombia; Cedula No. 98520515 (Colombia) (individual) [SDNTK].

2. BEDOYA LOPEZ, Gildardo de Jesus; DOB 18 Dec 1963; POB Abejorral, Antioquia, Colombia; citizen Colombia; Cedula No. 70560012 (Colombia) (individual) [SDNTK] (Linked To: COLOMBIANA DE BIOCOMBUSTIBLES S.A.; Linked To: REPRESENTACIONES MIDAS; Linked To: GARCES Y BEDOYA CIA. LTDA).

3. ECHEVERRI PAREJA, Oscar Alonso (a.k.a. ''MOSCO''); DOB 07 May 1971; POB Envigado, Antioquia, Colombia; citizen Colombia; Cedula No. 98564040 (Colombia) (individual) [SDNTK] (Linked To: ACUAMATERIALES Y CIA. LIMITADA).

4. GALLEGO ORREGO, Margarita Zulay; DOB 18 Oct 1953; POB Colombo, Antioquia, Colombia; citizen Colombia; Cedula No. 32334460 (Colombia) (individual) [SDNTK] (Linked To: ENVIGADO FUTBOL CLUB S.A.; Linked To: ENFARRADOS COMPANY S.A.S.; Linked To: CENTRO DE DIAGNOSTICO AUTOMOTOR DEL SUR LTDA.; Linked To: CAFETERIA ENVICENTRO; Linked To: TIENDAS MARGOS).

5. GARCIA ARBOLEDA, Edward (a.k.a. ''ORION''); DOB 04 Jun 1975; POB Urrao, Antioquia, Colombia; citizen Colombia; Cedula No. 98624193 (Colombia) (individual) [SDNTK] (Linked To: LA TIENDA DE MINGO; Linked To: INVERSIONES C.P.C.L. Y CIA. S. EN C.S.).

6. GUTIERREZ RESTREPO, Luis Fernando (a.k.a. ''LUIFER''); DOB 13 Aug 1958; POB Belmira, Antioquia, Colombia; citizen Colombia; Cedula No. 70550107 (Colombia) (individual) [SDNTK] (Linked To: ROBIREPUESTOS; Linked To: IMPORTADORA MARENOL LIMITADA).

7. ISAZA SANCHEZ, Felix Alberto (a.k.a. ''BETO''); DOB 24 Apr 1966; POB Envigado, Antioquia, Colombia; citizen Colombia; Cedula No. 98517169 (Colombia) (individual) [SDNTK].

8. ISAZA SANCHEZ, Nelson Dario (a.k.a. ''NENE''); DOB 11 Aug 1967; POB Envigado, Antioquia, Colombia; citizen Colombia; Cedula No. 98521489 (Colombia) (individual) [SDNTK].

9. RUIZ MADRID, Adriana Maria; DOB 14 Dec 1968; POB Envigado, Antioquia, Colombia; citizen Colombia; Cedula No. 42897418 (Colombia) (individual) [SDNTK] (Linked To: CARYTES ENCANTO Y BELLEZA).

10. UPEGUI GALLEGO, Juan Pablo; DOB 16 Oct 1980; POB Itagui, Antioquia, Colombia; citizen Colombia; Cedula No. 3391839 (Colombia) (individual) [SDNTK] (Linked To: ENVIGADO FUTBOL CLUB S.A.; Linked To: ENFARRADOS COMPANY S.A.S.; Linked To: CENTRO DE DIAGNOSTICO AUTOMOTOR DEL SUR LTDA.).

Entities

1. ACUAMATERIALES Y CIA. LIMITADA, Carrera 51 B No. 12 Sur 21 Piso 2, Medellin, Colombia; NIT # 811022933–3 (Colombia) [SDNTK].

2. CAFETERIA ENVICENTRO, Carrera 48 No. 49 Sur 45, Envigado, Antioquia, Colombia; Matricula Mercantil No 138589 (Aburra Sur) [SDNTK].

3. CARYTES ENCANTO Y BELLEZA, Calle 6AS 43 A LC 3188, Medellin, Colombia; Centro Comercial Oviedo, Local 3188, El Poblado, Medellin, Colombia; Matricula Mercantil No 40551702 (Medellin) [SDNTK].

4. CENTRO DE DIAGNOSTICO AUTOMOTOR DEL SUR LTDA. (a.k.a. ENVICENTRO), Carrera 48 No. 49 Sur 45, Envigado, Antioquia, Colombia; NIT # 800233878–1 (Colombia) [SDNTK].

5. COLOMBIANA DE BIOCOMBUSTIBLES S.A. (a.k.a. COLBIO), Carrera 15 No. 90–66 Int. 103, Medellin, Colombia; Calle 36A Sur No. 46A–81, Centro Comercial Metro Sur, Local 240, Envigado, Antioquia, Colombia; Km. 53 Via Santa Fe de Antioquia, Vereda Ahuyamal, Sopetran, Antioquia, Colombia; Km. 4 Via al Bagre, Caucasia, Antioquia, Colombia; Web site *www.colbio.com;* NIT # 900089105–2 (Colombia) [SDNTK].

6. ENFARRADOS COMPANY S.A.S., Carrera 48 No. 46 Sur 150, Envigado, Antioquia, Colombia; NIT # 900347098–6 (Colombia) [SDNTK].

7. ENVIGADO FUTBOL CLUB S.A. (a.k.a. ENVIGADO F.C.), Carrera 48 No. 46 Sur 150, Envigado, Antioquia, Colombia; Web site *www.envigadofutbolclub.net*; NIT # 900470848–9 (Colombia) [SDNTK].

8. GARCES Y BEDOYA CIA. LTDA, Carrera 50 No. 37–35, Medellin, Colombia; NIT # 800119082–9 (Colombia) [SDNTK].

9. IMPORTADORA MARENOL LIMITADA, Carrera 50 No. 39–71, Medellin, Colombia; NIT # 800104353–4 (Colombia) [SDNTK].

10. INVERSIONES C.P.C.L. Y CIA. S. EN C.S., Carrera 48 No. 25 B Sur 12, Envigado, Antioquia, Colombia; NIT # 900315175–8 (Colombia) [SDNTK].

11. LA TIENDA DE MINGO, Calle 5 D No. 6 125, Medellin, Colombia; Matricula Mercantil No 16218702 (Medellin) [SDNTK].

12. REPRESENTACIONES MIDAS, Plaza Envigado, Local 89, Envigado, Antioquia, Colombia; Calle 40 Sur No. 40 20, Envigado, Antioquia, Colombia; Matricula Mercantil No 54512 (Aburra Sur) [SDNTK].

13. ROBIREPUESTOS, Carrera 50 No. 41–41 Local 112, Medellin, Colombia; Matricula Mercantil No 21–438991–02 (Medellin) [SDNTK].

14. TIENDAS MARGOS (a.k.a. ''MARGO'S''), Calle 38A Sur No. 43A 41, Envigado, Antioquia, Colombia; Matricula Mercantil No 5352 (Aburra Sur) [SDNTK].

Dated: November 19, 2014.

John Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–27915 Filed 11–24–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and two entities whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. Sections 1901–1908, 8 U.S.C. Section 1182).

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the two individuals and two entities identified in this notice whose property and interests in property were blocked pursuant to the Kingpin Act, is effective on November 12, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Telephone Number: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site at *www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On November 12, 2014, the Director of OFAC removed from the SDN List the two individuals and two entities listed below, whose property and interests in property were blocked pursuant to the Kingpin Act:

Individuals

1. GOMEZ RUA, Adolfo Leon, c/o COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Pereira, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o DOLAUTOS VEHICULOS E INMUEBLES Y CIA. LTDA., Medellin, Colombia; c/o INVERSIONES BUENOS AIRES LTDA., Pereira, Colombia; DOB 28 Apr 1964; POB Bello, Antioquia, Colombia; Cedula No. 98487118 (Colombia) (individual) [SDNTK].

2. GUBEREK REYES, David Felipe; DOB 01 Oct 1983; POB Bogota, Colombia; Cedula No. 80196313 (Colombia) (individual) [SDNTK] (Linked To: INVERSIONES GILFE S.A.; Linked To: SBT S.A.; Linked To: G&G INTERNACIONAL S.A.S.; Linked To: PROMESAS DEL FUTBOL COLOMBIANO S.A.).

Entities

1. DOLAUTOS VEHICULOS E INMUEBLES Y CIA. LTDA. (a.k.a. TALLER RAMIAUTOS I.P.), Carrera 45 No. 31–208, Medellin, Colombia; NIT # 800245860–1 (Colombia); Matricula Mercantil No 21–164137–02 (Colombia) [SDNTK].

2. DIGITAL COMUNICATIONS SERVICE LTDA., Carrera 14 No. 19–3, Granada, Meta, Colombia; Diagonal 55 No. 34–52, Bello, Antioquia, Colombia; NIT # 900020090–3 (Colombia) [SDNTK].

In addition, the listings for the two individuals below have been updated to reflect these deletions, as follows.

From

1. ECHEVERRY CADAVID, Nebio De Jesus (a.k.a. ECHEVERRI, Nevio; a.k.a. ECHEVERRY, Nevio), c/o HACIENDA VENDAVAL, Paratebueno, Cundinamarca, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Carrera 10 No. 46–43, Pereira, Colombia; Carrera 38 No. 26B–11, Villavicencio, Colombia; La Pastora, Vereda La Union, Dosquebradas, Risaralda, Colombia; c/o COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Pereira, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o INVERSIONES BUENOS AIRES LTDA., Pereira, Colombia; c/o LADRILLERA EL PORVENIR LTDA., San Jose del Guaviare, Colombia; DOB 28 Nov 1944; Cedula No. 10056431 (Colombia) (individual) [SDNTK].

2. LOPEZ CADAVID, Oscar De Jesus, c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Hacienda San Lorenzo, Paratebueno, Cundinamarca, Colombia; c/o COLOMBIAN GREEN STONE CORPORATION LTDA., Bogota, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o LADRILLERA EL PORVENIR LTDA., San Jose del Guaviare, Colombia; DOB 21 Jun 1956; Cedula No. 15502188 (Colombia) (individual) [SDNTK].

To

1. ECHEVERRY CADAVID, Nebio De Jesus (a.k.a. ECHEVERRI, Nevio; a.k.a. ECHEVERRY, Nevio), Carrera 10 No. 46–43, Pereira, Colombia; Carrera 38 No. 26B–11, Villavicencio, Colombia; La Pastora, Vereda La Union, Dosquebradas, Risaralda, Colombia; DOB 28 Nov 1944; Cedula No. 10056431 (Colombia) (individual) [SDNTK] (Linked To: HACIENDA VENDAVAL; Linked To: PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A.; Linked To: COMERCIALIZADORA AUTOMOTORA MATECANA LTDA.; Linked To: INVERSIONES BUENOS AIRES LTDA.; Linked To: LADRILLERA EL PORVENIR LTDA.).

2. LOPEZ CADAVID, Oscar De Jesus, Hacienda San Lorenzo, Paratebueno, Cundinamarca, Colombia; DOB 21 Jun 1956; Cedula No. 15502188 (Colombia) (individual) [SDNTK] (Linked To: PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A.; Linked To: COLOMBIAN GREEN STONE CORPORATION LTDA.; Linked To: LADRILLERA EL PORVENIR LTDA.)

Dated: November 12, 2014.

John Battle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–27914 Filed 11–24–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers''.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the two individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on November 12, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Telephone Number: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order 12978 (60 FR. 54579, October 24, 1995) (the Order). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On November 12, 2014, the Director of OFAC removed from the SDN List the two individuals listed below, whose property and interests in property were blocked pursuant to the Order:

Individuals

1. FIORILLO BAPTISTE, Lester Raul, Calle 27 Norte No. 6AN–43, Cali, Colombia; c/o CONSTRUCCIONES PROGRESO DEL PUERTO S.A., Puerto Tejada, Colombia; Cedula No. 14987352 (Colombia); Passport 14987352 (Colombia) (individual) [SDNT].

2. FLOREZ GRAJALES, Yudy Lorena (a.k.a. FLOREZ GRAJALES, Yudi Lorena), Carrera 78 No. 3–46, Cali, Colombia; Carrera 8N No. 17A–12, Cartago, Colombia; c/o AGROPECUARIA MIRALINDO S.A., Cartago, Colombia; c/o ARIZONA S.A., Cartago, Colombia; DOB 26 Jun 1978; Cedula No. 32180561 (Colombia); Passport 32180561 (Colombia) (individual) [SDNT].

Dated: November 12, 2014.

John Battle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–27913 Filed 11–24–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0701]

Proposed Information Collection (VA Form 10–21081 Bereaved Family Member Satisfactory Survey) Activity: Comment Request.

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed for Veterans, Veteran Representatives and health care providers to request reimbursement from the federal government for emergency services at a private institution.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 26, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–0701'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's

functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Bereaved Family Member Satisfaction Survey.

OMB Control Number: 2900–0701.

Type of Review: Revision.

Abstract: The death rate for Veterans will continue to grow as the number of Veterans 85 years of age and older is projected to increase by 32 percent between 2009 and 2018. Given this trend, the VA will face substantial challenges in providing care to Veterans near the end of life. For example, extensive data from non-VA health care systems demonstrates that physical symptoms like pain, dyspnea and nausea are common in advanced illness, but are under-recognized and inadequately managed. Other studies have found that providers often lack the time and communication skills to discuss goals of care and treatment preferences with patients and families; there is strong evidence that when providers fail to discuss goals of care with patients and families, patients often receive unwanted, aggressive life-sustaining treatment that is not consistent with their preferences. A related problem has been the high incidence of deaths in an acute care setting. As many Veterans approaching end of life may prefer a more quiet and comfortable setting than can be provided in acute care, with improved communications and availability of services much of this end of life care could be shifted to a VA hospice unit or to hospice in the Veteran's home. The VA has been and continues to be a leader among healthcare systems in the provision of hospice and palliative care. National VA initiatives have been implemented and continue to support the development and expertise of palliative care consult teams.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,833 burden hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 11,000

Dated: November 20, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–27852 Filed 11–24–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–CVE Verification]

Agency Information Collection—Center for Verification and Evaluation (CVE) Verification Under OMB Review

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that OSDBU, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 26, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900—CVE Verification'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900—CVE Verification.''

SUPPLEMENTARY INFORMATION:

Title: CVE Verification.

OMB Control Number: 2900—NEW.

Type of Review: New collection.

Abstract: The Office of Small and Disadvantaged Business Utilization (OSDBU) CVE is required to measure the effectiveness of different stages of the afore-mentioned verification process and how it fulfills Veterans' needs. The stages to be measured are the pre-application, post-determination, and exit. To collect this processing information, CVE will solicit voluntary opinions of verification applicants. The results will be used to improve different areas of this program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 24, 2014, (79 FR 51397).

Affected Public: Service-disabled Veteran-owned small business (SDVOSB) owners and Veteran-owned small business (VOSB) owners that have gone through the verification process (pre-application, post-determination, or exit stages).

Estimated Annual Burden: 150 hours.

Estimated Average Burden per Respondent: 3 minutes.

Frequency of Response: Every other year (the verification status lasts for 2 years).

Estimated Number of Respondents: 250 per month (3,000 per year).

Dated: November 20, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–27855 Filed 11–24–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-(Center for Verification and Evaluation [CVE] Site Inspection)]

Agency Information Collection—(CVE Site Inspection) Under OMB Review

AGENCY: Office of Small and Disadvantaged Business Utilization (OSDBU), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that OSDBU, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed

collection of information should be received on or before December 26, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900—CVE Site Inspection'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900—CVE Site Inspection.''

SUPPLEMENTARY INFORMATION:

Title: CVE Site Inspection.

OMB Control Number: 2900—NEW.

Type of Review: New collection.

Abstract: OSDBU and CVE protect the integrity and validity of VA's Veterans First Contracting Program by conducting a Risk Mitigation Program. This program helps to ensure that only eligible firms who meet the criteria of 38 Code of Federal Regulation (CFR) Part 74 are entered into the Vendor Information Pages (VIP) database. Service Disabled Veteran Owned Small Business (SDVOSB) and Veteran Owned Small Business (VOSB) participating of this program are either randomly selected for Post-verification Site Visit Audits or based upon risk assessment. OSDBU needs to determine the effectiveness of the site inspections that are part of the CVE Verification Program/Risk Mitigation, and to learn about the participants' experiences and satisfaction levels.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 29, 2014, at pages 51652–51653.

Affected Public: Service-disabled Veteran-owned small business (SDVOSB) owners and Veteran-owned small business (VOSB) owners that have gone through the verification process.

Estimated Annual Burden: 125 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Every other year (the verification status lasts for 2 years).

Estimated Number of Respondents: 125 per month (1,500 per year).

Dated: November 20, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–27854 Filed 11–24–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0688]

Proposed Information Collection (Security for Government Financing) Activity: Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 30 days for public comment in response to the notice. This notice solicits comments on information needed to determine if the contractor has adequate security to warrant payment in advance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 26, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Waleska Pierantoni-Monge, Office of Acquisition and Logistics (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *waleska.pierantoni-monge@va.gov.* Please refer to ''OMB Control No. 2900–0688'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Waleska Pierantoni-Monge at (202) 632–5400, Fax (202) 343–1434.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) 832.202–4, Security for Government Financing.

OMB Control Number: 2900–0688.

Type of Review: Revision of a currently approved collection.

Abstract: VA will use the data collected under VAAR 832.202–4, Security for Government Financing to assess whether or not the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 11, 2014, at pages 54352–54353.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 10.

Estimated Average Burden per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10.

Dated: November 20, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs .

[FR Doc. 2014–27853 Filed 11–24–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 227 November 25, 2014

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 140304195–4947–02]

RIN 0648–BE06

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Steller sea lion protection measures to insure that groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) off Alaska are not likely to jeopardize the continued existence of the western distinct population segment (WDPS) of Steller sea lions or destroy or adversely modify their designated critical habitat. These management measures disperse fishing effort temporally and spatially to provide protection from potential competition for important Steller sea lion prey species. This action is intended to protect the endangered Steller sea lions, as required by the Endangered Species Act, and to minimize, to the extent practicable, the economic impact of fishery management measures, as required by the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Effective December 26, 2014.

ADDRESSES: Electronic copies of:

- The Steller Sea Lion Protection Measures for Groundfish Fisheries in the Bering Sea and Aleutian Islands Management Area Environmental Impact Statement (EIS), the Record of Decision, and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/sustainablefisheries/sslpm/eis/default.htm.*
- The 2001 Biological Opinion for the Authorization of the Bering Sea and Aleutian Islands and Gulf of Alaska Groundfish Fisheries (2001 BiOp), the 2010 Biological Opinion on the Authorization of Groundfish Fisheries under the Fishery Management Plans (FMP BiOp), and the 2014 Biological Opinion for the Authorization of Alaska Groundfish Fisheries under the Proposed Revised Steller Sea Lion Protection Measures (2014 BiOp) are available at *http://alaskafisheries.noaa.gov/protectedresources/stellers/section7.htm.*
- The 2008 Revised Steller Sea Lion Recovery Plan (2008 Recovery Plan) is available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/protectedresources/stellers/recovery.htm.*
- The Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area FMP is available from the North Pacific Fishery Management Council Web site at *http://www.npfmc.org/wp-content/PDFdocuments/fmp/BSAI/BSAIfmp.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 to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS published a proposed rule to implement Steller sea lion protection measures on July 1, 2014 (79 FR 37486). The comment period on the proposed rule ended on August 15, 2014. NMFS received 17 letters of comments on the proposed rule. Additional background information and detail on this action is provided in the proposed rule and is briefly summarized in this final rule.

NMFS manages groundfish fisheries in the exclusive economic zone (EEZ) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

NMFS has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531, *et seq.* NMFS has the authority to promulgate regulations to enforce provisions of the ESA to protect such species. As the action agency, NMFS is responsible for conducting a section 7 consultation to insure that the Federal action of authorizing the Alaska groundfish fisheries is not likely to jeopardize the continued existence of an ESA-listed species or result in the destruction or adverse modification of its designated critical habitat. Under the provisions of section 7 of the ESA, NMFS Alaska Region Sustainable Fisheries Division (SFD) is the action agency and consults with the NMFS Alaska Region Protected Resources Division (PRD) on the impacts of groundfish fisheries for most ESA-listed species of marine mammals, including Steller sea lions.

NMFS listed the WDPS of Steller sea lions as endangered under the ESA in 1997 (62 FR 24345, May 5, 1997). Throughout this preamble, the term ''Steller sea lions'' means the WDPS of Steller sea lions unless otherwise specified. Steller sea lions are distributed from Prince William Sound through the Aleutian Islands in Alaska and in Russia on the Kamchatka peninsula, Kuril Islands, and the Sea of Okhotsk. NMFS uses six sub-regions within Alaska for trend and status monitoring of Steller sea lions. These sub-regions include the eastern Gulf of Alaska (GOA), central GOA, and western GOA, the eastern Aleutian Islands/Bering Sea, central Aleutian Islands, and the western Aleutian Islands. A seventh sub-region is located outside of the United States and is commonly referred to as the Russian sub-region because most of the Steller sea lion population in that sub-region is concentrated in Russia.

NMFS designated critical habitat for Steller sea lions and identified haulouts, rookeries, and foraging locations throughout Alaska waters ranging throughout the GOA, the Bering Sea, and the Aleutian Islands (58 FR 45269, August 27, 1993). Since publication of critical habitat definitions in 1993 (see 50 CFR 226.202), NMFS has identified 19 additional haulouts in the BSAI and the GOA as important areas for Steller sea lions needing additional protection from the potential effects of groundfish fishing. More information and justification for including these haulouts are contained in the 2001 BiOp (see **ADDRESSES**). NMFS is currently considering revisions to the critical habitat designation to take into account new information that has become available since NMFS designated critical habitat in 1993 (79 FR 46392, August 8, 2014).

Since listing Steller sea lions, NMFS has implemented a number of management measures, commonly known as Steller sea lion protection measures, to protect Steller sea lion prey

from the potential effects of groundfish fishing. Steller sea lion protection measures disperse catch of groundfish prey species in time (temporal dispersion) and space (spatial dispersion) through a variety of harvest limitations and closure areas. Many of these Steller sea lion protection measures apply specifically to Atka mackerel, Pacific cod, and pollock, which are important prey species for Steller sea lions.

Section 3.5.3 of the FMP, approved by the Secretary of Commerce under the Magnuson-Stevens Act, authorizes regulations for fishery management measures to protect marine mammals, without requiring amendment of the FMP itself (see **ADDRESSES**). Steller sea lion protection measures for the Alaska groundfish fisheries have been implemented under this FMP authority since 1998.

NMFS has revised the Steller sea lion protection measures several times. NMFS has conducted several ESA consultations to assess the impact of the groundfish fisheries on Steller sea lions. Previous actions to implement Steller sea lion protection measures and their accompanying ESA consultations have been subject to litigation. A detailed history of previous Steller sea lion protection measures, ESA section 7 consultations (*i.e.,* biological opinions), and litigation is provided in Chapter 1 of the EIS (see **ADDRESSES**).

The most recent Steller sea lion protection measures were implemented in 2011 with the 2010 Interim Final Rule (75 FR 77535, December 13, 2010; corrected 75 FR 81921, December 29, 2010). Steller sea lion protection measures implemented in the 2010 Interim Final Rule limit harvest of Atka mackerel and Pacific cod. NMFS implemented these management measures consistent with the reasonable and prudent alternative (RPA) recommended in the 2010 FMP BiOp that NMFS determined were necessary to insure that the Alaska groundfish fisheries were not likely to jeopardize the continued existence of Steller sea lions or result in the destruction or adverse modification of their designated critical habitat. The 2010 Interim Final Rule established Steller sea lion protection measures primarily in the Aleutian Islands, based on the population trends of the Steller sea lions and the harvest of principal prey species by the groundfish fisheries in the Aleutian Islands. This action retains some and modifies some of the Steller sea lion protection measures implemented by the 2010 Interim Final Rule.

This final rule implements a suite of management measures for the Atka mackerel, Pacific cod, and pollock fisheries primarily in the Aleutian Islands. These management measures protect Steller sea lion prey to comply with the ESA requirement that NMFS insure that its actions are not likely to jeopardize the continued existence of endangered species or destroy or adversely modify its critical habitat. To protect Steller sea lion prey availability, this final rule protects specific areas that are important to Steller sea lions and limits the amount of fishing within Steller sea lion critical habitat. This final rule maintains a precautionary approach to the management of Steller sea lion prey species by spatially and temporally dispersing catch, particularly in critical habitat, to prevent localized depletion of these important prey resources. While protecting Steller sea lion prey, this final rule also enhances fishing opportunities and minimizes potential adverse economic impacts on fishery participants and communities by removing restrictions on fishing implemented by the 2010 Interim Final Rule that have been determined to be unnecessary based on the 2014 BiOp.

NMFS analyzed the impacts of the action and its alternatives in an EIS (see **ADDRESSES**). NMFS published a notice of intent to prepare the EIS in the **Federal Register** on April 17, 2012 (77 FR 22750). The scoping period for the EIS was approximately 6 months with the period ending October 15, 2012. NMFS also held a public scoping meeting in coordination with a Council meeting on October 2, 2012 (77 FR 52674, August 30, 2012). NMFS released the draft EIS for public review on May 17, 2013 (78 FR 29131). The comment period for the draft EIS ended on July 16, 2013. NMFS released the final EIS on May 23, 2014 (79 FR 29759).

The decision analyzed in the EIS was whether to maintain the existing suite of Steller sea lion protection measures (Alternative 1, the 2010 Interim Final Rule) or to implement a new suite of Steller sea lion protection measures (Alternatives 2, 3, 4, 5, or 6). To provide a comprehensive analysis of the effects of the alternatives, the EIS compares the six alternatives relative to each other and relative to a baseline period used to assess the environmental conditions affecting Steller sea lions (generally from 2004 through 2010). NMFS developed these alternatives through a collaborative process with the Council and its Steller Sea Lion Mitigation Committee, and considered public comments received during the scoping process for the EIS and during the public review of the draft EIS.

NMFS developed all alternatives with the understanding that a preferred alternative could only be selected as the proposed action and implemented through rule making if NMFS could insure that the action was not likely to jeopardize the continued existence of the Steller sea lions or result in destruction or adverse modification of their designated critical habitat. The Council and NMFS understood that a preferred alternative and any resulting rule must meet the requirements of the ESA before factors that minimize the economic impacts on fishery participants could be considered. A detailed discussion of the purpose and need for the action is provided in the EIS (see **ADDRESSES**).

The alternatives ranged from Alternative 6, an alternative that would restrict fishing more than the status quo alternative (Alternative 1), to Alternative 4, the alternative that would allow the most fishing opportunities. Alternative 4 would reinstate the Steller sea lion protection measures that were in place prior to the 2010 Interim Final Rule, with a few exceptions. Alternatives 2, 3, and 5 provided more fishing opportunities and fewer protection measures than Alternative 1, but included more protection measures than Alternative 4. Additional description of the alternatives is available in the EIS (see **ADDRESSES**).

In October 2013, the Council recommended Alternative 5 as the preferred alternative for the EIS. Alternative 5 is a suite of management measures for the Atka mackerel, Pacific cod, and pollock fisheries that includes fishery closures and limitations on catch in specific areas to mitigate the potential adverse effects of fishing on Steller sea lion prey resources. Alternative 5 retains important Steller sea lion protection measures in Alternative 1 and also allows more fishing by removing or modifying some of measures in Alternative 1. Alternative 5 includes authorization for specific fishery research in the BSAI. This final rule implements the Steller sea lion protection measures in Alternative 5.

The Council recommended Alternative 5 as the preferred alternative based on the analysis in the draft EIS, public comments, advice from its Steller Sea Lion Mitigation Committee, input from the Council's Advisory Panel and Scientific and Statistical Committee, and the best available scientific information. The Council considered the findings of the 2010 FMP BiOp, a review of the 2010 FMP BiOp sponsored by NMFS and conducted by the Center

for Independent Experts, and a review of the FMP BiOp sponsored by the States of Alaska and Washington. In recommending Alternative 5 as its preferred alternative, the Council determined that Alternative 5 would implement management measures that protect Steller sea lion prey as required by the ESA. The Council determined that Alternative 5 would protect specific areas that are important to Steller sea lions and limit the amount of fishing within Steller sea lion critical habitat in order to protect Steller sea lion prey availability. Alternative 5 maintains a precautionary approach to the management of Steller sea lion prey species in critical habitat by spatially and temporally dispersing catch to prevent localized depletion of these important prey resources.

NMFS conducted a consultation on the proposed action as required under section 7 of the ESA to determine whether fishing under Alternative 5 would be likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their critical habitat. NMFS issued a biological opinion on April 2, 2014 (2014 BiOp, see **ADDRESSES**). New information in the external reviews of the 2010 FMP BiOp and the new analyses that NMFS conducted in response to those external reviews were incorporated into the 2014 BiOp to further understand the effects of the groundfish fisheries on Steller sea lions.

The 2014 BiOp found that the implementation of the proposed action (Alternative 5) was not likely to jeopardize the continued existence of Steller sea lions and was not likely to destroy or adversely modify designated Steller sea lion critical habitat. The conclusions in the 2014 BiOp were reached after considering the best scientific and commercial information available, including Steller sea lion behavior and fisheries data. The 2014 BiOp concludes that the proposed action would establish Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands subarea that spatially and temporally disperse fishing to mitigate potential competition for prey resources between Steller sea lions and these fisheries. Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in a fishery. The proposed action would retain or modify existing closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in ways that are designed to limit competition for prey with Steller sea lions.

The best available scientific information suggests that the effects of the groundfish fisheries on Steller sea lions may be greatest around rookeries and haulouts due to the overlap of foraging Steller sea lions and harvest of their prey species in the fisheries. This action limits fishing to the greatest extent from 0 nm to 3 nm from rookeries and haulouts, which corresponds with the highest observed at-sea use by adult female, young-of-the-year, and juvenile Steller sea lions, as shown in the Steller sea lion telemetry data described in the 2014 BiOp (see Chapter 5 of the EIS and Section 5.4 of the 2014 BiOp).

The 2014 BiOp identified the importance of maintaining global, or broad scale, limits on the harvest of Atka mackerel, Pacific cod, and pollock. Global limits are currently in place for these three species. Regulations prohibit directed fishing in the BSAI or GOA if the projected spawning biomass of the fish stock falls below 20 percent of the unfished spawning biomass (see regulations at § 679.20(d)(4)). Atka mackerel, Pacific cod, and pollock fisheries have not experienced this type of directed fishing closure since global limits became effective in 2003 (68 FR 204, January 2, 2003).

Steller Sea Lion Protection Measures

This final rule implements a comprehensive suite of Steller sea lion protection measures. Steller sea lion protection measures regulate fishing by applying a combination of closed areas, harvest limits, and seasons that reduce fishery competition for Steller sea lion prey when and where Steller sea lions forage. To improve monitoring, this final rule also requires vessels named on a Federal Fisheries Permit (FFP), that use trawl gear to harvest groundfish that is deducted from the Federal total allowable catch (TAC), to set their vessel monitoring system (VMS) to transmit the vessel location at least 10 times per hour.

This section provides a summary of the Steller sea lion protection measures implemented in this final rule. For a more detailed explanation of the regulatory provisions and the purpose of each provision, please see the preamble to the proposed rule (79 FR 37486, July 1, 2014). The preamble to the proposed rule also provides a detailed comparison of this final rule with the 2010 Interim Final Rule.

Atka Mackerel, Pacific Cod, and Pollock Fisheries

This final rule applies primarily to the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands reporting area, defined at § 679.2 and shown in Figure 1 to 50 CFR part 679. The Aleutian Islands reporting area consists of Statistical Areas 541, 542, and 543 in the EEZ and adjacent State of Alaska (State) waters. The EEZ includes Federal waters that generally occur from 3 nautical miles (nm) to 200 nm from shore. State waters generally occur from shore to 3 nm from shore. Area 541 and adjacent State waters correspond to the eastern Aleutian Islands; Area 542 and adjacent State waters correspond to the central Aleutian Islands; and Area 543 and adjacent State waters correspond to the western Aleutian Islands.

This final rule applies to vessels that catch groundfish that are required to be deducted from a TAC under § 679.20 and that are required to be named on a FFP issued under § 679.4(b) in the BSAI reporting area. This rule also applies to vessels that harvest groundfish in State waters that are managed under the State's parallel groundfish fisheries. Parallel groundfish fisheries are fisheries that occur in State waters and where the catch of groundfish is deducted from the Federal TAC. Parallel groundfish fisheries are opened and closed by the State concurrently with adjacent Federal fisheries. Parallel fisheries are managed by the State under regulations similar to those that apply in the Federal fisheries. The State parallel fisheries that would be affected by this action are the fisheries for groundfish that occur in State waters adjacent to the BSAI. Additional detail on State parallel fisheries is provided in Chapters 3 and 8 of the EIS (see **ADDRESSES**).

Area Closures

NMFS has designated 100,286 square kilometers as critical habitat for Steller sea lions in the Aleutian Islands. This subsection summarizes the critical habitat closed to fishing under this final rule. A detailed discussion of the amount of critical habitat closed under this final rule is in Section 5.3 of the 2014 BiOp (see **ADDRESSES**). The area closures are implemented by regulations at § 679.22 and Table 6 to 50 CFR part 679 for Atka mackerel, Table 5 to 50 CFR part 679 for Pacific cod, and Table 4 to 50 CFR part 679 for pollock.

With the final rule, NMFS is closing 90 percent of critical habitat in the Aleutian Islands to Atka mackerel fishing, which results in 8 percent more area open for Atka mackerel fishing in the Aleutian Islands compared to the areas closed under the 2010 Interim Final Rule. This final rule prohibits directed fishing with trawl gear for Atka mackerel in waters from 0 nm to 3 nm

from haulouts and from 0 nm to 10 nm from rookeries in Areas 543 and 542. This final rule also prohibits directed fishing for Atka mackerel in waters from 0 nm to 20 nm from Steller sea lion haulouts and rookeries in Area 542 located between 178° E longitude and 180° E longitude and east of 178° W longitude. In Area 541, this final rule prohibits directed fishing with trawl gear inside critical habitat, except for a portion of critical habitat from 12 nm to 20 nm around Seguam Island.

With the final rule, NMFS is closing 22 percent of critical habitat in the Aleutian Islands to Pacific cod fishing with non-trawl gear (hook-and-line, pot, and jig), which results in 23 percent more area open to Pacific cod fishing with non-trawl gear in the Aleutian Islands compared to the areas closed under the 2010 Interim Final Rule. In Area 543, this final rule prohibits directed fishing for Pacific cod in waters from 0 nm to 3 nm from rookeries and from 0 nm to 10 nm from Buldir Island for hook-and-line and pot gear vessels. In Area 542, this final rule prohibits directed fishing for Pacific cod in waters from 0 nm to 3 nm from rookeries for hook-and-line and pot gear vessels. In Area 541, this final rule prohibits directed fishing for Pacific cod in waters from 0 nm to 3 nm from rookeries west of 172.59° W longitude and in critical habitat from 0 nm to 20 nm east of 172.59° W longitude for hook-and-line and pot gear vessels. Directed fishing for Pacific cod with hook-and-line, pot gear, and jig gear vessels is prohibited in the Seguam Foraging Area.

With the final rule, NMFS is closing 52 percent of critical habitat in the Aleutian Islands to Pacific cod fishing with trawl gear, which results in 23 percent more area open to Pacific cod fishing with trawl gear in the Aleutian Islands compared to the areas closed under the 2010 Interim Final Rule. In Area 543, this final rule prohibits directed fishing for Pacific cod with trawl gear vessels in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries. In Area 542, this final rule prohibits directed fishing for Pacific cod with trawl gear vessels in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries. In Area 541, this final rule prohibits directed fishing for Pacific cod with trawl gear vessels in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries, and from 0 nm to 20 nm around Agligadak Island.

With this final rule, NMFS is closing 65 percent of critical habitat in the Aleutian Islands to pollock fishing, which results in 35 percent more area open to pollock fishing in the Aleutian Islands compared to the previous closures. In Area 543, this final rule prohibits directed fishing for pollock in 95 percent of critical habitat, including 0 nm to 20 nm from rookeries and haulouts, except 3 nm to 20 nm from Shemya, Alaid and Chirikof haulouts that remain outside of 20 nm from rookeries. In Area 542, west of 178° W longitude, this final rule prohibits directed fishing for pollock in waters from 0 nm to 20 nm from haulouts and rookeries, except in the specified open area near the Rat Islands. East of 178° W longitude, this final rule prohibits directed fishing for pollock in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries, except at Kanaga Island/Ship Rock where directed fishing for pollock is prohibited in waters from 0 nm to 3 nm from haulouts and rookeries in a portion of Kanaga Sound east of 178° W longitude. In Area 541, this final rule prohibits directed fishing for pollock in critical habitat from 0 nm to 3 nm from haulouts and 0 nm to 10 nm from rookeries.

Harvest Limits and Seasons

This final rule, in conjunction with existing regulations, establishes harvest limits by sector, area, and season for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands. This subsection summarizes the harvest limits and seasons established under this final rule. The preamble to the proposed rule describes the harvest limits and seasons in greater detail (79 FR 37486, July 1, 2014).

Tables 1, 2, and 3 provide the 2015 estimates of biomass, the overfishing levels (OFLs), the acceptable biological catches (ABCs) from the 2015 harvest specifications (79 FR 12108, March 4, 2014), and the harvest limit amounts for Atka mackerel, Pacific cod, and pollock fisheries established under this final rule. Tables 1, 2, and 3 also describe the allocations that are made to the Western Alaska Community Development Quota (CDQ) Program as CDQ reserves, as well as allocations made to accommodate incidental catch amounts (ICAs), and allocations to other non-CDQ participants as applicable for the specific fishery from the 2015 harvest specifications. The 2015 biomasses, OFLs, ABCs, TACs, and harvest limit amounts are subject to change pending the completion of the final 2014 Stock Assessment and Fishery Evaluation (SAFE) Report and the Council's recommendations for final 2015 and 2016 harvest specifications during its December 2014 meeting. NMFS will publish the final harvest limits in the final 2015 and 2016 harvest specifications.

Table 1 provides the Atka mackerel harvest limits for 2015, based on the 2015 ABC (79 FR 12108, March 4, 2014). In this final rule, § 679.20(a)(8)(ii)(C) sets two Atka mackerel harvest limitations for Areas 542 and 543. First, in Area 543, the annual TAC is limited to an amount no greater than 65 percent of the ABC apportioned for Area 543. The second limit would allow no more than 60 percent of the annual TAC, evenly apportioned between the A and B seasons, to be harvested in critical habitat west of 178° W longitude. This area includes all of Area 543 and the western portion of Area 542. Section 679.20(a)(8)(ii)(A) evenly divides the harvest of TAC between the A and B seasons and applies the seasonal apportionment of Atka mackerel harvests in Area 543, Area 542, and the combined Area 541/Bering Sea. Section 679.23(e)(3)(ii) maintains the directed fishing for Atka mackerel with trawl gear A season dates from January 20 through June 10, and extends the B season from June 10 through December 31. Prior to this final rule, the Atka mackerel B season occurred from June 10 through November 1. This additional season length provides greater opportunity for trawl gear harvesters to distribute catch throughout the year. Section 679.20(a)(8)(ii)(D) prohibits any unharvested Atka mackerel A season allowance that is added to the B season from being harvested within waters 0 nm to 20 nm of Steller sea lion sites located in Areas 543, 542, and 541. This provision ensures that harvest is not concentrated within critical habitat during the B season.

TABLE 1—2015 BERING SEA AND ALEUTIAN ISLANDS ATKA MACKEREL BIOMASS, OFL, ABC, AND TAC; SECTOR, SEASON, AND AREA ALLOCATIONS; AND CRITICAL HABITAT LIMITS UNDER THIS FINAL RULE

[Amounts are in metric tons]

2015 Atka Mackerel Biomass, OFL, ABC, and TAC	
Biomass	387,308
OFL	74,898
ABC	64,477
TAC	56,769

Sector [1]	Season	Area 541/ Bering Sea	Area 542	Area 543
2015 Sector, Season, and Area Allocations and Critical Habitat Limits				
Area ABC	n/a	21,769	20,685	22,023
Area TAC	n/a	21,769	20,685	14,315
CDQ reserve	Total	2,329	2,213	1,532
	A season	1,165	1,107	766
	Critical habitat limit	n/a	664	460
	B season	1,165	1,107	766
	Critical habitat limit [3]	n/a	664	460
ICA	Total	1,000	75	40
Jig [2]	Total	92	0	0
BSAI trawl limited access	Total	1,835	1,840	0
	A season	917	920	0
	Critical habitat limit	n/a	552	0
	B season	917	920	0
	Critical habitat limit [3]	n/a	552	0
Amendment 80	Total	16,513	16,557	12,743
Alaska Groundfish Cooperative for 2015	Total	8,958	9,938	7,854
	A season	4,479	4,969	3,927
	Critical habitat limit	n/a	2,981	2,356
	B season	4,479	4,969	3,927
	Critical habitat limit [3]	n/a	2,981	2,356
Alaska Seafood Cooperative for 2015	Total	7,555	6,619	4,889
	A season	3,778	3,310	2,445
	Critical habitat limit	n/a	1,986	1,467
	B season	3,778	3,309	2,444
	Critical habitat limit [3]	n/a	1,985	1,466

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the Community Development Quota (CDQ) reserves, jig gear allocation, and incidental catch allowances (ICAs) to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the TAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. Under the final 2015 harvest specifications, this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

[3] Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

In this final rule, § 679.20(a)(7)(vii) sets a Pacific cod harvest limit based on abundance in Area 543 as determined by the annual stock assessment process. NMFS will first subtract the State Pacific cod Guideline Harvest Level (GHL) amount from the Aleutian Islands Pacific cod ABC, then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for Aleutian Islands Pacific cod. The State sets the Pacific cod GHL at 3 percent of the sum of the Aleutian Islands and the Bering Sea Pacific cod ABCs. Table 2 provides the proposed 2015 Aleutian Islands Pacific cod biomass, OFL, ABC, TAC, GHL, the sector allocations under the 2015 harvest specifications, and the Area 543 harvest limit under this final rule. The Area 543 harvest limit is based on an estimate of Pacific cod abundance for Area 543 from the 2013 stock assessment for Aleutian Islands Pacific cod.

In this final rule, § 679.23(e)(5)(ii)(C)(*2*) extends the Pacific cod trawl gear C season from November 1 to December 31 for Amendment 80 and Community Development Quota CDQ trawl vessels. Prior to this final rule, the Pacific cod trawl gear C season occurred from June 10 through November 1. This additional season length provides greater opportunity for trawl gear harvesters to distribute catch throughout the year.

TABLE 2—2015 ALEUTIAN ISLANDS PACIFIC COD BIOMASS, OFL, ABC, TAC, GHL, SECTOR ALLOCATIONS, AND THE AREA 543 HARVEST LIMIT UNDER THIS FINAL RULE

[Amounts are in metric tons]

2015 Aleutian Islands Pacific Cod Biomass, OFL, ABC, TAC, and GHL	
Biomass	58,911
OFL	20,100
ABC	15,100
TAC	6,487
GHL	8,613

Sector	Harvest limit
2015 Sector and Area Allocations	
CDQ portion of the TAC	694
Non-CDQ allocations	5,793
Area 543 harvest limit	1,609

In this final rule, § 679.20(a)(5)(iii)(B)(*6*) sets harvest limits for pollock in the A season (January 20 to June 10) and the B season (June 10 to November 1) in Areas 543, 542, and 541. In Area 543, the A season pollock harvest limit is no more than 5 percent of the Aleutian Islands pollock ABC. In Area 542, the A season pollock harvest limit is no more than 15 percent of the Aleutian Islands ABC. In Area 541, the A season pollock harvest limit is no more than 30 percent of the Aleutian Islands ABC. These limits apply to all harvests; this includes harvests by the Aleut Corporation, CDQ groups, and the incidental catch of pollock in all other groundfish fisheries. These harvest limits would ensure the harvest of pollock is constrained in the winter when pollock harvests are most likely to occur and when pollock appears to be an important part of the Steller sea lion diet (Section 5.3.3 in 2014 BiOp).

Table 3 provides estimates of the 2015 Aleutian Islands pollock biomass, OFL, ABC, TAC under the 2015 harvest specifications, and area specific harvest limits under this final rule. NMFS notes that the maximum TAC in the Aleutian Islands pollock fishery is constrained by statutory and regulatory provisions that limit the maximum Aleutian Islands pollock TAC to 19,000 metric tons (see regulations at § 679.20(a)(5)(iii)).

TABLE 3—2015 ALEUTIAN ISLANDS POLLOCK BIOMASS, OFL, ABC, AND TAC; SECTOR AND SEASON ALLOCATIONS; AND THE A SEASON HARVEST LIMITS, BY AREA, UNDER THIS FINAL RULE

[Amounts are in metric tons]

2015 Aleutian Islands Biomass, OFL, ABC, and TAC	
Biomass	289,307
OFL	47,713
ABC	39,412
TAC	[1] 19,000

2015 Aleutian Islands Sector, Season, and Area Allocations					
Sector [2]	Seasons [4]		Area 541	Area 542	Area 543
Harvest Limits [3]	A season		11,824	5,912	1,971
CDQ Directed Fishing Allowance	Total	1,900	n/a		
	A season	760			
	B season	1,140			
ICA	Total	2,000	n/a		
	A season	1,000			
	B season	1,000			
Aleut Corporation	Total	15,100	n/a		
	A season	14,005			
	B season	1,095			

[1] Statutory and regulatory provisions limit the maximum Aleutian Islands pollock TAC to 19,000 mt (see regulations at § 679.20(a)(5)(iii)).

[2] Pursuant to § 679.20(a)(5)(iii)(B)(2)(*i*) and (*ii*), the annual Aleutian Islands pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,000 mt), is allocated to the Aleut Corporation for a directed pollock fishery.

[3] Note that although the area specific harvest limits total to more than 19,000 mt, the TAC constrains total harvests in the Aleutian Islands. NMFS will prohibit fishing if the TAC is reached in the Aleutian Islands even if some amount is unharvested within an area specific harvest limit.

[4] Section 679.20(a)(5)(iii)(B)(*3*)(*i*) limits the harvest of Aleutian Islands pollock in the A season to no more than 40 percent of the ABC. This harvest includes the directed pollock fishery, CDQ directed fishing allowance, and the ICA. To establish the A season directed pollock fishery allocation within the seasonal limit, NMFS determines the amount of ICA that will be necessary to support other groundfish fisheries during the A season.

Summary of Regulation Changes

NMFS made three changes to the final rule. One change is in response to public comment, and one change is a technical correction. The third change revises 15 CFR 902.1(b) to reflect revisions to recordkeeping and reporting requirements.

First, NMFS added the term ''C season'' to § 679.20(a)(7)(v)(B) to correct an inadvertent omission. This regulatory correction has no impact on the Steller sea lion protection measures but provides an accurate description of existing Pacific cod seasons. Additional discussion of this change is in Comment 7 included under Response to Public Comments, below.

Second, NMFS revised § 679.20(a)(7)(vii) to more accurately describe the process for setting the Pacific cod harvest limit for Area 543. The proposed rule at § 679.20(a)(7)(vii) said that NMFS would adjust the ABC by deducting the State guideline harvest level (GHL). This is not the case, as NMFS does not adjust the ABC. NMFS modified this paragraph to explain that NMFS will first subtract the State GHL Pacific cod amount from the Aleutian

Islands Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for Aleutian Islands Pacific cod. This correction clarifies a procedure but does not change the intended process for setting the Pacific cod harvest limitation and has no impact on the Steller sea lion protection measures.

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

Response to Public Comments

The comment period on the proposed rule ended on August 15, 2014 (79 FR 37486). NMFS received 17 letters during the proposed rule comment period. NMFS released the final EIS on May 23, 2014 (79 FR 29759). NMFS received two letters of public comment on the final EIS. The 19 letters received contained 59 unique comments. All of the comment letters received are posted on *http://www.regulations.gov,* search term NOAA–NMFS–2012–0013.

Although NMFS is not required to respond to comments received as a result of issuance of the final EIS, NMFS decided to provide responses as part of the decision-making process. Due to the overlap of issues, NMFS summarizes and responds to the comments received on the final EIS and the comments on the proposed rule in this final rule preamble.

In many of the letters, members of the public also made comments on the 2014 BiOp. NMFS responds to comments on the 2014 BiOp that are related to the proposed rule and EIS. However, comments on the 2014 BiOp that are not related to the proposed rule or EIS are not addressed further in this preamble. NMFS notes that this final rule does not implement the 2014 BiOp, and the 2014 BiOp is not subject to notice-and-comment rulemaking requiring a response in this final rule. All letters were provided to NMFS PRD for their review. NMFS PRD and NMFS SFD did not identify any new information provided in public comments that would require NMFS SFD to reinitiate ESA section 7 consultation. The triggers for reinitiating consultation are provided at 50 CFR 402.16.

Comments on Fishery Management Measures

Comment 1: The proposed rule continues to reduce the Atka mackerel TAC, restrict catch in Steller sea lion critical habitat, and spread the catch out temporally and spatially. Further, the majority of Steller sea lion critical habitat remains closed for Atka mackerel in the Aleutian Islands: 76 percent of critical habitat in Area 543; 93 percent in Area 542; and almost all of Area 541 except a small area southeast of Seguam Pass. These measures will reduce the operational efficiency of harvesters fishing under the provisions of the Amendment 80 Program. This is particularly true given current low permissible harvest levels, even if allowed catches are managed cooperatively among participants in the Amendment 80 Program.

Response: NMFS acknowledges the comment. Amendment 80 to the FMP identified participants using trawl catcher/processors in the BSAI active in groundfish fisheries other than Bering Sea pollock (*i.e.,* the head-and-gut fleet or Amendment 80 vessels) and established a framework, known as the Amendment 80 Program, to regulate fishing by this fleet (72 FR 52668, September 14, 2007). The Amendment 80 Program created Amendment 80 quota share based on the historic catch of quota share species by Amendment 80 vessels, facilitated the development of cooperative arrangements (Amendment 80 cooperatives) among quota shareholders, and assigned an exclusive harvest privilege for a portion of the TAC of quota share species for participants in Amendment 80 cooperatives. Chapter 8 of the EIS describes the factors affecting the operational efficiency of vessels in the Amendment 80 Program under this action.

Comment 2: The development of the Atka mackerel management measures by the Council's Steller Sea Lion Mitigation Committee was guided in large measure by the results of NMFS Fishery Interaction Team studies. The Atka mackerel management measures implemented by this action are intended to meet the goal of reducing the possibility of competition. These Atka mackerel management measures are responsive to the best available information and to the performance standards of the 2010 FMP BiOp (see **ADDRESSES**). The 2014 BiOp provides a relevant context for evaluating the exposure of Steller sea lions to potential constraining competition between the fishery and Steller sea lions. Roughly 90 percent of the time during a year there will be only 1 or 2 vessels fishing Atka mackerel within a given management area (*e.g.,* Area 542). With the removal of the ''platoon system'' under this action, the Atka mackerel fishery will be highly dispersed in time and space.

Response: NMFS acknowledges the comment. Chapter 8 of the EIS describes the operations of vessels fishing for Atka mackerel under this action. Note that the ''platoon system'' is also called the Atka Mackerel Harvest Limit Area (HLA) fishery. The 2010 Interim Final Rule removed the HLA fishery and this final rule maintains that removal. See the proposed rule preamble for a more detailed discussion of the HLA fishery and the reason for its removal (79 FR 37499).

Comment 3: Strike the term ''Area 541'' from the proposed rule at § 679.20(a)(8)(ii)(D) where it reads, ''Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543.'' Any unused A season Atka mackerel should roll to B season and be available throughout the area open to fishing within Area 541. This will allow the fleet to disperse effort as was envisioned under this action. This change in regulation is also supported by NMFS research that showed little exchange of Atka mackerel inside and outside of areas 12 nm from shore within Area 541.

Response: The regulations at § 679.20(a)(8)(ii)(D) are correct and NMFS made no changes to regulations in response to this comment. NMFS intended to prohibit the harvest of Atka mackerel TAC rolled over from the A season inside critical habitat in the B season in Areas 541, 542, and 543. This prohibition preserves the intent of the existing seasonal apportionment of Atka mackerel TAC, which is to temporally disperse harvest. Currently, in each management area, 50 percent of the TAC is assigned to the A season and 50 percent to the B season, see § 679.20(a)(8)(ii)(C)(*1*)(*ii*). Also, the ability to roll over unused TAC from the A season to the B season is limited under § 679.20(a)(8)(ii)(D). As explained in the preamble to the proposed rule, the purpose of this provision is to limit the amount of harvest that could occur in critical habitat to further protect Atka mackerel prey resources for Steller sea lions inside critical habitat (79 FR 37500). Unharvested Atka mackerel

TAC from the A season can be harvested in the B season outside of critical habitat. This provision also provides for greater spatial dispersion of harvest away from Steller sea lion critical habitat.

Comment 4: The proposed rule would restore some productive fishing grounds in the Aleutian Islands and remove the no-retention regulations for the Pacific cod fishery in Area 543. These measures provide some reduction in the impacts of Steller sea lion protection measures to the Pacific cod fishery relative to the 2010 Interim Final Rule. However, the amount of TAC available to the Pacific cod fishery in the Aleutian Islands will be only a small fraction of what was available and what was harvested prior to 2011 because of the decision to separate BSAI Pacific cod into separate stocks with separate OFLs, ABCs, and TACs. With the adoption of separate Pacific cod TACs for the Aleutian Islands and Bering Sea, the new measures provide much better protection of the Pacific cod resource at the global scale than did the 2010 FMP BiOp RPA implemented in the 2010 Interim Final Rule.

Response: NMFS acknowledges the comment. Chapter 8 of the EIS describes the management of the Pacific cod fishery under this action.

Comment 5: NMFS could alleviate the concern over the concentration of Pacific cod harvest in Area 543 and 542 by including re-consultation triggers in the final rule similar to the re-consultation triggers NMFS included in the 2010 Interim Final Rule that established non-trawl and trawl sector guideline harvest limits for Pacific cod by area. NMFS should consider re-consultation triggers as non-regulatory guideline harvest levels distinct for trawl and non-trawl sectors Pacific cod harvest in Areas 543 and 542 (and possibly 541). These re-consultation triggers could serve as an interim measure to address immediate concerns until superseded by Council action. Re-consultation triggers would ensure less concentration of harvest in these areas due to greater temporal dispersion of harvest by vessels using fixed gear, which is more temporally dispersed than harvest by vessels using trawl gear. Re-consultation triggers would also ensure harvest by non-trawl gear, which fishes at a slower rate than trawl gear and is less likely to contribute to localized depletion.

Response: NMFS included triggers for reinitiation of the section 7 consultation for Pacific cod harvest in Areas 541 and 542 as part of the RPA in the 2010 FMP BiOp. The Pacific cod ABC and TAC were specified as a combined BSAI ABC and TAC under the proposed action analyzed in the 2010 FMP BiOp. Because there were no limits on the amount of the BSAI Pacific cod TAC that could be caught in Areas 541 and 542, the RPA contained triggers to cue NMFS and the public that reinitiation of section 7 consultation should occur if fishing exceeded historical catch amounts in these management areas. NMFS considered these triggers important because the RPA and its implementing 2010 Interim Final Rule also closed Area 543 to directed fishing and prohibited retention of Pacific cod. With the closure of Area 543 to directed fishing and retention of Pacific cod prohibited under the 2010 Interim Final Rule, NMFS was concerned that harvest displaced from Area 543 would cause an increase in harvest in Areas 542 and 541. NMFS included a discussion of these triggers from the 2010 FMP BiOp in the preamble to the 2010 Interim Final Rule; however, as explained in that preamble, NMFS did not include these triggers in the implementing regulations (75 FR 77541).

The 2014 BiOp did not recommend reinitiation triggers for the Pacific cod fishery because the nature of the Pacific cod fishery and harvest limits have changed since the 2010 FMP BiOp. As of 2014, Pacific cod OFLs, ABCs, and TACs are specified separately for the eastern Bering Sea and Aleutian Islands. The amount of Pacific cod catch in the Aleutian Islands is expected to be substantially reduced relative to prior years when the OFL, ABC, and TAC were combined for the BSAI. Therefore, the potential for a shift of a substantial amount of fishing effort from one area of the Aleutian Islands to another does not exist under this action.

The reinitiation notice in Section 10.0 of the 2014 BiOp stated that formal consultation may be required if the Aleutian Islands Pacific cod harvest is concentrated in Areas 542 or 543, as this would reflect a pattern not seen in the historical fishery data. The EIS and the 2014 BiOp anticipated that a larger proportion of the Aleutian Islands Pacific cod TAC is likely to be harvested by trawl gear rather than by non-trawl gear and the Council did not recommend harvest limits.

Comment 6: Make two changes to the regulations: (1) Apportion the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear for Areas 543, 542, and 541; and (2) apportion the Aleutian Islands Pacific cod TAC between the A and B seasons for Areas 543, 542, and 541. Without these changes, the proposed rule, in conjunction with separate management of Aleutian Islands Pacific cod and increasing State of Alaska GHL Pacific cod fishery, could reduce fixed gear harvest opportunity in the Aleutian Islands and increase the proportion of trawl harvest of Pacific cod. The lack of an Aleutian Islands Pacific cod TAC apportionment between fixed gear and trawl gear for Areas 543, 542, and 541 will result in a decreased proportion of fixed-gear Pacific cod harvest in the Aleutian Islands and an increased proportion of trawl Pacific cod harvest in the Aleutian Islands. This means more Pacific cod harvest in the Aleutian Islands will be harvested by trawl gear that is more temporally compressed (February and March), fishes at a higher rate (than fixed gear), and is more likely to cause localized depletion. This is inconsistent with the stated intent of the proposed rule.

Response: This final rule implements measures necessary to protect Steller sea lion prey. The changes proposed by the commenter to apportion the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear and between the A and B seasons are not Steller sea lion protection measures. Apportioning the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear and between the A and B season would require a separate regulatory amendment. NMFS cannot add this provision or an interim measure to the final rule because it not been considered, analyzed, or made available for public comment. The Council could consider and analyze this proposal and make a recommendation to NMFS for a future regulatory amendment.

A separate Aleutian Islands Pacific cod TAC was established starting in 2014 that resulted in a substantial reduction in the Pacific cod available for harvest in the Aleutian Islands. The Council and NMFS were aware of the impact of the Aleutian Islands Pacific cod TAC on the fixed gear fleet's harvest opportunities when the Council took action to split the Pacific cod TAC. With the Aleutian Islands Pacific cod TAC, it is likely that trawl vessels will be able to fully harvest this limited TAC before the Pacific cod are available for harvest by fixed gear vessels.

The EIS analyzed the impacts of the proposed action and its alternatives with the understanding that a separate Pacific cod TAC would be implemented in 2014 (see Chapter 5 of the EIS). The 2014 BiOp acknowledged the impacts of the Pacific cod TAC split, including the fact that the trawl fishery would harvest the TAC, when it analyzed the proposed suite of Steller sea lion protection measures and found that the implementation of this final rule was not likely to jeopardize the continued existence of Steller sea lions and was

not likely to destroy or adversely modify designated Steller sea lion critical habitat. Therefore, the final rule is consistent with the stated intent for this action.

Comment 7: The proposed regulatory text at § 679.20(a)(7)(v)(B) states, ''Harvest of seasonal apportionments in the Amendment 80 limited access fishery. (1) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B seasons.'' This mistakenly omits a reference to the C season contained in paragraph (a)(7)(v)(A) that states, ''Use of seasonal apportionments by Amendment 80 cooperatives. (1) The amount of Pacific cod listed on a CQ permit that is assigned for use in the A season may be used in the B or C season.'' We believe this was an inadvertent omission and the words ''or C'' belong in paragraph (a)(7)(v)(B)(*1*) so that it would read: ''Pacific cod ITAC assigned for the harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons.''

Response: NMFS agrees that this was a typographical error and has made the change to the final rule § 679.20(a)(7)(v)(B) to correct this inadvertent omission. Section 679.20(a)(7)(v)(B) now reads, ''Harvest of seasonal apportionments in the Amendment 80 limited access fishery. (*1*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons.'' The changes NMFS made to § 679.20(a)(7)(v) are discussed in the preamble to the proposed rule (79 FR 37502). This regulatory correction has no impact on the Steller sea lion protection measures.

Comment 8: The management measures put forward in the proposed rule are, on the whole, a significant improvement over the measures that are currently in place from the 2010 Interim Final Rule, particularly in regards to the re-opening of Area 543 to Pacific cod fishing. The new measures are more consistent with the best available science on the impacts of groundfish fisheries on the Steller sea lions and reflect management measures developed and supported by the Council and its Steller Sea Lion Mitigation Committee.

Response: NMFS acknowledges the comment.

Comment 9: The Pacific cod fishery has been the primary basis of seafood processing in Adak and a mainstay of the local economy. Re-opening portions of critical habitat to fishing will provide more spatial dispersion of the fishery. Setting a separate TAC for Aleutian Islands Pacific cod is a precautionary measure that will protect the long term productivity of the Pacific cod stock. While these measures will result in less Pacific cod being available in the Aleutian Islands in the short run, the more conservative management of Aleutian Islands Pacific cod could provide the community of Adak with a more stable resource base in the long run.

Response: NMFS acknowledges the comment and notes that this final rule is intended to spatially disperse the Pacific cod fishery.

Comment 10: Prior to the 2014 BiOp, no analysis of a commercial pollock fishery in the Aleutian Islands had been undertaken since Congress allocated pollock to the Aleut Corporation in 2004. The 2014 BiOp takes the first hard look at the spatial distribution of the historic Aleutian Island pollock fishery in comparison to the telemetry data on Steller sea lion foraging locations. It also compares Steller sea lion dive profiles with pollock fishing depths. In both cases the 2014 BiOp finds the least overlap of any of the three prey species. Additionally, scat data presented in the 2010 FMP BiOp showed Aleutian Islands pollock had the lowest frequency of occurrence in Steller sea lion scat of the three prey species of concern.

The statutory and regulatory provisions that limit the maximum amount of pollock TAC that may be harvested in the Aleutian Islands means that the pollock TAC in 2015 would be less than 50 percent of the Aleutian Islands pollock ABC. The commenter notes that Aleutian Islands pollock harvest is likely to be significantly less than the TAC because allocations provided to CDQ groups (*i.e.,* 10 percent of the Aleutian Islands TAC) may be harvested in the Bering Sea, and regulations allocate 50 percent of the TAC remaining after allocation to CDQ groups to vessels less than 60 feet in length overall. These smaller vessels will have difficulty harvesting their pollock allocations due to the greater depths at which pollock is found in the Aleutian Islands and the more limited fishing capabilities of smaller vessels to harvest pollock at depth given the necessary horsepower and gear requirements.

Response: NMFS agrees that the Aleutian Islands pollock TAC is likely to be substantially below the Aleutian Islands pollock ABC in the foreseeable future because existing statutory and regulatory provisions limit the maximum Aleutian Islands pollock TAC to 19,000 mt (see regulations at § 679.20(a)(5)(iii) and Table 3 in this preamble). NMFS notes that although catch of Aleutian Islands pollock may be less than the TAC for the reasons stated by the commenter, NMFS does not have specific information indicating that catch will be consistently below the Aleutian Islands TAC in future years. The EIS and the 2014 BiOp assumed that pollock catch in the Aleutian Islands would equal the TAC for purposes of analyzing the effects of this action.

Comment 11: The proposed rule to allow pollock fishing in some portions of critical habitat will finally realize Congress' intent of providing for economic development for Adak in the 2004 legislation allocating Aleutian Islands pollock to the Aleut Corporation.

Response: NMFS acknowledges the comment.

Comment 12: Reduce the TAC for the Bering Sea Aleutian Islands pollock fishery by 50 percent because it may be a cause in the Steller sea lion population decline. One of the Steller sea lion's primary food sources is pollock. Not having a stable food supply forces the Steller sea lions to travel farther and compete with other marine animals for different food resources. Local residents are wondering why there are more frequent Steller sea lion sightings in areas of the Bering Sea that were previously uninhabited by sea lions.

Response: NMFS manages pollock in the Aleutian Islands separately from the Bering Sea. This action changes management of the Aleutian Islands pollock fishery, as detailed in this preamble. The Aleutian Islands pollock TAC is greatly reduced from the ABC due to a number of factors described in Comment 10 and shown in Table 3 in this preamble. The Bering Sea pollock fishery is outside the scope of this action.

The 2010 FMP BiOp analyzed the impacts of the Bering Sea pollock fishery on Steller sea lions and concluded that the management measures currently in place, including the management measures for the Bering Sea pollock fishery, are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat. The 2014 BiOp concluded management measures in this action for the Aleutian Islands pollock fishery are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat.

A wide range of factors can affect the distribution of Steller sea lions (see Chapter 5 of the EIS for additional details on Steller sea lion distribution). The occurrence of Steller sea lions at a

location not previously observed may be due to reasons other than the lack of adequate prey resources in other locations.

Comments on Steller Sea Lion Issues

Comment 13: The proposed rule preamble fails to include any information regarding the current total population status of Steller sea lions. The status of the Steller sea lion population should be included in the preamble to the rule to give context to the proposed management measures. The proposed rule is for management measures to protect Steller sea lions, but the rule provides no information on the total population status.

Response: A complete description of the status of the Steller sea lion population is provided in Section 5.1.1 of the EIS and Section 3.3 of the 2014 BiOp. The WDPS of Steller sea lions is distributed from Prince William Sound through the Aleutian Islands in Alaska and in Russia on the Kamchatka peninsula, Kuril Islands, and the Sea of Okhotsk. The 2008 Recovery Plan (see **ADDRESSES**) uses the population trend in non-pups to gauge the species' status.

In 2012, the estimated abundance of the entire WDPS of Steller sea lions (pups and non-pups, United States and Russia/Asia) was 79,300 sea lions (see Section 3.3.1 of the 2014 BiOp). Abundance of the United States portion of the population is estimated at 52,200 animals based on data from 2012. Steller sea lion abundance in the Russian portion of the population is estimated at 27,100 animals based on data collected through 2012.

There is evidence that Steller sea lion non-pup counts in Alaska increased at an average rate of 1.67 percent per year between 2000 and 2012. Because the United States portion of the range occurs exclusively within Alaska, reference to the United States portion of the Steller sea lion population is synonymous with the Alaska portion of the Steller sea lion population. However, there are strong differences in trends across the range of Steller sea lions in Alaska. There is strong evidence of a positive trend (2.89 percent per year) east of Samalga Pass and strong evidence of a continued decline (−1.53 percent per year) west of Samalga Pass.

NMFS uses six sub-regions within Alaska for trend and status monitoring of Steller sea lions. These sub-regions include the eastern GOA, central GOA, and western GOA, the eastern Aleutian Islands/Bering Sea, central Aleutian Islands, and the western Aleutian Islands. A seventh sub-region (*i.e.,* Russia/Asia) is located outside the United States and is commonly referred to as the Russian sub-region because most of the Steller sea lion population in that sub-region is concentrated in Russia. NMFS receives information on the trend and status of Steller sea lions in this sub-region from its counterparts in Russia and Japan.

Non-pup counts increased at a significant rate from 2000 through 2012 in the eastern GOA, the western GOA, and the eastern Aleutian Islands. Non-pup counts increased at a non-significant rate from 2000 through 2012 in the central GOA. Counts of non-pups decreased at a significant rate in the western Aleutian Islands and at a non-significant rate in the central Aleutian Islands from 2000 through 2012.

The Russian sub-region of Steller sea lions is estimated to have increased from 13,000 sea lions in the 1990s to 16,000 by 2005. Data collected through 2012 indicate that overall Steller sea lion abundance in the Russian sub-region continues to increase and is now similar to the 1960s (27,100). Between 1995 and 2012, pup production increased overall in the Russian sub-region by 3.1 percent per year. However, just as in the United States portion of the range, there are significant regional differences in Steller sea lion population trends in the Russian sub-region (see the EIS Chapter 5 and 2014 BiOp for full details).

Comment 14: Given the robust increase in the total United States population of Steller sea lions, the removal of some of the Steller sea lions protection measures in the 2010 Interim Final Rule is warranted. Additionally, this population increase, combined with the fact there is no evidence supporting the nutritional stress hypothesis (*i.e.,* that fisheries are removing key Steller sea lion prey species in a way that diminishes resources for Steller sea lions), is grounds for the removal of additional undue restrictions on the BSAI groundfish fisheries.

Response: NMFS acknowledges the comment; however, the changes made to Steller sea lion protection measures are based on the best available scientific information and not those stated in the comment.

Comment 15: The 2014 BiOp fails to provide a sound, scientific basis for concluding no jeopardy or adverse modification and, therefore, it does not provide an objective foundation for the proposed rule. The 2014 BiOp analysis on which the proposed rule is based is flawed to such an extent that it should be set aside, the proposed rule withdrawn, and the consultation re-initiated.

Response: NMFS based this rule on the preferred alternative recommended by the Council. See response to Comment 16.

The 2014 BiOp considered the effects of two proposed actions: The modified Steller sea lion protection measures in the Aleutian Islands Federal groundfish fisheries and State of Alaska parallel groundfish fisheries for Atka mackerel, Pacific cod, and pollock (the action implemented through this final rule); and research to better understand the potential effects of these fisheries on Steller sea lions. As required by the regulations codified at 50 CFR 402.14, the 2014 BiOp includes a summary of the information on which the opinion is based, a detailed discussion of the effects of the action on the listed Steller sea lions and designated critical habitat, and NMFS' opinion that the action is not likely to jeopardize the continued existence of the WDPS of Steller sea lions or destroy or adversely modify their designated critical habitat. NMFS based its opinion in the 2014 BiOp on the best scientific and commercial data available as required by 50 CFR 402.14. Please see the 2014 BiOp for additional detail (see **ADDRESSES**).

Comment 16: The proposed rule is premised on the unprecedented finding from the 2014 BiOp that the preponderance of available data does not support a conclusion that the groundfish fisheries and groundfish abundance are limiting Steller sea lion population growth rates.

Response: These implementing regulations are premised on the information available to the Council, its Steller Sea Lion Mitigation Committee, and NMFS throughout the development of this action. When it recommended the suite of Steller sea lion protection measures implemented in this final rule, the Council reviewed all of the information available, including the 2010 FMP BiOp, the Center for Independent Experts' review of the 2010 BiOp, as well as the external review commissioned by the States of Alaska and Washington, the EIS analysis, and public comments.

NMFS then conducted an ESA section 7 consultation on the Council's recommended proposed action and issued the 2014 BiOp. The 2014 BiOp concluded that the proposed action is not likely to jeopardize the continued existence of the WDPS of Steller sea lions or destroy or adversely modify their critical habitat. The 2014 BiOp also explains that NMFS maintains that a cautionary approach to fishing for prey species in Steller sea lion critical habitat is warranted, especially in winter when NMFS has the least information about prey biomass, and that catch should be dispersed in time

and space to prevent localized depletion—at least until such time as NMFS has better local biomass and exploitation rate estimates (see the 2014 BiOp, page 227). Consistent with that recommendation, the Steller sea lion protection measures implemented in this final rule dispersed fishing in time and space to prevent localized depletion of prey species.

Comment 17: While measures other than those currently in place conceivably might satisfy NMFS' obligations under the ESA, the available scientific information about the fisheries and Steller sea lions does not justify new measures that simply allow more fishing without a coincident increase in other protections. Alternative 5 is arbitrary because it is based on the 2014 BiOp.

Response: Alternative 5 (the preferred alternative implemented in the final rule) was not based on the 2014 BiOp. NMFS worked with the Council and its Steller Sea Lion Mitigation Committee to identify the reasonable range of alternatives for analysis in the EIS. In developing the alternatives, the Steller Sea Lion Mitigation Committee and Council considered the 2010 FMP BiOp, external reviews of 2010 FMP BiOp, the draft EIS, public comments, and NMFS' response to public comments received on the draft EIS. Based on this information, the Council determined that the available scientific information about the fisheries and Steller sea lions supports alternative Steller sea lion protection measures to those in the 2010 Interim Final Rule. The Council then recommended Alternative 5 as the preferred alternative based on the analysis in the draft EIS, public comments, and the best available scientific information.

In the 2014 BiOp, NMFS analyzed the effects of Alternative 5 after it was recommended by the Council. NMFS conducted the ESA section 7 consultation on Alternative 5 prior to releasing the final EIS and commencing rulemaking. The 2014 BiOp found that the implementation of Alternative 5 was not likely to jeopardize the continued existence of the WDPS of Steller sea lions and was not likely to destroy or adversely modify designated Steller sea lion critical habitat. The conclusions in the 2014 BiOp were reached after considering the best scientific and commercial information available, including Steller sea lion behavior and fisheries data.

Comment 18: The 2010 FMP BiOp remains valid and, for precisely this reason, both the proposed rule and 2014 BiOp must be abandoned. The proposed rule simply cannot be reconciled with the 2010 FMP BiOp—as the proposed rule would repeal the very Steller sea lion protection measures instituted as the 2010 RPA. Because the 2010 FMP BiOp reflects a credible and consistent analysis of the best available science, the status quo protection measures for Steller sea lions adopted as a consequence of that analysis and reflected in the 2010 Interim Final Rule must be at least maintained—if not strengthened.

Response: The connection between the 2010 FMP BiOp and the 2014 BiOp on the Alaska groundfish fisheries is explained in Section 1.0 of the 2014 BiOp. The 2014 BiOp did not entirely replace the previous 2010 FMP BiOp. The analysis contained in the 2010 FMP BiOp remains valid and meets NMFS' requirement to consult at the FMP level.

NMFS did a project-level, focused consultation on the proposed action to modify Steller sea lion protection measures in the Aleutian Islands. The 2014 BiOp is the result of that consultation. The 2014 BiOp considered a different proposed action than the 2010 FMP BiOp, namely the proposed changes to the Aleutian Islands Pacific cod, Atka mackerel, and pollock fisheries; scientific research on these fisheries and other changes to the fishery management structure since 2010; and new information available subsequent to completion of the 2010 FMP BiOp. The proposed action to modify Steller sea lion protection measures replaces the RPA in the 2010 FMP BiOp, which was implemented as the 2010 Interim Final Rule. Based on an analysis of the proposed action and the new information, the 2014 BiOp concludes that the proposed action is not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat.

Comment 19: The proposed rule violates NMFS' ESA obligation to avoid jeopardizing the prospects of Steller sea lions for recovery and is inconsistent with the 2008 Recovery Plan (see **ADDRESSES**). The best available science, reflected in the 2008 Recovery Plan, indicates that a large sub-regional population decline constitutes a threat to the prospect of recovery for Steller sea lions as a whole. NMFS is proposing to allow additional fishing within the designated critical habitat for the western and central Aleutian sub-regions, even though Steller sea lion populations continue to decline in those areas and NMFS acknowledges that existing fishing levels cannot be ruled out as a contributing cause of the ongoing decline. Significantly, the western Aleutian sub-regional population declined substantially—60 percent from 2000 to 2012—and a 2013 study found that the probability of extinction in the western Aleutian Islands is substantial within 50 years.

Response: The recovery criteria in the 2008 Recovery Plan are discussed in Section 3.5 of the 2014 BiOp and Section 1.9.4 of the EIS. The recovery criteria compose the core standards upon which to base a decision to remove Steller sea lions from the Endangered Species List. The biological (demographic) recovery criteria are intended to maintain Steller sea lion populations throughout their range. Currently, there are no geographic gaps in the range of Steller sea lions and the Recovery Team determined, and NMFS concurred, that it is important to the species' viability to maintain populations in all six sub-regions of the WDPS. Significant declines over large areas (two sub-regions or more) could indicate that the extinction risk may still be high and that further research would be needed to understand the threats before delisting. NMFS notes that although the recovery criteria are still applicable, there have been substantial improvements in the best available scientific information on Steller sea lions since the publication of the 2008 Recovery Plan. The 2014 BiOp considered the best available scientific information.

The abundance of Steller sea lions in Alaska is increasing at a statistically significant rate; however, the increase is due to significant increases in population growth in three of the six sub-regions (the eastern Aleutian Islands, the western GOA, and the eastern GOA). Steller sea lions continue to decline in the central Aleutian Islands and western Aleutian Islands. The rate of decline is not statistically significant in the central Aleutian Islands, but is statistically significant in the western Aleutian Islands. The rate of increase is uncertain in the central GOA. See response to Comment 13 for additional information on the population status of Steller sea lions.

Section 3.6 of the 2014 BiOp and Section 5.1.1.2 of the EIS discuss the extinction risk of Steller sea lions in Alaska. The studies presented in those sections show no risk of extinction for Steller sea lion in the WDPS within 100 years. These studies also considered the probability of extinction in each of the six specific sub-regions within 100 years. The studies concluded that Steller sea lion populations in all six of the sub-regions, with one exception, have no risk of extinction within 100 years. The population in the western Aleutian Islands sub-region is predicted

to have a high probability of extinction within 100 years.

As explained in Section 7.1 of the 2014 BiOp, NMFS considered the effects of the proposed action on the survival and recovery of sea lion populations in the individual sub-regions per the criteria in the 2008 Recovery Plan. NMFS' opinion in the 2014 BiOp is that the preponderance of available data does not support a conclusion that the groundfish fisheries as proposed and the current groundfish abundance are limiting Steller sea lion population growth rates. NMFS acknowledges that, due to significant data gaps, NMFS cannot rule out the effects of fishing as contributing to the continued decline in the western Aleutian Islands and the lack of recovery in the central Aleutian Islands (see Section 5.4.5 of the 2014 BiOp).

Given these data gaps, NMFS maintains that a precautionary approach to fishing for sea lion prey species in Steller sea lion critical habitat is warranted, especially in winter, and that catch of prey species should be dispersed in time and space to prevent localized depletion of prey at least until NMFS has better information about local biomass and exploitation rates (see Section 5.4.5 of the 2014 BiOp). The Steller sea lion protection measures implemented in this final rule maintain substantial groundfish fishery closures and catch limits in Steller sea lion critical habitat (see Section 5.3 in the 2014 BiOp and Sections 2.1.5 and 5.2.2.6 of the EIS) to reduce the potential for competition for prey between the fisheries and sea lions and to ensure that the fisheries are not likely to jeopardize the continued existence of the WDPS of Steller sea lions or destroy of adversely modify their designated critical habitat.

For example, directed fishing for Atka mackerel, pollock, and Pacific cod with trawl gear will be prohibited in 76 percent, 95 percent, and 76 percent, respectively, of the area designated as critical habitat in the western Aleutian Islands (Area 543). Limits will be imposed on the amount of the TAC of these Steller sea lion prey species that may be taken from Area 543, which corresponds with the western Aleutian Islands sub-region (see Section 2.1.5 of the EIS). Seasonal catch limits will also be imposed and the amount of Atka mackerel that can be caught in Steller sea lion critical habitat in the central and western Aleutian Islands (Areas 543 and 542) will be limited to 60 percent of the TAC. Refer to the preamble to the proposed rule for the full suite of Steller sea lion protection measures implemented by this final rule.

NMFS' opinion about the effects of the proposed fisheries on the Steller sea lion population in the western Aleutian Islands sub-region and their designated critical habitat is summarized in Section 7.3 of the 2014 BiOp. The measures implemented by this final rule to reduce potential competition between the groundfish fisheries and Steller sea lions overall, and in sea lion critical habitat in the western Aleutian Islands, are not likely to appreciably reduce the likelihood of survival or recovery of the western Aleutian Islands Steller sea lion sub-population. However, based on an assessment of the available data, NMFS concluded that a decline in numbers of the western Aleutian Islands Steller sea lion population is likely to continue for unknown reasons, even apart from any changes in the fisheries, and that the measures implemented by this rule are not likely to yield population level effects that would appreciably change the likelihood of survival or recovery of the Steller sea lion population within the western Aleutian Islands sub-region. NMFS also concluded that the effects of the proposed fisheries in the central Aleutian Islands (corresponding with NMFS management areas 542 and 541) are not likely to appreciably reduce the likelihood of survival or recovery in the central Aleutian Islands sub-region. Because the proposed fisheries are not likely to reduce the survival or recovery of Steller sea lion populations in the western and central Aleutian Islands sub-regions, NMFS concluded that the proposed fisheries are not likely to appreciably reduce the likelihood of survival or recovery of the WDPS of Steller sea lions (Section 7.3 of the 2014 BiOp).

Comment 20: All protections should remain in place to protect Steller sea lions until NMFS can confirm that the threats that have resulted in the unforeseen and unexplained declines of Steller sea lion populations in the central and western Aleutian Islands have abated. The 2010 Interim Final Rule management measures to protect the population in these sub-regions represent the maximum spatial extent and amount of fishing that can be permitted by the commercial groundfish fisheries. In fact, with ongoing declines persisting in these areas despite the protection measures instituted by the 2010 Interim Final Rule, additional protection measures may be necessary. There are no conditions under which these endangered Steller sea lions would not be jeopardized if restrictions were relaxed. The environmental impact of fishing is never conducive to the preservation of wildlife or natural habitats.

Response: NMFS is concerned about the continued decline of Steller sea lions in the western and central Aleutian Islands sub-regions. However, NMFS concluded that the changes to the Aleutian Islands groundfish fisheries management in this final rule are not likely to reduce the survival or recovery of sea lion populations in the western or central Aleutian Island sub-regions, let alone the WDPS of Steller sea lions as a whole. See response to Comment 19. The EIS analyzed the environmental impacts of the proposed action and its alternatives on wildlife and habitat.

Comment 21: NMFS' refusal to address the correlation between sub-regional population trends and Steller sea lion protection measures is arbitrary and harmful because it defies a key performance standard set forth in the 2010 FMP BiOp. The proposed rule purports to maintain the goal of providing more protection to Steller sea lions where more decline in their population is evident. As the proposed rule would eliminate Steller sea lion protection measures in the central and western Aleutian Islands, the portion of the species' range where the population continues to decline, it obviously fails to meet this performance standard. The proposed rule would open more critical habitat to more fisheries in Area 543 relative to Areas 541 and 542, despite the fact that the negative population trend is most pronounced in Area 543.

Response: Contrary to the commenter's assertion, this final rule does not eliminate Steller sea lion protection measures in the central and western Aleutian Islands, but rather maintains or modifies Steller sea lion protection measures in a manner that is consistent with the mandates of the ESA and the Magnuson-Stevens Act.

Section 1.10.3 of the EIS describes the objective and performance standards to mitigate potential adverse impacts of the fisheries on Steller sea lions. The Council and NMFS considered these performance standards when selecting the preferred alternative in the EIS. The performance standards reflect concepts NMFS has applied for over a decade to mitigate potential impacts of the groundfish fisheries on Steller sea lions and their critical habitat. The specific set of performance standards for this action originated in the 2010 FMP BiOp and was subsequently modified in the EIS to reflect new information available since the since 2010 FMP BiOp was prepared. The action implemented in this final rule adheres to the performance standards by closing important Steller sea lion habitat and

foraging areas to directed fishing for Steller sea lion prey species, dispersing catch between seasons, limiting the amount of sea lion prey species that may be caught inside critical habitat, maintaining and establishing 3-nm groundfish fishing closures around designated and emerging rookeries in the Aleutian Islands, and including additional harvest controls for Steller sea lion prey species in Area 543—the western Aleutian Islands. This final rule also conserves prey availability for Steller sea lions by closing areas to directed fishing for Atka mackerel where tagging studies indicate high movement of fish from inside to outside closure areas.

A greater percentage of the critical habitat area will be open to directed fishing for Atka mackerel and Pacific cod in Area 543 relative to Areas 542 or 541 under this final rule. However, this final rule imposes stricter harvest limits for Atka mackerel and Pacific cod in Area 543 compared to the harvest limits that will apply in Areas 542 and 541 (see Section 2.1.5 of the EIS) in accordance with the performance standards in the 2010 FMP BiOp. Taken as a whole, these measures meet the performance standards by limiting catch overall in the areas where the rate of decline is most evident. The specification of a separate Aleutian Islands Pacific cod ABC and TAC beginning in 2014 (see Section 3.3.3 of the EIS) substantially reduced Pacific cod harvests in the Aleutian Islands relative to baseline harvests. The historical data indicate that higher Pacific cod catches are expected in Area 541 compared to Areas 542 and 543 (see EIS Sections 8.11 and 8.18.3). As explained in the preamble to the proposed rule (79 FR 37486), the measures to mitigate the potential effects of the pollock fishery on Steller sea lions and critical habitat conform to the performance standard and are more protective where the Steller sea lion decline is most evident. To meet the objective of the mitigation measures (see EIS Section 1.10.3), the Council and NMFS considered the performance standards, changes to the fisheries relative to the action analyzed in the 2010 FMP BiOp, and the effects of the alternatives when selecting the preferred alternative being implemented in this final rule.

Comment 22: The Council's recommended preferred alternative is supported by the EIS and the 2014 BiOp. Together, these two documents fulfill the U.S. District Court's directive to NMFS to take a hard look at the data. In doing so, NMFS has been responsive to the Center for Independent Experts' review of the 2010 BiOp, as well as to public comment on the 2010 BiOp and to the external review commissioned by the states of Alaska and Washington.

Response: NMFS acknowledges the comment.

Comment 23: The EIS's focus on raw numbers concerning area closures and catch volumes do not meaningfully capture the severity of the impacts or the degree to which the action may adversely affect Steller sea lions or their habitat. The EIS analysis assumes that fishery removals of prey may adversely affect Steller sea lions, and that incremental increases in prey removals and opening more areas of critical habitat, relative to status quo, could have incremental, adverse effects on prey availability for Steller sea lions. While these assumptions are appropriate, the EIS applies them in an exclusively relativistic manner, never offering an ultimate, objective judgment of the environmental effects of the alternatives on Steller sea lions.

Response: Chapter 5 of the EIS provides a clear explanation of the methods used for the analysis of the potential effects of the fisheries on Steller sea lions. The analysis examines the effects of the alternatives on incidental takes (Section 5.2.1), harvest of prey species (Section 5.2.2), and disturbance (Section 5.2.3). Section 5.2.2 describes the method and assumptions used to analyze the effects of the alternatives with the best scientific information available. The best available scientific information includes quantitative fisheries catch information in time and space and critical habitat locations in relation to fishing activity. This information is used to compare and contrast the effects of the alternatives. The EIS provides conclusions for each effect based on the results of the analysis. The assumptions that are used in the analysis are clearly stated for the public's understanding of the nature of the available information and how this information is used in the analysis. The commenter's request that this information be presented and that an objective judgment on the effects of the alternatives be provided can be found in the EIS in the sections referenced above and in its conclusions.

Comment 24: The 2014 BiOp is premised on an examination of the overlap in depth between the fisheries and Steller sea lion diving, by season, based on our best understanding of the two variables. The EIS undercuts the reliability of this work to reach a conclusion of no jeopardy, stating that the extent to which competition between fisheries and Steller sea lions may be avoided through partitioning of resources by depth can be difficult to judge using the available information. Scientific studies of Steller sea lion foraging patterns are just beginning to characterize the diving depths and patterns of Steller sea lions, and they are likely capable of foraging patterns not yet described or anticipated. Describing the overlap in depth between fisheries and Steller sea lions is further complicated by diet or seasonal vertical migrations of the fish resources for reproduction, refuge, or foraging.

Response: Overlap in fishery and Steller sea lion foraging depth is one necessary condition for competition between fisheries and Steller sea lions for prey species. Information on sea lion foraging and fishing depths is discussed in Section 5.3.5 of the 2014 BiOp and Section 5.2.2.1 of the EIS. The 2014 BiOp contains a detailed analysis of fishery and Steller sea lion foraging depths as one aspect of the exposure analysis. The objective of an exposure analysis in a biological opinion is to establish the extent of spatial and temporal overlap of the proposed action with the listed species and designated critical habitat. NMFS conducted a new exposure analysis in the 2014 BiOp in response to comments from two external scientific reviewers who cited shortcomings with the exposure analysis in the 2010 FMP BiOp.

While the depth analysis in the 2014 BiOp is more detailed than in the EIS, the conclusions of the respective analyses are in accord with each other. For example, the EIS concludes that competition may be less likely between Steller sea lions and fisheries that harvest species found deeper in the water column. In the 2014 BiOp, NMFS also inferred greater potential depth overlap with sea lions between the Pacific cod and Atka mackerel fisheries than for pollock fisheries, based on the available data. The pollock fishery occurs at deeper depths than the Pacific cod and Atka mackerel fisheries (see Section 5.3.5 in the 2014 BiOp). NMFS also noted in the 2014 BiOp that there were limitations in the available data for drawing inferences about the cause of apparent depth partitioning in some portion of sea lion dives and pollock trawl hauls. These conclusions are consistent with the conclusions in Section 5.2.2.1 of the EIS, which notes that diel or seasonal vertical migrations of fish complicates the description of depth overlap between the fisheries and Steller sea lions.

Comment 25: The assessment of the frequency and intensity of fishery removals in the 2014 BiOp does not support the BiOp's ''no jeopardy'' conclusion. This assessment is also

contrary to the EIS because the EIS acknowledges that the critical link between fisheries removals (*e.g.,* time, rate, location) and the effects on Steller sea lions is poorly understood and that the relationship between these catch rates and the impacts on prey cannot be determined except that higher catch rates in relation to low prey abundance would be more likely to result in localized depletions.

Response: Section 5.3.7 in the 2014 BiOp analyzes the probable extent of removal of important Steller sea lion prey under the proposed action. Section 5.3.8 of the 2104 BiOp presents NMFS' conceptual model of how Steller sea lions are exposed to the effects of prey removal by the groundfish fisheries. Section 5.3.8 of the 2014 BiOp and Section 5.2.2 of the EIS consistently describe the conditions expected to lead to localized depletion of prey. Consistent with the limitations to assessing effects described in Section 5.2.2.1.4 of the EIS, Section 5.3.8 of the 2014 BiOp acknowledges that NMFS lacks data to determine conclusively whether the fisheries fragment the prey patches, modify the proportion of prey at depth, and ultimately result in reduced prey abundance.

Comment 26: Assessing the potential overlap in the size of prey consumed by Steller sea lions and those taken in the commercial fishery is another key analytical prong of the 2014 BiOp. The 2014 BiOp's conclusion of limited overlap and no jeopardy is not consistent with the EIS, which found that the ranges of size of prey selected by Steller sea lions, as referenced above, do overlap with the ranges of size of prey taken in the groundfish fisheries in the Aleutian Islands as calculated in this analysis.

Response: As discussed in Section 5.2.2.1.2 of the EIS, overlap in size between fish consumed by Steller sea lions and those taken in the commercial fishery is one of several necessary conditions for competition for prey. Overlap in size of prey eaten by Steller sea lions and size of fish caught by the groundfish fisheries is analyzed in Section 5.2.2.1.2 of the EIS and Section 5.3.6 of the 2014 BiOp. The two analyses consistently conclude that the best available scientific information indicates that the size ranges of prey eaten by Steller sea lions and the size range of fish taken in the groundfish fisheries in the Aleutian Islands overlap. The 2014 BiOp discusses that the best available scientific information indicates greater overlap in the size of Atka mackerel and pollock taken by the fisheries and Steller sea lions compared to the overlap in the size of Pacific cod taken by the fisheries and Steller sea lions and notes the limitations of the available data and the uncertainty about the extent of potential overlap.

Comment 27: The EIS' approach obscures the potential severity of the proposed action for both Steller sea lions in the central and western Aleutian Islands and Steller sea lions as a whole. Unfortunately, the population trends for non-pups in the central and western Aleutian Islands sub-regions continue to decline, with a particularly severe decline in abundance (a 60 percent decrease) observed in the western Aleutian Islands between 2000 and 2012. A 2013 study found that the probability of extinction in the western Aleutian Islands is substantial even within 50 years. The EIS fails to acknowledge that even a modest increase in pressure on prey resources in the western Aleutian Islands could precipitate a severe result, given that the sub-population already faces a high risk of extirpation. The EIS also fails to note that such an outcome could have equally severe ramifications outside of the western Aleutian Islands, as the best available science indicates that the extirpation of Steller sea lions in the western Aleutians would be significant to the WDPS, and would be expected to appreciably reduce the likelihood of both their survival and recovery in the wild.

Response: Sections 5.1.1.1 and 5.1.1.2 of the EIS describe the population abundance and trends for the entire WDPS of Steller sea lion pups and non-pups based on the best scientific information available. The purpose and need of the action focuses the alternatives and the analysis of the effects on the action area, the Aleutian Islands, which is a portion of the range of WDPS of Steller sea lions. Section 5.1.1.2 describes the population trend for the entire WDPS of Steller sea lions (*i.e.,* Alaska and Russia/Asia), the entire Alaska portion of the range of Steller sea lions, and the population trends in each sub-region in Alaska. This puts the population trend in the action area in context for the entire population. NMFS notes that the abundance of WDPS Steller sea lions in Alaska is increasing at a statistically significant rate, though the Steller sea lion population in the western Aleutian Islands sub-region is declining at a statistically significant rate (see response to Comment 13).

The EIS analysis focuses on the effects on Steller sea lions that occur in the Aleutian Islands. EIS Section 5.1.1.2 discusses the process Johnson (2013) developed for forecasting the population of Steller sea lions and summarized the probability of the population falling below a quasi-extinction threshold within 50 and 100 years. A quasi-extinction threshold is the population size, greater than zero, at which a population is ultimately doomed to extinction due to genetic or physical constraints of the small, remaining population. NMFS examined three methods: The Morris and Doak (MD) method (Morris and Doak 2002), and restricted and unrestricted agTrend methods (Johnson 2013). The results for each method were qualitatively the same: There is approximately a zero percent probability of quasi-extinction of the Steller sea lion population in Alaska as a whole within the next 100 years. Similarly, there is approximately a zero percent probability of quasi-extinction of the Steller sea lion population from each of the sub-regions within Alaska within the next 100 years, with one exception for the western Aleutian Islands sub-region. The probability of extirpation of the Steller sea lion population in the western Aleutian Islands sub-region is substantial even within 50 years.

The EIS states that competition with fisheries may affect prey availability to Steller sea lions. In the EIS, prey effects are considered adverse effects because, based on information available on prey interaction, it is assumed there are no beneficial effects from removal of prey. Removal of prey can have direct and indirect adverse effects on Steller sea lions. The EIS discusses the potential adverse effects to Steller sea lions from the harvest of prey resources in the Aleutian Islands under all of the alternatives. After conducting this analysis, and analysis of other factors detailed in the EIS, NMFS concluded in the 2014 BiOp that although there is a substantial risk of extinction of the Steller sea lion population in the western Aleutian Islands based on projected population trends, additional management measures beyond those implemented in this final rule were not required to insure that groundfish fisheries are not likely to jeopardize the continued existence of the WDPS of Steller sea lions or destroy or adversely modify their designated critical habitat.

Comment 28: The EIS does not comply with NEPA because it fails to analyze the significance of the effects of the action on endangered Steller sea lions. The EIS did not determine the population-level effects to Steller sea lions from the indirect effects of fishing on prey availability for the alternatives. Rather than assess potential population-level consequences of each alternative using objective metrics, prey effects were analyzed purely in comparative form by evaluating the percentage of

critical habitat closed to each fishery and the harvest of prey species in critical habitat by each fishery exclusively within the western and central Aleutian Islands. The details on local closures and catch within critical habitat in Areas 541, 542, and 543, while appropriate, are no substitute for further analysis in a broader context, including at the population level of the WDPS of Steller sea lions. A population-level analysis for each alternative in the EIS is essential to making a reasoned choice among the proposed management regimes for the western and central Aleutian Islands because the best available science as reflected in the 2008 Recovery Plan (see **ADDRESSES**), provides a clear basis for the conclusion that sub-regional declines have a profound effect on the future of the entire species.

Response: The EIS analysis provides the decision makers with the ability to compare and contrast the effects of the alternatives on the human environment consistent with the requirements of NEPA by disclosing information on fishery removals of prey and critical habitat closures under the alternatives within the action area. EIS Chapter 5 includes the evaluation of the effects of the alternatives on Steller sea lion incidental takes, disturbance, and potential effects on prey using the best available information. NMFS reviewed the information available to inform the analysis and determined that a population-level analysis was not necessary to determine the potential effects of the alternatives on Steller sea lions and their critical habitat because the effects of fishing occur at the local scale and the decision was which suite of protections measures is appropriate to meet the purpose and need for the action. EIS Section 5.2.2 describes the method used to analyze the effects of the alternatives with the best available scientific information and the assumption applied to the analysis. Best scientific information available includes quantitative fisheries catch information in time and space and critical habitat locations in relation to fishing activity. This information is used to compare and contrast the effects of the alternatives.

Comment 29: We strongly disagree with the core of NMFS' rationale for this proposal which is: (1) There are enough fish in the Bering Sea and Aleutian Islands for fishermen and Steller sea lions to share; the small Steller sea lions population only consumes a small portion of fish we think are there; and (2) we have designed a system with enough spatial and temporal dispersal of the fishing effort such that fishing does not overlap with Steller sea lions critical habitat to a great degree. Yes, on a mass balance basis, there are enough fish for fishermen and Steller sea lions to share. But Steller sea lions are not the only inhabitants of this ecosystem; other predators like seabirds, killer whales, and seals depend on fish being abundant in this area and some of those species are showing worrisome declines that may be related to too few fish in the ocean.

Response: NMFS' rationale for this final rule is supported by the 2014 BiOp (see **ADDRESSES**). The 2014 BiOp concludes that the proposed action would establish Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands subarea that spatially and temporally disperse fishing to mitigate potential competition for prey resources between Steller sea lions and these fisheries. Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in a fishery. The proposed action would retain or modify existing closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in ways that are designed to limit competition for prey with Steller sea lions.

NMFS agrees that a wide range of species occurring in the action area prey on groundfish. NMFS conservatively manages the groundfish fisheries and limits catch for ecosystem considerations, including a conservative optimum yield cap and a global control rule. In the 2010 FMP BiOp, NMFS analyzed the effects of the authorization of groundfish fisheries, including the prosecution of parallel groundfish fisheries in Alaska state waters (see **ADDRESSES**). The 2010 FMP BiOp is comprehensive in scope and considers the fisheries and the overall management framework established by the FMP to determine whether that framework contains necessary measures to ensure the protection of listed species and critical habitat. The 2010 FMP BiOp analyzed the pattern and level of fishery removals occurring in different groundfish fisheries and the policy choices, decisions about exploitation strategies, and stock and stock complex assessments that set the harvest levels.

The 2014 BiOp identified the importance of maintaining global, or broad scale, limits on the harvest of Atka mackerel, Pacific cod, and pollock. Global limits are currently in place for these three species. Regulations prohibit directed fishing in the BSAI or GOA if the projected spawning biomass of the fish stock falls below 20 percent of the unfished spawning biomass (see regulations at § 679.20(d)(4)). Atka mackerel, Pacific cod, and pollock fisheries have not experienced this type of directed fishing closure since global limits became effective in 2003 (68 FR 204, January 2, 2003).

Additionally, NMFS conducts ecosystem modeling and incorporates ecosystem considerations, including predation, into the stock assessment models. See response to comment 54.

Further, the EIS analyzes the impacts of the proposed action and its alternatives on a wide range of ecosystem elements, including local fish populations in Chapter 3, killer whales and seals in Chapter 5, seabirds in Chapter 6, and on the ecosystem as a whole in Chapter 7.

Comment 30: NMFS improperly fails to disclose in the final EIS the strong dissenting views held by NMFS scientists regarding the analysis and conclusions contained in the draft 2014 BiOp. For example, Alaska Fisheries Science Center scientists prepared a memorandum stating that the spatial overlap analysis in the draft 2014 BiOp is fundamentally flawed and cannot be used as a basis to evaluate spatial overlap between fisheries and Steller sea lions, nor support any conclusions about whether jeopardy or adverse modification to critical habitat may or may not be expected to occur as a result of the fishery action. The Steller Sea Lion Coordinator for the Alaska Region prepared a memo stating that the exposure analysis in the draft 2014 BiOp was fundamentally flawed and needed to be redone and the draft 2014 BiOp was not consistent with the NOAA Scientific Integrity Policy because it does not provide accurate or adequate acknowledgement or discussion of uncertainties or the probabilities associated with both optimistic and pessimistic projections for sea lions. These memos indicate there was internal dissent within NMFS regarding the draft 2014 BiOp analysis that the EIS relies upon for its discussion regarding the environmental impacts of the proposed action on Steller sea lions. NMFS was obligated to disclose and discuss these adverse opinions within the body of the EIS and failed to meet that obligation.

Response: NMFS is not obligated to discuss pre-decisional internal agency discussions in an EIS. However, NMFS does discuss areas of controversy and uncertainty in the Executive Summary and in Chapter 5 of the EIS. NMFS relies on EIS Chapter 5 for the analysis of the impacts of the proposed action and its alternatives on Steller sea lions. All internal agency discussions were

considered by NMFS in making the final determination.

Comment 31: In our July 12, 2013, comments on the draft EIS, we recognized the effort of NMFS to produce a thorough analysis that articulates the anticipated impacts of a complex proposal and applauded your partnerships with the U.S. Coast Guard, U.S. Fish and Wildlife Service and the Alaska Department of Fish and Game in developing the EIS. We identified Alternative 5 as a practical combination of some of the more beneficial aspects of other alternatives for the Atka mackerel, Pacific cod, and pollock fisheries, based in large part in response to stakeholder concerns identified during scoping. We also recognized that an intensive monitoring program will be implemented with this alternative, and adjustments made as results are assessed. We did not have concerns regarding the preferred alternative and offered no additional suggestions for further minimizing impacts. The EIS continues to identify modified Alternative 5 as the NMFS preferred alternative. We support this decision and recommend that this alternative be selected in the Record of Decision.

Response: NMFS acknowledges the comment.

Comments on Economic Issues

Comment 32: Reject the proposed rollback of needed protections for Steller sea lions. The proposed rule reflects an abdication of NMFS' stewardship obligations, does not comply with NMFS' legal or moral obligations, is not consistent with the best available science, and appears to prioritize short-term economic gain ahead of long-term sustainable management. A decision to authorize significant additional fishing pressure even as Steller sea lions continue to decline in the central and western Aleutian Islands and fail to meet recovery criteria overall would run directly counter to those moral, ethical, and legal obligations.

Response: This action implements a suite of Steller sea lion protection measures in the Aleutian Islands groundfish fisheries that adheres to the requirements of the ESA and Magnuson-Stevens Act, and are consistent with our legal and stewardship obligations. NMFS used the best available commercial and scientific data to inform development of the alternatives and analyze their impacts on Steller sea lions and the human environment. This final rule maintains protections consistent with the ESA for Steller sea lions through numerous spatial and temporal harvest limits and critical habitat area closures applicable to the harvest of key Steller sea lion prey species of Atka mackerel, Pacific cod, and pollock and sustainable management of the Aleutian Islands groundfish fisheries.

Comment 33: In light of the protective purpose of the ESA, NMFS must respect Congress' intent to give the benefit of the doubt to the species. NMFS' action should be consistent with the ESA's conservation goals and the ESA's policy of institutionalized caution.

The proposed rule asserts that the Council and NMFS understood that a preferred alternative and any resulting rule must meet the requirements of the ESA before factors that minimize, to the extent practicable, the economic impacts on fishery participants could be considered. This assertion notwithstanding, the proposed rule repeatedly states that certain lesser protection measures have been selected because they ''balance'' conservation of Steller sea lions with economic opportunities for the commercial fisheries. The balancing approach undertaken by the Council and NMFS is unlawful because the ESA disallows balancing the benefit to the species against the economic and technical burden on the industry. NMFS proposes an unprecedented reversal of the ESA's mandated precaution and appears to premise its analysis and conclusions on an illegal shifting of the burden of proof and an impermissible elevation of economic considerations.

Under the ESA, economic considerations may not be considered in an agency's determination of whether an action is likely to cause jeopardy—a determination that must be based exclusively on the best available science. Because the legislation reveals a conscious decision by Congress to give endangered species priority over the primary missions of Federal agencies, NMFS may not give equal priority to economic concerns and its obligations under the ESA.

Response: The purpose and need for this action is explained in Section 1.3 of the EIS. The purposes of this action are to first, comply with the requirements of the ESA by implementing Steller sea lion protection measures in the Alaska groundfish fisheries and, secondly, and only after the first purpose is met, to minimize, to the extent practicable, economic impacts to the groundfish fisheries from the measures.

In compliance with the ESA, NMFS conducted a section 7 consultation on the action implemented in this final rule. During that consultation, NMFS used the best scientific and commercial data available. The results of the ESA section 7 consultation are documented in the 2014 BiOp. In the 2014 BiOp, NMFS concluded that the implementation of the proposed action was not likely to jeopardize the continued existence of the WDPS of Steller sea lions or destroy or adversely modify designated Steller sea lion critical habitat. Economic impacts were not a factor in making that conclusion.

NMFS agrees that ESA section 7 analyses should err on the side of the survival and recovery of the listed species when the effects of an action are uncertain. The analysis in the 2014 BiOp is a cautionary examination of the effects of the groundfish fisheries on Steller sea lions and their designated critical habitat. NMFS assumes that groundfish fisheries may compete with Steller sea lions for prey. NMFS makes this assumption even though there is substantial scientific debate as to whether such competition exists, or if it does, whether the levels of removals in the fishery would be sufficient to cause competition in a way that would impede the survival and recovery of Steller sea lions. In Section 5.3.8 of the 2014 BiOp, NMFS presents a conceptual model illustrating the pathways through which Steller sea lions are exposed to the stressor of reduced prey resources due to the groundfish fisheries. NMFS' conceptual model for Steller sea lion behavioral and physiological responses to reduced prey resources is shown in Section 5.4 of the 2014 BiOp.

NMFS discusses where the available data allow inference of the effects and where the available data are equivocal as to the effects on prey availability and subsequent effects on Steller sea lion fitness. In cases where the data are equivocal, to avoid underestimating the potential risk to the survival and recovery of Steller sea lions, NMFS assumes the groundfish fisheries may compete with sea lions for prey and assumes that the most extreme physiological consequences would result. In those cases, NMFS concluded that local Steller sea lion populations may be affected by the proposed action but that the magnitude of the effect would not be sufficient to appreciably reduce the likelihood of survival or recovery in either the central or western Aleutian Islands sub-regions. Because the action is not likely to appreciably reduce the likelihood of survival or recovery in the individual sub-regions, the proposed action is not likely to appreciably reduce the likelihood of survival or recovery of the WDPS of Steller sea lions. In other cases, the best scientific data available support a conclusion that the proposed groundfish fisheries are not likely to cause localized

depletion of prey and are not likely to reduce the fitness of individual sea lions or adversely modify their designated critical habitat.

In developing the proposed action and its alternatives, the Council and NMFS did consider impacts on fishery participants. NMFS is required to consider the impacts of its fishery management actions on fishery participants under the Magnuson-Stevens Act, Executive Order 12866, and the Regulatory Flexibility Act. In the preamble to the proposed rule, NMFS describes each regulatory provision and provides an explanation as to why the Council recommended and NMFS approved and implemented these regulatory provisions. These explanations address why a particular regulatory provision was included or why a particular provision from the 2010 Interim Final Rule was revised or removed. However, it is NMFS' conclusions in its 2014 BiOp that the regulatory provisions, individually and collectively, are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify designated Steller sea lion critical habitat.

Comment 34: The EIS does not comply with the National Environmental Policy Act (NEPA) because its statement of purpose and need impermissibly elevates economic considerations and impermissibly qualifies NMFS' conservation obligations pursuant to the ESA and the Magnuson-Stevens Act with a duty to minimize costs, where practicable. NMFS insists that in meeting ESA requirements, it also needs to make sure that the measures that it implements minimize, to the extent practicable, adverse economic impacts to the groundfish fisheries. NMFS' emphasis on a balance of meeting the ESA obligations while minimizing economic impacts to the extent practicable is both misplaced and unlawful.

Response: NMFS has determined that the EIS complies with NEPA. The purpose and need in the EIS is clear that NMFS needs to implement Steller sea lion protection measures to meet its obligations under the ESA. The ESA is clear that economic factors are not considered by the consulting agency (NMFS PRD) when making a determination about the impact of this action under a section 7 consultation. NMFS SFD consulted on this action and NMFS PRD determined that the implementation of this action was not likely to jeopardize the continued existence of Steller sea lions and was not likely to destroy or adversely modify designated Steller sea lion critical habitat. This determination was made without the consideration of economic impacts, as discussed in response to Comment 33.

At the same time, NMFS is managing fisheries under the Magnuson-Stevens Act, and the Magnuson-Stevens Act requires NMFS to implement protection measures in a manner that minimizes adverse economic impacts, to the extent practicable, on those affected by the restrictions under the Steller sea lion protection measures. Under the purpose and need for this action, NMFS must meet the requirements of the ESA and do so in a manner that also meets the requirements to manage fisheries to minimize adverse economic impacts to fishery participants and fishery dependent communities, where practicable, under the requirements of Magnuson-Stevens Act.

Comment 35: According to the EIS, NMFS' assertion that it must balance ESA obligations against the potential cost of protection measures to the fishery industry is grounded in National Standard 7 of the Magnuson-Stevens Act. While National Standard 7 does encourage NMFS to minimize costs and to avoid unnecessary duplication where possible, NMFS may not give equal priority to economic concerns under the Magnuson-Stevens Act and its obligations under the ESA because the ESA reflects a conscious decision by Congress to give endangered species priority over the primary missions of Federal agencies.

Despite the proposed rule's frequent and prominent invocation of the need to minimize economic impacts, nowhere does the proposed rule explain the legal or policy genesis of this objective. While National Standard 7 does encourage NMFS to minimize costs and to avoid unnecessary duplication where possible, NMFS may not select and elevate one Magnuson-Stevens Act obligation from among the several management obligations imposed by the statute. In addition to National Standard 7, the Magnuson-Stevens Act includes substantive obligations to conserve and manage fishery resources and to protect the marine ecosystem. NMFS cannot simply ignore these additional Magnuson-Stevens Act obligations or prioritize financial benefit for the fishing industry.

Response: Federal fishery management in the Aleutian Islands as a whole is designed to conserve and manage fishery resources, protect the marine ecosystem, and promote the long-term healthy and stability of the fisheries, in accordance with the Magnuson-Stevens Act. The Council and NMFS have fully considered the Magnuson-Stevens Act and the 10 National Standards in developing these regulations (see EIS Section 13.2.4).

The statement of purpose and need specifies the underlying purpose and need to which NMFS is responding in proposing the alternatives, including the proposed action. As explained in the EIS, the need to comply with section 7 of the ESA is the primary driver for implementing Steller sea lion protection measures. As NMFS has stated previously in the preamble to the proposed rule and in this preamble, NMFS did not consider economic factors when determining if the proposed action would jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat. See response to Comment 33 and the 2014 BiOp for additional detail.

However, after NMFS meets its requirements under the ESA, NMFS also needs to make sure that the measures that it implements minimize, to the extent practicable, adverse economic impacts to groundfish fishery participants under the Magnuson-Stevens Act. This is not the same as giving equal priority to economic concerns and ESA obligations.

This final rule implements an extensive suite of Steller sea lion protection measures that impose economic costs on the fishing industry compared to no protection measures. This final rule also relaxes some Steller sea lion protection measures implemented under the 2010 Interim Final Rule. These changes to Steller sea lion protection measures were recommended by the Council based on the best scientific information available. NMFS conducted a section 7 consultation on the Council's recommendation under the requirements of the ESA (see 2014 BiOp) and determined that the Council's recommendation was not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat. Removing or modifying specific protection measures and allowing some increases in fishing is not the same as prioritizing financial benefit for the fishing industry. See the preamble to the proposed rule for a complete discussion of the specific Steller sea lion protection measures that are modified or removed with this final rule.

Comment 36: The approach of the Council and NMFS was to ensure that a preferred alternative met the requirements of the ESA before considering factors that minimize, to the extent practicable, the economic impacts on fishery participants.

Response: NMFS agrees and acknowledges the comment.

Comment 37: In formulating and selecting NEPA alternatives, NMFS may not select and elevate one Magnuson-Stevens Act obligation from among the several management obligations imposed by the statute. The Magnuson-Stevens Act includes substantive obligations to conserve and manage fishery resources and to protect the marine ecosystem. NMFS cannot simply ignore these additional Magnuson-Stevens Act obligations or prioritize financial benefit for the fishing industry.

Response: Federal fishery management in the Aleutian Islands as a whole is designed to conserve and manage fishery resources, protect the marine ecosystem, and promote the long-term health and stability of the fisheries. The Council and NMFS have fully considered the Magnuson-Stevens Act and the National Standards in developing this action, its alternatives, and the implementing regulations. Specifically, EIS Chapter 3 details how NMFS considered the effects of the alternatives on target species; EIS Chapter 4 details how NMFS considered the effects of the alternatives on non-target species; Chapter 5 details how NMFS considered the effects of the alternatives on marine mammals; Chapter 6 details how NMFS considered the effects of the alternatives on seabirds; and Chapter 7 details how NMFS considered the effects of the alternatives on the ecosystem. NMFS responds to public comments on each of the Magnuson-Stevens Act's 10 National Standards in EIS Section 13.2.4.

This final rule implements an extensive suite of Steller sea lion protection measures that impose economic costs on the fishing industry compared to no protection measures. This final rule also relaxes some restrictions on fishing implemented by the 2010 Interim Final Rule, thereby relieving some of the costs imposed by that action. NMFS has determined that these specific restrictions were not necessary to insure that groundfish fisheries in the BSAI are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat and therefore could be removed.

Comment 38: The proposed rule reflects a positive first step towards establishing an appropriate management regime that adequately protects the Steller sea lion without imposing unnecessary impacts on the Alaskan economy, as did the 2010 Interim Final Rule. The Steller sea lion population in Alaska has increased substantially since 2000. While populations in some sub-regions have been slower to respond than others, minimal, if any, evidence indicates that human activity such as fishing and the resulting variations in prey availability negatively affect the Steller sea lion population. In light of this tenuous connection, the harsh fishing restrictions imposed by the 2010 Interim Final Rule were unsupported. In contrast, the proposed rule presents a more appropriate management decision, which would ease many of those restrictions and enable increased fishing. The proposed rule is both consistent with the balanced recommendation of the Council and supported by adequate analysis of the best available science presented in the 2014 BiOp.

Response: The Steller sea lion protection measures implemented by the 2010 Interim Final Rule were based on the 2010 FMP BiOp (see **ADDRESSES**) and supported by the best available information at that time.

Comment 39: The proposed rule will benefit Alaskans, their communities, the commercial fishing fleet, and the seafood processing industry by easing the severe fishing restrictions set forth under the 2010 Interim Final Rule. That rule, which resulted in harsh economic impacts, resulted from the hypothesis that groundfish fisheries are causing nutritional stress to the Steller sea lions. Subsequent independent, expert peer reviewers have questioned the scientific basis for and the legitimacy of that hypothesis. The State's interests will be best served through implementation of a management structure that balances the interests of fishing opportunities with scientifically defensible protections for Steller sea lions. The proposed rule would accomplish those objectives.

Response: NMFS acknowledges the comment.

Comment 40: The proposed rule will eliminate several of the most severe limitations implemented under the 2010 Interim Final Rule, including complete retention restrictions for Atka mackerel and Pacific cod in Area 543, and closures for pollock fishing in designated critical habitat in Areas 543, 542, and 541. NMFS would replace these complete closures with more targeted temporal and spatial restrictions and catch limits based on available data showing the potential overlap between Steller sea lion occurrence and the fisheries. The proposed rule would retain significant restrictions on fishing that are intended to prevent any potential effects of fisheries on Steller sea lions, regardless of whether or not the effects are actually occurring. The proposed rule takes a very precautionary approach to mitigation, aiming for a very high degree of protection for Steller sea lions while reducing, but not eliminating, impacts on fishery-dependent industry and communities.

Response: NMFS acknowledges the comment.

Comment 41: We are encouraged that the economic impacts of the 2010 Interim Final Rule will be significantly reduced if the measures in the proposed rule are approved. The new Steller sea lion protection measures under this proposed rule retain a significant amount of economic impact to the Amendment 80 sector relative to what was in place prior to 2011. After reviewing the proposed rule and the specifics of proposed fishery measures and groundfish quotas, we estimate that the proposed Steller sea lion measures would restore a little less than half of the loss to the Amendment 80 sector from the 2010 Interim Final Rule.

Response: NMFS acknowledges the comment.

Comment 42: The proposed rule will help to alleviate some of the economic impact that the 2010 Interim Final Rule has had on the Alaskan economy. The proposed rule allows for increased flexibility for Alaskan vessels to harvest Atka mackerel, Pacific cod, and pollock, which will in turn support the seafood processing industry and the local economies of several remote coastal communities. The combination of reduced closures and increased catch limits creates a more effective and targeted management system in light of the minimal evidence of competition for prey between the fisheries and the Steller sea lion. Our family business is encouraged by opportunities granted under the proposed rule that allow harvest in Areas 541, 542, and 543 otherwise not available under the 2010 Interim Final Rule.

Response: NMFS acknowledges the comment.

Comments on Community Issues

Comment 43: The measures put in place with the 2010 Interim Final Rule hit Adak harder than any other community. Not only was the immediate local impact severe, the resulting loss of activity impacted long term revenue to Adak attributable to those fiscal years. We support the proposed regulations because NMFS provided a well-written and well-reasoned justification in the 2014 BiOp for the determination that the proposed action will not result in jeopardy or adverse modification.

The proposed rule reduces the negative social and economic impacts to the City of Adak and introduces the

economic certainty to allow for the processing plant operators to develop plans that will keep the operation, and all of its beneficiaries, employed or otherwise engaged. Re-opening Atka mackerel fishing in limited areas west of Adak will provide more opportunity for fuel sales and logistical support needs of the Atka mackerel catcher/processor fleet. This should provide a partial relief to the Adak community from the impacts of lower fuel sales resulting from the 2010 Interim Final Rule. The proposed rule would allow pollock fishing in portions of the critical habitat. This change will allow the pollock allocation, granted to the Aleut Corporation for the purpose of economic development, to be harvested in the Aleutian Islands. This will provide the opportunity to generate the necessary revenues to address the economic development needs the community has required for more than a decade.

Response: NMFS acknowledges the comment.

Comment 44: The proposed rule better utilizes the available information and properly takes into account relevant factors to ensure the Steller sea lion population avoids jeopardy while maintaining viable economic opportunities for Aleut Corporation shareholders. Aleut Corporation shareholders directly rely on Steller sea lions for subsistence needs. No single group would be harmed greater by the lower population trends of the Steller sea lions. However, Steller sea lion conservation must be balanced with the ability for Aleuts to ''call home'' their traditional lands that are economically based on commercial fisheries. The proposed rule maintains a high level of continued protection around critical habitat (especially in Areas 543 and 542) with more restrictive measures the farther west one goes. The proposed rule also allows for increased fishing opportunities, the economic lifeblood of the Aleutian region.

Response: NMFS acknowledges the comment.

Comment 45: Continue to consider the economic impacts of decisions on local, small-scale, commercial fishermen that deliver their catches to on-shore processing facilities. The catcher/processors play an important economic role to the Aleutian Islands region, but so do local, family businesses who purchase fuel and supplies from the community of Adak and who deliver catch to in-state processing facilities who greatly contribute to the lifeblood of economic development to rural Alaskan communities like Adak.

Response: NMFS acknowledges the comment. NMFS notes that it analyzed the impacts to commercial fishermen in EIS Chapters 8 and 9, the initial regulatory flexibility analysis for the proposed rule, and in the final regulatory flexibility analysis for the final rule.

Comments on the EIS Alternatives

Comment 46: The 2014 BiOp is much improved and addresses the current conduct of the fishery in a straightforward manner. The 2014 BiOp also suggests that the areas we now know are important feeding areas for Steller sea lions (inside 10 nm) were already mostly closed to Atka mackerel, Pacific cod, and pollock fishing even before the 2010 Interim Final Rule was implemented. This indicates that (1) more of the 2010 Interim Final Rule's restrictions could have been relaxed; (2) the alternatives considered by NMFS should have been expanded to include even more fishing; and (3) the preferred alternative is excessively protective. More could have been done using the new information in the 2014 BiOp to reduce restrictions in the regulations without impacting Steller sea lions, particularly in the absence of direct information supporting the theory that the groundfish fisheries adversely impact Steller sea lions.

Response: The alternative selected by the Council and implemented by this rule was selected after considering other alternatives that would have allowed more fishing opportunities in the Aleutian Islands. Although an alternative suite of management measures could have been selected and reviewed under section 7 of the ESA, the management measures implemented here represent a precautionary approach to management in recognition of the requirements of the ESA. Additional detail on the precautionary nature of this action relative to other actions considered is provided in the EIS and the 2014 BiOp.

Comment 47: NMFS must select Alternative 1 (status quo). Among the alternatives evaluated in the EIS, Alternative 1 is the only viable one consistent with the conservation obligations imposed by the ESA and the Magnuson-Stevens Act. The current protection measures for Steller sea lions in the central and western Aleutian Islands reflect the minimum steps NMFS must take to address ongoing declines and to protect Steller sea lions. The outcome of the recent litigation over the 2010 FMP BiOp and the status quo Steller sea protection measures compels selection of Alternative 1 to maintain current protections. The 2010 FMP BiOp itself counsels in favor of Alternative 1, as any lesser protection measures than those established by 2010 Interim Final Rule likely are unlawful under the ESA. The 2010 FMP BiOp's conclusion reflects NMFS' long-standing and well-documented rationale that commercial fisheries adversely affect Steller sea lions by competing with them for prey. Unless and until NMFS can determine that the threats that have resulted in ongoing declines have abated, the management measures described in Alternative 1 represent the maximum spatial extent and amount of fishing that can be permitted by the commercial groundfish fisheries.

Response: NMFS disagrees. Alternative 5 best meets the purpose and need for this action. As NMFS has noted earlier in response to other comments, this action is distinct from the action considered in the 2010 BiOp and includes new information not considered in the 2010 BiOp. NMFS has determined that the regulations implementing Alternative 5 are in compliance with the Magnuson-Stevens Act, as detailed in the EIS and Record of Decision. NMFS has determined that Alternative 5 is in compliance with the ESA, as detailed in the 2014 BiOp. The 2014 BiOp concludes that the proposed action would establish Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands subarea that spatially, temporally, and globally disperse fishing to mitigate potential competition for prey resources between Steller sea lions and these fisheries. Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in a fishery. The proposed action would retain or modify existing closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in ways that are designed to limit competition for prey between fisheries and Steller sea lions.

Comment 48: If NMFS wants to take the precautionary approach that this situation really requires, it could simply prohibit fishing and monitor to see what happens to the Steller sea lion population over the next 5 to 10 years. Prohibition or severe reduction of fishing activity in the Aleutian Islands is the one and only tool to slow and reverse the Steller sea lion decline. The economic impact of prohibiting commercial fishing or severely restrict it in Areas 543 and 542 would not be large, particularly not compared to the commercial fisheries prosecuted in the Bering Sea. NMFS would rather allow a very small fishery with $12 million

dollars per year of ex vessel revenue in 2012 (and perhaps 10 percent of that in net profit) to go forward and expand, than to take a precautionary approach using more current science and reduce or eliminate fishing in the area to save the last 1,000 western Aleutian Islands Steller sea lions.

Response: NMFS analyzed an alternative in the EIS, Alternative 6, that would prohibit retention of Atka mackerel, Pacific cod, and pollock in the Aleutian Islands (Areas 543, 542, and 541, and adjacent State of Alaska waters). The economic impacts of Alternative 6 are detailed in EIS Chapter 8. The impacts of Alternative 6 on Steller sea lions are detailed in EIS Chapter 5. NMFS did not choose Alternative 6 as the preferred alternative because while Alternative 6 would provide the most protection to Steller sea lion prey species, it is not practicable because it would restrict fisheries beyond what is necessary to meet the ESA requirement to insure the fisheries are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify designated Steller sea lion critical habitat. Therefore, Alternative 6 would not best meet the purpose and need for this action (see Section 1.3 of the EIS).

Comment 49: NMFS has failed to consider reasonable alternatives that would provide additional protections for Steller sea lions. Instead of constructing and evaluating an alternative that would provide improved protections for Steller sea lions, NMFS evaluated closing the entire action area to all fishing. Alternative 6 is not responsive to the concerns raised in comments or sufficient to satisfy NMFS' legal obligations. Public comments did not propose closing the entire Aleutian Islands to all fishing for Atka mackerel, Pacific cod, and pollock. A large closure might be a reasonable alternative, but it is not a mechanism through which NMFS can improve fisheries management choices in such a way as to better ensure that ecosystem considerations, like the needs of predators, are taken into consideration in setting catch levels. It appears that, upon recognizing the glaring deficiency in its draft, NMFS decided to select the most extreme version of a protective alternative rather than giving careful thought to a useful evaluation of potential changes in management. NMFS' choice is both disappointing and insufficient.

Response: Alternative 6 was designed to be responsive to the request in public comment on the draft EIS for a more protective alternative than Alternative 1. Some commenters suggested that NMFS consider specific measures that were intended to be more protective than the management measures implemented under Alternative 1, other commenters did not provide specific measures. As discussed in EIS Section 2.3, after careful analysis, NMFS found that many of the specific measures suggested in public comments were not more conservative than Alternative 1. Some of the specific measures suggested in public comments were already incorporated in the alternatives or in other ongoing NMFS actions. The remaining specific measures proposed in public comment were not a reasonable alternative to the proposed action. The proposed action is a suite of Steller sea lion protection measures. Steller sea lion protection measures control the location, gear type, and timing of fishing for Atka mackerel, pollock, and Pacific cod in the Aleutian Islands. A number of the specific measures proposed in public comments would not control the location, gear type, and timing of fishing for Atka mackerel, pollock, and Pacific cod in the Aleutian Islands (see EIS Section 2.3 for more detail). And, as explained in the response to Comment 59, NMFS is already working to ensure that ecosystem considerations, like the needs of predators, are taken into consideration in setting catch levels.

NMFS carefully designed Alternative 6 to be a Steller sea lion protection measure that is more conservative than Alternative 1 and provides for effects that can be analyzed and compared to the other alternatives. Further, Alternative 6 does not close the action area to all fishing. As explained in EIS Section 2.1.6, Alternative 6 would prohibit retention of Atka mackerel, Pacific cod, and pollock in the Aleutian Islands, species identified as important prey species for Steller sea lions. Vessels would be prohibited from directed fishing for these species and prohibited from retaining any incidental catch of these species while directed fishing for other groundfish targets (*e.g.,* Pacific ocean perch).

Comment 50: NMFS' addition of Alternative 6 to the final EIS required a supplemental draft EIS because Alternative 6 is outside of the range of alternatives analyzed in the draft EIS. The most environmentally protective alternative included in the draft EIS was Alternative 1, while Alternatives 2, 3, 4, and 5 all allow more fishing. The draft EIS specifically stated that alternatives more protective than the status quo were not analyzed. Alternative 6 was specifically added to the final EIS to have an alternative that is more restrictive of fishing relative to Alternative 1 for analysis and comparison with the less restrictive protection measures under the other alternatives. Because Alternative 6 represents an outlier alternative that may not be offered for the first time in the EIS, NMFS must refrain from issuing a record of decision and issue a supplemental draft EIS—subject to public notice and comment—instead. In addition to Alternative 6, the supplemental draft EIS should analyze the other feasible conservation alternatives identified in public comments.

Response: A supplement to an environmental impact statement is required ''if: (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts'' (40 CFR 1502.9(c)). The addition of Alternative 6 in the final EIS did not make substantial changes in the proposed action that were relevant to environmental concerns and did not provide significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Therefore NMFS was not required to supplement the draft EIS before releasing the final EIS and record of decision. Additionally, EIS Section 2.3 analyzes the conservation alternatives identified in public comments and explains why they were not reasonable.

Comment 51: NMFS should rescind the EIS and prepare a new draft EIS that—consistent with NMFS' acknowledged obligations pursuant to NEPA, ESA, and the Magnuson-Stevens Act—includes a lawful statement of purpose and need, evaluates a full range of alternatives, objectively accounts for the full context and severity of the potential indirect effects of fishing on Steller sea lions, and transparently addresses dissenting scientific views within NMFS.

Response: NMFS disagrees. NMFS has determined that the EIS is consistent with NEPA, the ESA, and the Magnuson-Stevens Act. The EIS includes a lawful statement of purpose and need (Section 1.3), evaluates a full range of alternatives (Chapter 2), objectively accounts for the full context and severity of the potential indirect effects of fishing on Steller sea lions (Chapter 5), and transparently addresses dissenting scientific views (Executive Summary, Chapter 1, and Chapter 5).

Comment 52: NMFS made a passing attempt in the EIS at exploring the effects of an alternative harvest strategy for Atka mackerel on the Atka mackerel population. In concert with explicitly considering current predation mortality and the projected predation mortality from an increasing Steller sea lion population, such a model could begin to formally address ecosystem concerns. NMFS, however, failed to analyze such an alternative model structure.

Response: As explained in EIS Section 2.3, evaluations of alternative stock assessment model structures and alternative harvest strategies do not meet the purpose and need for this action to implement Steller sea lion protection measures. The commenter's recommendation addresses the stock assessment process used by the Council and NMFS on an annual basis. NMFS conducts this work through the annual harvest specification process. That process is explained in the final rule that implements the annual final 2014 and 2015 harvest specifications (79 FR 12108, March 4, 2014).

NMFS notes that the process for modifying fishery stock assessment models for Atka mackerel or any other groundfish species does not require rulemaking to develop, analyze, or implement alternative model structures. NMFS continues to develop techniques to evaluate the effects of the groundfish fisheries and management system on the ecosystem. NMFS continues to develop state-of-the-art ecosystem models with a goal to better evaluate risks to ecosystem given current and alternative harvest strategies. This scientific work is ongoing and, while important to groundfish fishery management, it is outside the scope of this rulemaking process. This action implements regulations to restrict vessels from fishing in specific areas and at specific times to limit competition of prey resources with Steller sea lions.

Comment 53: NMFS should not consider only changes to the restrictions on fishing times and areas under the Steller sea lion protection measures. Any of the guidelines that affect fisheries that compete with Steller sea lions should be subject to review in this process. Public comments on the draft EIS suggested measures intended to provide a starting place from which NMFS could construct such an alternative. NMFS incorrectly rejected any ideas designed to alter or affect the harvest strategy in the Aleutian Islands.

Response: NMFS has considered more than changes to the time and area measures. NMFS also considered a range of harvest limits. This final rule implements harvest limits for the Atka mackerel, Pacific cod, and pollock fisheries in addition to the season and area closures.

In EIS Section 2.3, NMFS analyzed the ideas suggested in public comments to change the harvest strategy in the Aleutian Islands. NMFS explains that changes to the harvest strategy are outside the scope of this action and do not meet the purpose and need. The revisions to the harvest strategy proposed in public comment would not provide the necessary protections for Steller sea lions. Revisions to the harvest strategy recommended by the commenter do not meet the purpose and need for the action because they do not provide additional protections for Steller sea lions by reducing potential competition between Steller sea lions and fishery harvests when and where Steller sea lions forage. As explained throughout the EIS, the Steller sea lion protection measures are a suite of measures that regulates fishing activity by applying seasons, area closures, and harvest limits all with the goal of reducing potential fishery competition for Steller sea lion prey when and where Steller sea lions forage.

NMFS is continually striving to understand the prey requirements of Steller sea lions and minimize potential competition at the finest scale possible with the best available information. Further, NMFS does not change stock assessment methods or harvest strategy through regulations. The Council and NMFS are continually assessing the scientific methods used for stock assessment. NMFS uses the best available scientific information to improve stock assessment methods and evaluate ecosystem considerations. An example of this is the decision to establish separate ABCs and TACs for Pacific cod in the Bering Sea and Aleutian Islands. Starting in January 2014, as recommended by the Council and based on genetic and other morphological evidence, NMFS separated Aleutian Islands Pacific cod from the Bering Sea Pacific cod stock. This results in lower maximum potential catches in the Aleutian Islands due to the establishment of separate OFLs, ABCs, and TACs in the Bering Sea and Aleutian Islands. With this split, the TAC in the Aleutian Islands results in a maximum harvest of roughly half the previous average harvest rate in the Aleutian Islands prior to the split, and lower fishing mortality rates, than those proposed by the commenter. The impacts of the implementation of an Aleutian Islands Pacific cod TAC are discussed in EIS Section 3.3, however, that action was separate from the action implemented in this final rule.

Comment 54: In Section 2.3.2 of the EIS, NMFS incorrectly concludes that predator needs are fully incorporated into the existing process for setting catch levels. This statement is belied by jeopardy and adverse modification conclusions reached in NMFS' previous biological opinions for Steller sea lions—if the needs of Steller sea lions were properly accounted for in setting catch levels, then that catch would not result in jeopardy to the population or adverse modification of critical habitat. NMFS' insistence that the needs of predator are incorporated in the harvest specifications process is contrary to NMFS' own identified gaps in applying ecosystem-based fisheries management. There is currently no explicit accounting of predation mortality in the stock assessments for Atka mackerel, Aleutian Islands pollock, or Aleutian Islands Pacific cod. The natural mortality parameters used in these models are constant, or change little from year to year. The parameters used have little relation to trends in predator populations or the actual level of predation. In contrast, when predation mortality is explicitly considered in prey population models, the biological reference points generated are generally more conservative (*i.e.,* recommend higher standing biomass). Moreover, development of a process through which to account explicitly for predator needs was considered in the draft 2010 FMP BiOp. This draft also called for a process to address the dietary needs of sea lions and other predators as fishing levels are set. Accounting fully for predator needs in setting catch levels would be an important step toward ecosystem-based management, and this NEPA process is an appropriate venue through which to do so explicitly.

Response: NMFS disagrees with the comment's characterization of the EIS. In Section 2.3.2, NMFS explains that the needs of predators are incorporated in the harvest specifications process by applying natural mortality (including predation) for a target species stock assessment. Additionally, NMFS scientists are evaluating the current groundfish management system relative to the impact on the ecosystem. NMFS scientists have developed multispecies models that explicitly incorporate predator/prey relationships. Results from these models have generally concluded that the assumptions used for harvest limit recommendations under our existing stock assessment process are generally conservative.

NMFS scientists have compared using a constant, time-invariant natural mortality in stock assessment models to using models in which natural mortality

includes time- (and age-) varying estimates of predation mortality (Hollowed, A. B., J. N. Ianelli, and P. A. Livingston. 2000. Including predation mortality in stock assessments: A case study involving Gulf of Alaska walleye pollock. ICES Journal of Marine Science, 57, pp. 279–293). These and other studies indicate that estimates are uncertain and in such cases, using a natural mortality that is more conservative is more risk averse (Clark, W.G. 1999. Effects of an erroneous natural mortality rate on a simple age-structured model. Can. J. Fish. Aquat. Sci. 56:1721–1731).

NMFS' ongoing scientific work to evaluate predator/prey relationships and develop multispecies models is separate from the rulemaking process NMFS conducted for this final rule to restrict vessels from fishing in specific areas and at specific times to limit potential competition with Steller sea lions.

NMFS disagrees with the comment's characterization of the previous biological opinions. As explained in the EIS and all previous BiOps, NMFS' concern has been the potential competition of fisheries with Steller sea lions for prey when and where Steller sea lions forage. NMFS has imposed Steller sea lion protection measures that include seasonal restrictions, area closures, and catch limits with the goal of reducing the potential of fisheries to affect Steller sea lion foraging opportunities. These are coupled with fine-scale fishery evaluations following the surgical approach outlined in the 2008 Recovery Plan, the 2010 FMP BiOp, the 2014 BiOp, and the latest information regarding sea lion behavior and prey resources as described in EIS Chapters 3 and 5. Implementing the Steller sea lion protection measures that regulate fishing activity, as is being done by this final rule, is a separate action from NMFS' ongoing scientific work to understand and model predator/prey relationships and evaluate the impacts of fish harvest on the ecosystem using the latest scientific techniques.

Comments on Additional Issues

Comment 55: The Council and NMFS have taken significant steps to move toward holistic, ecosystem-based management. Continue that momentum by seeking a durable, consensus-based resolution to controversies about the interaction between industrial fisheries and sea lions. Instead, the Council has suggested and NMFS has adopted new measures certain to continue the controversy and poor management. Those choices are disappointing and potentially illegal.

Response: The Council and NMFS seek consensus-based resolutions where possible, and when such resolutions are consistent with legal requirements. However, the Council and NMFS recognize that controversial issues such as the potential interaction between commercial fisheries and Steller sea lions—a subject of substantial scientific debate (see EIS Executive Summary)—are rarely resolved by consensus. Furthermore, Section 302(e) of the Magnuson-Stevens Act requires that all Council decisions be made by majority vote, recognizing the fact that not all controversies or policy choices can be resolved by consensus.

The fact that NMFS is implementing regulations that the commenter disagrees with is not a basis to conclude that they represent poor management or are illegal.

Comment 56: Please do not allow any more fishing that would in any way impact Steller sea lions. We humans take too much as it is. And we have alternatives like a vegan diet, as well as eco-tourism to make money off these sea lions over and over again by charging people to observe them. Keep the current fishing restrictions in place, and keep in mind that the population of these sea lions has not recovered. Show some backbone for your convictions and do not cave in to fishing interests' pressure.

Response: NMFS acknowledges the comment.

Comment 57: Closing areas to commercial fishing and enforcing these closures is the only way to protect Steller sea lions from the firearms of commercial fishermen.

Response: NMFS has worked closely with the Council and the State of Alaska to eliminate illegal shooting of Steller sea lions. EIS Section 5.3.4 provides additional information on the occurrence of illegal shooting. Closing commercial fishing is not required to eliminate illegal shooting.

Comment 58: As fishermen in these waters, we are appalled that some public comments indicate fishermen evoke actions intended to harm Steller sea lions. At no time do we ever harass marine mammals.

Response: NMFS acknowledges the comment.

Comment 59: Are you telling the public to go to an inaccurate site in your **Federal Register** notice to stifle public comment?

Response: NMFS encourages public comment. NMFS checked all of the Web sites in the **Federal Register** notice for the proposed rule (79 FR 37486) and they are all correct, including the instructions for submitting comments on *http://www.regulations.gov.* Additionally, the **Federal Register** notice provides instructions for the public to mail written comments to the Sustainable Fisheries Division, NMFS Alaska Region.

Classification

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

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Formal consultation under section 7 of the ESA was completed for this action. On April 2, 2014, NMFS issued a biological opinion (2014 BiOp) on the action. The 2014 BiOp found that the implementation of the action and supporting research described in Chapter 11 of the EIS were not likely to jeopardize the continued existence of endangered Steller sea lions or result in the destruction or adverse modification of their critical habitat.

NMFS prepared a final EIS for this action. The final EIS was filed with the Environmental Protection Agency on May 16, 2014. A notice of availability was published on May 23, 2014 (79 FR 29759). In approving this action, NMFS issued a Record of Decision identifying the selected alternative. A copy of the Record of Decision is available from NMFS (see **ADDRESSES**).

Pursuant to Executive Order 13175, NMFS mailed letters to approximately 660 Alaska tribal governments, Alaska Native Claims Settlement Act (ANCSA) corporations, and related organizations providing information about the EIS and soliciting consultation and coordination with interested tribal governments and ANCSA corporations. NMFS received no comments on the EIS from tribal governments or ANCSA corporation representatives. Section 1.7 of the EIS provides more detail on NMFS' outreach with Alaska tribal governments and ANCSA corporations (see **ADDRESSES**). NMFS received one comment on the proposed rule from Kawerak, Inc., a regional non-profit tribal consortium of the Bering Strait Region. NMFS summarized and responded to this comment under Response to Public Comments, above (see Comment 12). NMFS received one comment from Aleut Enterprise, LLC, a wholly owned subsidiary of the Aleut Corporation. NMFS summarized and responded to this comment under

Response to Public Comments, above (see Comments 10, 11, 43, and 44).

Final Regulatory Flexibility Analysis

This final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action.

Section 604 of the Regulatory Flexibility Act requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Need for, and Objectives of, the Rule

A statement of the need for, and objectives of, the rule is contained on pages 4 through 10 of the preamble to this final rule and is not repeated here.

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published a proposed rule on July 1, 2014 (79 FR 37486). An initial regulatory flexibility analysis (IRFA) was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The comment period closed on August 15, 2014. NMFS received 17 letters of public comment on the proposed rule. No comments were received on the IRFA, or on the small entity impacts of this rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

Number and Description of Small Entities Regulated by the Action

The small entity estimates reported in the IRFA for this action have been reviewed for compliance with subsequent inflation adjustments to SBA thresholds for identifying small entities (79 FR 33647, June 12, 2014). The change in thresholds did not lead to changes in the small entity estimates.

NMFS identified three groups of entities that would be directly regulated by this action: (1) Federally-permitted vessels that harvest Atka mackerel, Pacific cod, and pollock in the Aleutian Islands; (2) CDQ groups that receive an allocation of Atka mackerel, Pacific cod, and pollock in the Aleutian Islands; and (3) the Aleut Corporation, which receives an allocation of pollock in the Aleutian Islands. The following paragraphs provide estimates of the numbers of small entities in these three categories that are directly regulated by this action. NMFS estimates that 26 vessels, and the six CDQ groups, are directly regulated small entities.

NMFS identified 51 vessels active in directed fisheries for Atka mackerel or Pacific cod in 2010 that would have been directly regulated by this action. Twelve vessels—one catcher/processor and 11 catcher vessels—were believed to be small entities. One of these vessels was a pot catcher/processor, and the remaining vessels were trawl catcher vessels. The estimated average gross revenue from the identified small entities, in 2012 (the most recent year with complete revenue information), was about $1.4 million. Note that firm revenues may have been larger, if these firms had revenues from sources other than the identified vessels. If this was the case, average gross revenues for small entities may be underestimated or the number of small entities might be overestimated, and the direction of the impact on average revenue for the remaining vessels would be unknown. The remaining 39 vessels that directly targeted Atka mackerel, Pacific cod, or pollock in the Aleutian Islands in 2010 were classified as large entities since their gross revenues, or their gross revenues and those of their affiliated entities, exceeded the SBA threshold of $20.5 million. The IRFA details the process used to determine if a vessel was affiliated with other businesses and is not repeated here.

In addition to vessels in directed fisheries, NMFS identified 20 vessels with incidental catches of Atka mackerel or Pacific cod in Area 543 that are directly regulated by this action. Alternative 1, the status quo, prohibits retention of Atka mackerel or Pacific cod in Area 543. This comprehensive prohibition on retention is relaxed under this action, the preferred alternative. This prohibition directly regulates vessels that would otherwise have retained these species in Area 543. Thus, the preferred alternative directly regulates these vessels in this area. Only small numbers of vessels took incidental catches of these species in Area 543 during the baseline years. Over the entire baseline period, from 2004 through 2010, only six separate fixed gear catcher/processors or trawl catcher vessels were identified with incidental catches of Atka mackerel and/or Pacific cod from 2004 through 2010. None of these is believed to be a small entity based on a knowledge of vessel affiliations. Fourteen fixed gear catcher vessels had incidental catches during the same years. All of these are considered to be small entities based on a review of their gross revenues from all sources, and their affiliations. None of these vessels fished all years; the median number of years fishing in Area 543 for a vessel in this group during the baseline period was two years. The aggregate fixed gear catcher vessel revenues from Area 543 for these vessels are estimated to average about $11,300 a year in real 2012 dollars, during the baseline years (2004 through 2010). Average revenues per vessel-year from this source are estimated to be about $2,200.

Through the CDQ program, the Council and NMFS allocate a portion of the BSAI groundfish TACs, and apportion prohibited species catch limits for Pacific halibut, Pacific salmon, and several crab species, to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ groups, and are required to use the net proceeds from the CDQ allocations to start or support activities that will result in ongoing, regionally based, commercial fishery or related businesses. The six CDQ groups receive allocations through the specifications

process, and are directly regulated by this action, but the 65 communities are not directly regulated. Because they are explicitly defined as small nonprofit entities within the Regulatory Flexibility Act, the six CDQ groups are considered small entities for purposes of this analysis.

The Aleut Corporation receives all of the pollock directed fishing allocation in Areas 541, 542, and 543. The Aleut Corporation is an ANCSA corporation, and is a holding company evaluated according to the SBA criteria at 13 CFR 121.201, using a $7 million gross annual receipts threshold for ''Offices of Other Holding Companies'' (NAICS code 551112). As noted, in Table 8–39 of Chapter 8 of the EIS, Aleut Corporation revenues exceed this threshold (gross revenues were about $159 million in 2010), and the Aleut Corporation is considered to be a large entity for purposes of this analysis.

Recordkeeping and Reporting Requirements

This action would implement new recordkeeping and reporting requirements by requiring an increase in VMS polling rates for all trawl vessels named on a Federal Fishing Permit under § 679.4(b) and fishing for groundfish that is deducted or required to be deducted from a Federal groundfish TAC in the Aleutian Islands subarea. Some operations may have to upgrade existing VMS equipment, and all will have to increase transmission rates. The owner of the trawl vessel must ensure NMFS receives the transmission from the VMS unit at least 10 times per hour. This measure does not apply to fixed gear vessels, thus, from the discussion above, it may affect as many as 11 small trawl catcher vessel entities. The costs of this requirement are discussed in the Collection-of-Information section of this final rule, and are incorporated by reference here. In summary, all trawl catcher vessels will incur additional transmission costs estimated to be about $400 a year, and some may be required to upgrade their VMS equipment at a cost estimated to be about $3,500.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected.

At its October 2013 meeting, the Council adopted Alternative 5. This alternative is described in detail in Chapter 2 of the EIS. Section 8.13.1 of the EIS and Section 1.13.1 of the Regulatory Impact Review (RIR) provide an analysis of Alternative 5, while Section 8.20 of the EIS, and Section 1.14 of the RIR compare Alternative 5 to the other alternatives for affected fleets. This FRFA describes the impacts of Alternative 5 relative to other alternatives for Atka mackerel, Pacific cod, and pollock fisheries.

The elements of Alternative 5 that regulate the Atka mackerel fishery are slightly more restrictive than those in Alternatives 3 and 4, and are less restrictive than those in Alternatives 1, 2, and 6.

For the Atka mackerel fishery, Alternative 5 is most comparable to Alternative 3. Alternatives 3 and 5 are the same in Areas 541 and 542. They differ in Area 543 in that Alternative 3 closes certain waters around Buldir Island explicitly, while Alternative 5 does not. However, Alternative 5 sets an Area 543 TAC limit equal to 65 percent of ABC and that limit is not included in Alternative 3. On balance, from information during the baseline years, Alternative 5 may be somewhat more restrictive in Area 543 than Alternative 3. However, the Alternative 5 TAC limit in Area 543 is included to prevent excessive harvest of Atka mackerel prey resources near Steller sea lion haulouts and rookeries.

For the Atka mackerel fishery, Alternative 4 is also less restrictive than Alternative 5. However, the Council did not recommend and NMFS did not select Alternative 4 as its preferred alternative. Alternative 4 measures were found to result in jeopardy and adverse modification of critical habitat for the Steller sea lions in the 2010 FMP BiOp. Alternative 5 provides more protection for Steller sea lions in Area 543, where population declines have been larger than in Areas 541 and 542. Alternative 5 was selected over other less restrictive alternatives to insure that Atka mackerel fisheries in the BSAI are not likely to jeopardize the continued existence of endangered Steller sea lions or destroy or adversely modify their designated critical habitat.

The elements of Alternative 5 that regulate the Aleutian Islands Pacific cod fishery are slightly more restrictive than those in Alternative 4, and are less restrictive than those in Alternatives 1, 2, 3, and 6. For Pacific cod, Alternative 5 is most closely comparable to Alternative 4. However, Alternative 4 may be less restrictive to small entities, since Alternative 5 adds a catch limit for Pacific cod in Area 543 that limits area catch in proportion to the annual stock assessment. Alternative 5 was selected over the less restrictive Alternative 4 to insure that Pacific cod fisheries in the BSAI are not likely to jeopardize the continued existence of endangered Steller sea lions or destroy or adversely modify their designated critical habitat. NMFS notes that Alternative 5 was selected with the clear understanding that the Aleutian Islands Pacific cod will be managed as a separate stock from the Bering Sea Pacific cod, which limits the amount of catch from the Aleutian Islands relative to the baseline harvests analyzed.

The elements of Alternative 5 that regulate the Aleutian Islands pollock fishery are slightly more restrictive than those in Alternatives 3 and 4 (Alternatives 3 and 4 are identical in their management of the pollock fishery). Alternative 5 differs from Alternatives 3 and 4 only in that it includes management area specific A season catch limits, and increases critical habitat closures in Area 542. The A season catch limits are 5 percent of the ABC in Area 543, 15 percent of the ABC in Area 542, and 30 percent of the ABC in Area 543. Alternative 5 is less restrictive than Alternatives 1, 2, and 6.

The area constraints on pollock fishing contained in Alternative 5 are not present in Alternatives 3 and 4. Thus, those alternatives may be somewhat less restrictive than Alternative 5. Management area limits were introduced to provide control over potential harvests in a new pollock fishery of unknown potential and, thus, to provide more protection for Steller sea lions. These restrictions are more stringent in the western areas, where Steller sea lions are not doing as well as in the east (this is consistent with the performance standards in the 2010 FMP BiOp). The extension of the 542 closure areas, west of 178° W longitude, to 20 nm under Alternative 5, may also contribute to making this alternative more restrictive than Alternatives 3 and 4. The extension was also included in Alternative 5 to provide more protection to Steller sea lion prey species occurring near rookeries and haul-outs that have experienced relatively greater declines in populations. Alternative 5 was selected over other less restrictive alternatives to insure that pollock fisheries in the BSAI are not likely to jeopardize the continued existence of endangered Steller sea lions or destroy or adversely modify their designated critical habitat.

Small Entity Compliance Guide

NMFS has posted a small entity compliance guide on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov/sustainablefisheries/sslpm/*) to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

Collection-of-Information Requirements

This 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 collections of information are listed below by OMB control number.

OMB Control No. 0648–0206

The Federal Fisheries Permit (FFP) is mentioned in the regulatory text of this rule, but no changes are made to the application form.

OMB Control No. 0648–0445

Public reporting burden is estimated to average 4 hours per response for the Vessel Monitoring System (VMS) operation (includes installation, transmission, and maintenance). Estimates of burden 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 on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to *OIRA Submission@omb.eop.gov,* or fax to 202–395–5806.

This rule increases the number of transmissions or VMS polling rate, from 2 per hour to 10 per hour when a vessel is using trawl gear to fish in the Aleutian Islands; however, VMS transmissions are not counted as burden, because they are automatic. Some vessels may incur additional operating costs due to the increase in the VMS polling rate, or they may have to replace existing VMS units to meet the polling rate and reliability requirements. NMFS estimates that the increase in the polling rate will increase VMS costs by about $400 per year for trawl catcher vessels and catcher/processors operating in the Aleutian Islands, except for trawl catcher/processors targeting Atka mackerel. Trawl catcher/processors targeting Atka mackerel are expected to incur costs of about $1,200 per year; however, these are all large entities. Although all vessels are required to have an FFP, and all vessels fishing in the Aleutian Islands are required to have and operate VMS, some of the impacted vessels may have to replace existing VMS units to meet the polling rate and reliability requirements. While NMFS is unable to estimate the number of entities that may be required to replace VMS units to provide the required unit reliability, the estimated cost for an additional unit is about $3,500 (including installation).

Estimates of burden 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 on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to OIRA *Submission@omb.eop.gov,* or fax to 202–395–5806.

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 18, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, 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:

Title 15—Commerce and Foreign Trade

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. Add an entry in alphanumeric order for ''679.22(a)''; and

■ b. Revise the entry for 679.28(f).

The addition and revision 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:	
* * * * *	
679.22(a)	–0206
* * * * *	
679.28(f)	–0206, –0445
* * * * *	

Title 50—Wildlife and Fisheries

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 § 679.7:

■ a. Remove paragraphs (a)(19), (a)(23), and (a)(25);

■ b. Redesignate paragraph (a)(24) as paragraph (a)(19); and

■ c. Revise the newly redesignated paragraph (a)(19).

The revisions read as follows:

§ 679.7 Prohibitions.

(a) * * *

(19) *Atka mackerel directed fishing in the Bering Sea reporting areas.* Conduct directed fishing for Atka mackerel in the Bering Sea subarea and adjacent State waters with a vessel required to be Federally permitted.

* * * * *

■ 5. In § 679.20:

■ a. Add paragraphs (a)(5)(iii)(B)(*6*), and (a)(7)(v);

■ b. Revise paragraph (a)(8)(ii)(C); and

■ c. Add paragraphs (a)(8)(ii)(D) and (e)(3)(v).

The additions and revisions read as follows:

§ 679.20 General limitations.

(a) * * *

(5) * * *

(iii) * * *

(B) * * *

(*6*) *Pollock harvest limitations.* Pollock harvests during the A season as defined at § 679.23(e)(2) are limited to:

(*i*) No more than 5 percent of the Aleutian Islands pollock ABC in Area 543.

(*ii*) No more than 15 percent of the Aleutian Islands pollock ABC in Area 542.

(*iii*) No more than 30 percent of the Aleutian Islands pollock ABC in Area 541.

* * * * *

(7) * * *

(v) *ITAC allocation to the Amendment 80 sector.* A percentage of the Pacific cod TAC, after subtraction of the CDQ reserve, will be allocated as ITAC to the Amendment 80 sector as described in Table 33 to this part. Separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery are described under § 679.91. The allocation of Pacific cod to the Amendment 80 sector will be further divided into seasonal apportionments as described under paragraph (a)(7)(iv)(A)(*1*)(*ii*) of this section.

(A) *Use of seasonal apportionments by Amendment 80 cooperatives.* (*1*) The amount of Pacific cod listed on a CQ permit that is assigned for use in the A season may be used in the B or C season.

(*2*) The amount of Pacific cod that is listed on a CQ permit that is assigned for use in the B season may not be used in the A season.

(*3*) The amount of Pacific cod listed on a CQ permit that is assigned for use in the C season may not be used in the A or B seasons.

(B) *Harvest of seasonal apportionments in the Amendment 80 limited access fishery.* (*1*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons.

(*2*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the B season may not be harvested in the A season.

(*3*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the C season may not be harvested in the A or B seasons.

(vi) *ITAC rollover to Amendment 80 cooperatives.* If during a fishing year, the Regional Administrator determines that a portion of the Pacific cod TAC is unlikely to be harvested and is made available for reallocation to the Amendment 80 sector according to the provisions under paragraph (a)(7)(iii) of this section, the Regional Administrator may issue inseason notification in the **Federal Register** that reallocates that remaining amount of Pacific cod to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

(vii) *Pacific cod harvest limitations.* During the annual harvest specifications process, the Regional Administrator will establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543 as determined by the annual stock assessment process. NMFS will first subtract the State GHL Pacific cod amount from the AI Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for AI Pacific cod.

(8) * * *

(ii) * * *

(C) *Atka mackerel harvest limitations.* (*1*) Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located west of 178° W longitude is:

(*i*) Limited to no more than 60 percent of the annual TACs in Areas 542 and 543; and

(*ii*) Equally divided between the A and B seasons as defined at § 679.23(e)(3).

(*2*) The annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543.

(D) Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543.

* * * * *

(e) * * *

(3) * * *

(v) For all vessels not listed in subpart F of this section, the maximum retainable amount for Atka mackerel harvested in the Bering Sea subarea is calculated at the end of each offload and is based on the basis species harvested since the previous offload. For purposes of this paragraph, offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore.

* * * * *

■ 6. In § 679.22, revise paragraphs (a)(7) heading, (a)(7)(vi), (a)(8) heading, and (a)(8)(iv) to read as follows:

§ 679.22 Closures.

(a) * * *

(7) *Steller sea lion protection areas, Bering Sea reporting areas.*

* * * * *

(vi) *Atka mackerel closures.* Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited within the Bering Sea reporting areas.

* * * * *

(8) *Steller sea lion protection areas, Aleutian Islands reporting areas.*

* * * * *

(iv) *Pacific cod closures.* Directed fishing for Pacific cod required to be deducted from the Federal TAC specified at § 679.20 by vessels named on a Federal Fisheries Permit under § 679.4(b) using trawl, hook-and-line, or pot gear is prohibited within Pacific cod no-fishing zones around selected sites. These sites and gear types are described in Table 5 of this part and its footnotes and are identified by ''AI'' in column 2.

* * * * *

■ 7. In § 679.23, revise paragraphs (e)(3)(ii) and (e)(5)(ii)(C) to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(3) * * *

(ii) *B season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., December 31.

* * * * *

(5) * * *

(ii) * * *

(C) *C season*— (*1*) *Catcher vessels and AFA catcher/processors.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(*2*) *Amendment 80 and CDQ.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., December 31.

* * * * *

■ 8. In § 679.28, revise paragraph (f)(3)(i) and add paragraph (f)(7) to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(f) * * *

(3) * * *

(i) Obtain a NMFS-approved VMS transmitter with transmission capabilities required for the areas of vessel operation and have it installed onboard your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

* * * * *

(7) *What additional requirements does an operator have if trawling in the Aleutian Islands reporting areas*? Operators of vessels named on a Federal Fisheries Permit under § 679.4(b), and that are using trawl gear in the Aleutian Islands reporting areas to harvest groundfish that is required to be deducted from a Federal TAC specified at § 679.20, must set their VMS to

transmit the vessel location at least 10 times per hour.

* * * * *

■ 9. Revise Table 4 to Part 679 to read as follows:

BILLING CODE 3510–22–P

Table 4 to Part 679—Steller Sea Lion Protection Areas Pollock Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
St. Lawrence I./S Punuk I.	Bering Sea	63° 04.00 N	168° 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63° 18.00 N	171° 26.00 W			20
Hall I.	Bering Sea	60° 37.00 N	173° 00.00 W			20
St. Paul I./Sea Lion Rock	Bering Sea	57° 06.00 N	170° 17.50 W			3
St. Paul I./NE Pt.	Bering Sea	57° 15.00 N	170° 06.50 W			3
Walrus I. (Pribilofs)	Bering Sea	57° 11.00 N	169° 56.00 W			10
St. George I./Dalnoi Pt.	Bering Sea	56° 36.00 N	169° 46.00 W			3
St. George I./S Rookery	Bering Sea	56° 33.50 N	169° 40.00 W			3
Cape Newenham	Bering Sea	58° 39.00 N	162° 10.50 W			20
Round (Walrus Islands)	Bering Sea	58° 36.00 N	159° 58.00 W			20
Attu I./Cape Wrangell	Aleutian I.	52° 54.60 N	172° 27.90 E	52° 55.40 N	172° 27.20 E	20
Agattu I./Gillon Pt.	Aleutian I.	52° 24.13 N	173° 21.31 E			20
Attu I./Chirikof Pt.[13]	Aleutian I.	52° 49.75 N	173° 26.00 E			20
Agattu I./Cape Sabak	Aleutian I.	52° 22.50 N	173° 43.30 E	52° 21.80 N	173° 41.40 E	20
Alaid I.[13]	Aleutian I.	52° 46.50 N	173° 51.50 E	52° 45.00 N	173° 56.50 E	20
Shemya I.[13]	Aleutian I.	52° 44.00 N	174° 08.70 E			20
Buldir I.	Aleutian I.	52° 20.25 N	175° 54.03 E	52° 20.38 N	175° 53.85 E	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Kiska I./Cape St. Stephen	Aleutian I.	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	20
Kiska I./Sobaka & Vega	Aleutian I.	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	20
Kiska I./Lief Cove	Aleutian I.	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	20
Kiska I./Sirius Pt.	Aleutian I.	52° 08.50 N	177° 36.50 E			20
Tanadak I. (Kiska)[14]	Aleutian I.	51° 56.80 N	177° 46.80 E			20
Segula I.[14]	Aleutian I.	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	20
Ayugadak Point[14]	Aleutian I.	51° 45.36 N	178° 24.30 E			20
Hawadax I./Krysi Pt.[14]	Aleutian I.	51° 49.98 N	178° 12.35 E			20
Little Sitkin I.[14]	Aleutian I.	51° 59.30 N	178° 29.80 E			20
Amchitka I./Column Rocks	Aleutian I.	51° 32.32 N	178° 49.28 E			20
Amchitka I./East Cape	Aleutian I.	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	20
Amchitka I./Cape Ivakin	Aleutian I.	51° 24.46 N	179° 24.21 E			20
Semisopochnoi/Petrel Pt.	Aleutian I.	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	20
Semisopochnoi I./Pochnoi Pt.	Aleutian I.	51° 57.30 N	179° 46.00 E			20
Amatignak I. Nitrof Pt.	Aleutian I.	51° 13.00 N	179° 07.80 W			20
Unalga & Dinkum Rocks	Aleutian I.	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	20
Ulak I./Hasgox Pt.	Aleutian I.	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	20
Kavalga I.	Aleutian I.	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Tag I.	Aleutian I.	51° 33.50 N	178° 34.50 W			20
Ugidak I.	Aleutian I.	51° 34.95 N	178° 30.45 W			20
Gramp Rock	Aleutian I.	51° 28.87 N	178° 20.58 W			20
Tanaga I./Bumpy Pt.	Aleutian I.	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3
Bobrof I.	Aleutian I.	51° 54.00 N	177° 27.00 W			3
Kanaga I./Ship Rock[15]	Aleutian I.	51° 46.70 N	177° 20.72 W			10, 3
Kanaga I./North Cape	Aleutian I.	51° 56.50 N	177° 09.00 W			3
Adak I.	Aleutian I.	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	10
Little Tanaga Strait	Aleutian I.	51° 49.09 N	176° 13.90 W			3
Great Sitkin I.	Aleutian I.	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	3
Anagaksik I.	Aleutian I.	51° 50.86 N	175° 53.00 W			3
Kasatochi I.	Aleutian I.	52° 11.11 N	175° 31.00 W			10
Atka I./North Cape	Aleutian I.	52° 24.20 N	174° 17.80 W			3
Amlia I./Sviech. Harbor[11]	Aleutian I.	52° 01.80 N	173° 23.90 W			3
Sagigik I.[11]	Aleutian I.	52° 00.50 N	173° 09.30 W			3
Amlia I./East[11]	Aleutian I.	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	3
Tanadak I. (Amlia[11])	Aleutian I.	52° 04.20 N	172° 57.60 W			3
Agligadak I.[11]	Aleutian I.	52° 06.09 N	172° 54.23 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Seguam I./Saddleridge Pt.[11]	Aleutian I.	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	10
Seguam I./Finch Pt.	Aleutian I.	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	3
Seguam I./South Side	Aleutian I.	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	3
Amukta I. & Rocks	Aleutian I.	52° 27.25 N	171° 17.90 W			3
Chagulak I.	Aleutian I.	52° 34.00 N	171° 10.50 W			3
Yunaska I.	Aleutian I.	52° 41.40 N	170° 36.35 W			10
Uliaga[3]	Bering Sea	53° 04.00 N	169° 47.00 W	53° 05.00 N	169° 46.00 W	BA
Chuginadak	Gulf of Alaska	52° 46.70 N	169° 41.90 W			20
Kagamil[3]	Bering Sea	53° 02.10 N	169° 41.00 W			BA
Samalga	Gulf of Alaska	52° 46.00 N	169° 15.00 W			20
Adugak I.[3]	Bering Sea	52° 54.70 N	169° 10.50 W			10
Umnak I./Cape Aslik[3]	Bering Sea	53° 25.00 N	168° 24.50 W			BA
Ogchul I.	Gulf of Alaska	52° 59.71 N	168° 24.24 W			20
Bogoslof I./Fire I.[3]	Bering Sea	53° 55.69 N	168° 02.05 W			BA
Polivnoi Rock	Gulf of Alaska	53° 15.96 N	167° 57.99 W			20
Emerald I.	Gulf of Alaska	53° 17.50 N	167° 51.50 W			20
Unalaska/Cape Izigan	Gulf of Alaska	53° 13.64 N	167° 39.37 W			20
Unalaska/Bishop Pt.[9]	Bering Sea	53° 58.40 N	166° 57.50 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Akutan I./Reef-lava[9]	Bering Sea	54° 08.10 N	166° 06.19 W	54° 09.10 N	166° 05.50 W	10
Unalaska I./Cape Sedanka[6]	Gulf of Alaska	53° 50.50 N	166° 05.00 W			20
Old Man Rocks[6]	Gulf of Alaska	53° 52.20 N	166° 04.90 W			20
Akutan I./Cape Morgan[6]	Gulf of Alaska	54° 03.39 N	165° 59.65 W	54° 03.70 N	166° 03.68 W	20
Akun I./Billings Head[9]	Bering Sea	54° 17.62 N	165° 32.06 W	54° 17.57 N	165° 31.71 W	10
Rootok[6]	Gulf of Alaska	54° 03.90 N	165° 31.90 W	54° 02.90 N	165° 29.50 W	20
Tanginak I.[6]	Gulf of Alaska	54° 12.00 N	165° 19.40 W			20
Tigalda/Rocks NE[6]	Gulf of Alaska	54° 09.60 N	164° 59.00 W	54° 09.12 N	164° 57.18 W	20
Unimak/Cape Sarichef[9]	Bering Sea	54° 34.30 N	164° 56.80 W			10
Aiktak[6]	Gulf of Alaska	54° 10.99 N	164° 51.15 W			20
Ugamak I.[6]	Gulf of Alaska	54° 13.50 N	164° 47.50 W	54° 12.80 N	164° 47.50 W	20
Round (GOA)[6]	Gulf of Alaska	54° 12.05 N	164° 46.60 W			20
Sea Lion Rock (Amak)[9]	Bering Sea	55° 27.82 N	163° 12.10 W			10
Amak I. And rocks[9]	Bering Sea	55° 24.20 N	163° 09.60 W	55° 26.15 N	163° 08.50 W	10
Bird I.	Gulf of Alaska	54° 40.00 N	163° 17.2 W			10
Caton I.	Gulf of Alaska	54° 22.70 N	162° 21.30 W			3
South Rocks	Gulf of Alaska	54° 18.14 N	162° 41.3 W			10
Clubbing Rocks (S)	Gulf of Alaska	54° 41.98 N	162° 26.7 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Clubbing Rocks (N)	Gulf of Alaska	54° 42.75 N	162° 26.7 W			10
Pinnacle Rock	Gulf of Alaska	54° 46.06 N	161° 45.85 W			3
Sushilnoi Rocks	Gulf of Alaska	54° 49.30 N	161° 42.73 W			10
Olga Rocks	Gulf of Alaska	55° 00.45 N	161° 29.81 W	54° 59.09 N	161° 30.89 W	10
Jude I.	Gulf of Alaska	55° 15.75 N	161° 06.27 W			20
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55° 04.70 N	160° 31.04 W			3
Nagai I./Mountain Pt.	Gulf of Alaska	54° 54.20 N	160° 15.40 W	54° 56.00 N	160° 15.00 W	3
The Whaleback	Gulf of Alaska	55° 16.82 N	160° 05.04 W			3
Chernabura I.	Gulf of Alaska	54° 45.18 N	159° 32.99 W	54° 45.87 N	159° 35.74 W	20
Castle Rock	Gulf of Alaska	55° 16.47 N	159° 29.77 W			3
Atkins I.	Gulf of Alaska	55° 03.20 N	159° 17.40 W			20
Spitz I.	Gulf of Alaska	55° 46.60 N	158° 53.90 W			3
Mitrofania	Gulf of Alaska	55° 50.20 N	158° 41.90 W			3
Kak	Gulf of Alaska	56° 17.30 N	157° 50.10 W			20
Lighthouse Rocks	Gulf of Alaska	55° 46.79 N	157° 24.89 W			20
Sutwik I.	Gulf of Alaska	56° 31.05 N	157° 20.47 W	56° 32.00 N	157° 21.00 W	20
Chowiet I.	Gulf of Alaska	56° 00.54 N	156° 41.42 W	55° 00.30 N	156° 41.60 W	20
Nagai Rocks	Gulf of Alaska	55° 49.80 N	155° 47.50 W			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Chirikof I.	Gulf of Alaska	55° 46.50 N	155° 39.50 W	55° 46.44 N	155° 43.46 W	20
Puale Bay	Gulf of Alaska	57° 40.60 N	155° 23.10 W			10
Kodiak/Cape Ikolik	Gulf of Alaska	57° 17.20 N	154° 47.50 W			3
Takli I.	Gulf of Alaska	58° 01.75 N	154° 31.25 W			10
Cape Kuliak	Gulf of Alaska	58° 08.00 N	154° 12.50 W			10
Cape Gull	Gulf of Alaska	58° 11.50 N	154° 09.60 W	58° 12.50 N	154° 10.50 W	10
Kodiak/Cape Ugat	Gulf of Alaska	57° 52.41 N	153° 50.97 W			10
Sitkinak/Cape Sitkinak	Gulf of Alaska	56° 34.30 N	153° 50.96 W			10
Shakun Rock	Gulf of Alaska	58° 32.80 N	153° 41.50 W			10
Twoheaded I.	Gulf of Alaska	56° 54.50 N	153° 32.75 W	56° 53.90 N	153° 33.74 W	10
Cape Douglas (Shaw I.) [12]	Gulf of Alaska	59° 00.00 N	153° 22.50 W			10
Kodiak/Cape Barnabas	Gulf of Alaska	57° 10.20 N	152° 53.05 W			3
Kodiak/Gull Point[4]	Gulf of Alaska	57° 21.45 N	152° 36.30 W			10, 3
Latax Rocks	Gulf of Alaska	58° 40.10 N	152° 31.30 W			10
Ushagat I./SW	Gulf of Alaska	58° 54.75 N	152° 22.20 W			10
Ugak I.[4]	Gulf of Alaska	57° 23.60 N	152° 17.50 W	57° 21.90 N	152° 17.40 W	10, 3
Sea Otter I.	Gulf of Alaska	58° 31.15 N	152° 13.30 W			10
Long I.	Gulf of Alaska	57° 46.82 N	152° 12.90 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Sud I.	Gulf of Alaska	58° 54.00 N	152° 12.50 W			10
Kodiak/Cape Chiniak	Gulf of Alaska	57° 37.90 N	152° 08.25 W			10
Sugarloaf I.	Gulf of Alaska	58° 53.25 N	152° 02.40 W			20
Sea Lion Rocks (Marmot)	Gulf of Alaska	58° 20.53 N	151° 48.83 W			10
Marmot I.[5]	Gulf of Alaska	58° 13.65 N	151° 47.75 W	58° 09.90 N	151° 52.06 W	15, 20
Nagahut Rocks	Gulf of Alaska	59° 06.00 N	151° 46.30 W			10
Perl	Gulf of Alaska	59° 05.75 N	151° 39.75 W			10
Gore Point	Gulf of Alaska	59° 12.00 N	150° 58.00 W			10
Outer (Pye) I.	Gulf of Alaska	59° 20.50 N	150° 23.00 W	59° 21.00 N	150° 24.50 W	20
Steep Point	Gulf of Alaska	59° 29.05 N	150° 15.40 W			10
Seal Rocks (Kenai)	Gulf of Alaska	59° 31.20 N	149° 37.50 W			10
Chiswell Islands	Gulf of Alaska	59° 36.00 N	149° 34.00 W			10
Rugged Island	Gulf of Alaska	59° 50.00 N	149° 23.10 W	59° 51.00 N	149° 24.70 W	10
Point Elrington[7, 10]	Gulf of Alaska	59° 56.00 N	148° 15.20 W			20
Perry I.[7]	Gulf of Alaska	60° 44.00 N	147° 54.60 W			
The Needle[7]	Gulf of Alaska	60° 06.64 N	147° 36.17 W			
Point Eleanor[7]	Gulf of Alaska	60° 35.00 N	147° 34.00 W			
Wooded I. (Fish I.)	Gulf of Alaska	59° 52.90 N	147° 20.65 W			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Glacier Island[7]	Gulf of Alaska	60° 51.30 N	147° 14.50 W			
Seal Rocks (Cordova)[10]	Gulf of Alaska	60° 09.78 N	146° 50.30 W			20
Cape Hinchinbrook[10]	Gulf of Alaska	60° 14.00 N	146° 38.50 W			20
Middleton I.	Gulf of Alaska	59° 28.30 N	146° 18.80 W			10
Hook Point[10]	Gulf of Alaska	60° 20.00 N	146° 15.60 W			20
Cape St. Elias	Gulf of Alaska	59° 47.50 N	144° 36.20 W			20

[1] Where two sets of coordinates are given, the baseline extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.
[2] Closures as stated in 50 CFR 679.22(a)(7)(iv), (a)(8)(ii) and (b)(2)(ii).
[3] This site lies within the Bogoslof area (BA). The BA consists of all waters of Area 518 as described in Figure 1 of this part south of a straight line connecting 55° 00' N/170° 00' W, and 55° 00' N/168° 11'4.75" W.
[4] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 10 nm from January 20 through May 31. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 3 nm from August 25 through November 1.
[5] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 15 nm from January 20 through May 31. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 20 nm from August 25 to November 1.
[6] Restriction area includes only waters of the Gulf of Alaska Area.
[7] Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.
[8] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in column 7 of this table around each site and within the BA.
[9] This site is located in the Bering Sea Pollock Restriction Area, where directed fishing for pollock is prohibited during the A season. This area consists of all waters of the Bering Sea south of a line connecting the points
55° 46'30" N lat. /163° 00'00" W long.,
54° 42'9" N lat./165° 08'00" W long.,

■ 10. Revise Table 5 to Part 679 to read as follows:

54° 26'30" N lat./165° 40'00" long.,
54° 18'40" N lat./166° 12'00" W long., and
54° 8'50" N lat./167° 0'00" W long.

[10] The 20 nm closure around this site is effective in Federal waters outside of State of Alaska waters of Prince William Sound.

[11] Some or all of the restricted area is located in the Seguam Foraging area (SFA), which is closed to all gear types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173° 30' W long. and 172° 30' W long.

[12] The 3 nm trawl closure around Puale Bay and the 20 nm trawl closure around Cape Douglas/Shaw I. are effective January 20 through May 31. The 10 nm trawl closure around Puale Bay and the 10 nm trawl closure around Cape Douglas/Shaw I. are effective August 25 through November 1.

[13] Critical habitat at this site contains the Shemya Open Area, which is open to directed fishing for pollock outside of 3 nm from haulouts. This open area consists of all waters located within an area bounded by straight lines drawn by connecting the following points:
52° 45.0' N lat. /174° 42.0' E long.
52° 36.0' N lat. /174° 42.0' E long.
52° 52.0' N lat. /173° 30.0' E long.
53° 0.0' N lat. /173° 30.0' E long.
52° 45.0' N lat. /174° 42.0' E long.

[14] Critical habitat at this site contains the Rat Islands Open Area, which is open to directed fishing for pollock outside of 3nm from Tanadak I., Segula I., and Hawadax I./Krysi Pt. and outside of 10 nm from Little Sitkin I. and Ayugadak Pt. This open area consists of all waters located within an area bounded by straight lines drawn by connecting the following points:
51° 56.0' N lat. / 178° 17.0' E long.
51° 52.0' N lat. / 178° 12.0' E long.
51° 56.0' N lat. / 177° 51.5' E long.
52° 3.0' N lat. / 177° 51.0' E long.
51° 56.0' N lat. / 178° 17.0' E long.

[15] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock within 10 nm of Kanaga I./Ship Rock, except waters north of 51° 47.5' N, 177° 37.0' W to 51° 47.5' N, 177° 12.0' W where those vessels are prohibited from directed fishing for pollock in waters 0 nm to 3 nm from this site.

[16] Unless otherwise noted, closures apply to reporting areas of the Bering Sea, Aleutian Islands, and Gulf of Alaska, including adjacent state waters.

Table 5 to Part 679—Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
St. Lawrence I./S Punuk I.	BS	63° 04.00 N	168° 51.00 W			20	20	20
St. Lawrence I./SW Cape	BS	63° 18.00 N	171° 26.00 W			20	20	20
Hall I.	BS	60° 37.00 N	173° 00.00 W			20	20	20
St. Paul I./Sea Lion Rock	BS	57° 06.00 N	170° 17.50 W			3	3	3
St. Paul I./NE Pt.	BS	57° 15.00 N	170° 06.50 W			3	3	3
Walrus I. (Pribilofs)	BS	57° 11.00 N	169° 56.00 W			10	3	3
St. George I./Dalnoi Pt.	BS	56° 36.00 N	169° 46.00 W			3	3	3
St. George I./S. Rookery	BS	56° 33.50 N	169° 40.00 W			3	3	3
Cape Newenham	BS	58° 39.00 N	162° 10.50 W			20	20	20
Round (Walrus Islands)	BS	58° 36.00 N	159° 58.00 W			20	20	20
Attu I./Cape Wrangell[11]	AI	52° 54.60 N	172° 27.90 E	52° 55.40 N	172° 27.20 E	10	3	3
Agattu I./Gillon Pt.[11]	AI	52° 24.13 N	173° 21.31 E			10	3	3
Attu I./Chirikof Pt.[11]	AI	52° 49.75 N	173° 26.00 E			3		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Agattu I./Cape Sabak[11]	AI	52° 22.50 N	173° 43.30 E	52° 21.80 N	173° 41.40 E	10	3	3
Alaid I.[11]	AI	52° 46.50 N	173° 51.50 E	52° 45.00 N	173° 56.50 E	3		
Shemya I.[11]	AI	52° 44.00 N	174° 08.70 E			3		
Buldir I.[11]	AI	52° 20.25 N	175° 54.03 E	52 20.38 N	175° 53.85 E	10	10	10
Kiska I./Cape St. Stephen	AI	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	10	3	3
Kiska I. Sobaka & Vega	AI	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	3		
Kiska I./Lief Cove	AI	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	10	3	3
Kiska I./Sirius Pt.	AI	52° 08.50 N	177° 36.50 E			3		
Tanadak I. (Kiska)	AI	51° 56.80 N	177° 46.80 E			3		
Segula I.	AI	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	3		
Ayugadak Point	AI	51° 45.36 N	178° 24.30 E			10	3	3
Hawadax I./Krysi Pt.	AI	51° 49.98 N	178° 12.35 E			3		
Little Sitkin I.	AI	51° 59.30 N	178° 29.80 E			3		
Amchitka I./Column	AI	51° 32.32 N	178° 49.28 E			10	3	3
Amchitka I./East Cape	AI	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Amchitka I./Cape Ivakin	AI	51° 24.46 N	179° 24.21 E			3		
Semisopochnoi/Petrel Pt.	AI	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	10	3	3
Semisopochnoi I./Pochnoi Pt.	AI	51° 57.30 N	179° 46.00 E			10	3	3
Amatignak I./Nitrof Pt.	AI	51° 13.00 N	179° 07.80 W			3		
Unalga & Dinkum Rocks	AI	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	3		
Ulak I./Hasgox Pt.	AI	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	10	3	3
Kavalga I.	AI	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	3		
Tag I.	AI	51° 33.50 N	178° 34.50 W			10	3	3
Ugidak I.	AI	51° 34.95 N	178° 30.45 W			3		
Gramp Rock	AI	51° 28.87 N	178° 20.58 W			10	3	3
Tanaga I./Bumpy Pt.	AI	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3		
Bobrof I.	AI	51° 54.00 N	177° 27.00 W			3		
Kanaga I./Ship Rock	AI	51° 46.70 N	177° 20.72 W			10	3	3
Kanaga I./North Cape	AI	51° 56.50 N	177° 09.00 W			3		
Adak I.	AI	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Little Tanaga Strait	AI	51° 49.09 N	176° 13.90 W			3		
Great Sitkin I.	AI	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	3		
Anagaksik I.	AI	51° 50.86 N	175° 53.00 W			3		
Kasatochi I.	AI	52° 11.11 N	175° 31.00 W			10	3	3
Atka I./N. Cape	AI	52° 24.20 N	174° 17.80 W			3		
Amlia I./Sviech. Harbor[4,]	AI	52° 01.80 N	173° 23.90 W			3		
Sagigik I.[4,]	AI	52° 00.50 N	173° 09.30 W			3		
Amlia I./East[4, 13]	AI	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	3	20	20
Tanadak I. (Amlia)[4, 13]	AI	52° 04.20 N	172° 57.60 W			3	20	20
Agligadak I.[4, 13]	AI	52° 06.09 N	172° 54.23 W			20	20	20
Seguam I./Saddleridge Pt.[4, 13]	AI	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	10	20	20
Seguam I./Finch Pt.[13]	AI	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	3	20	20
Seguam I./South Side[13]	AI	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	3	20	20
Amukta I. & Rocks[13]	AI	52° 27.25 N	171° 17.90 W			3	20	20
Chagulak I.[13]	AI	52° 34.00 N	171° 10.50 W			3	20	20

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Yunaska I.[13]	AI	52° 41.40 N	170° 36.35 W			10	20	20
Uliaga[5, 14]	BS	53° 04.00 N	169° 47.00 W	53° 05.00 N	169° 46.00 W	10	20	20
Chuginadak[14, 15]	GOA	52° 46.70 N	169° 41.90 W			20	20, 10	20
Kagamil[5, 14]	BS	53° 02.10 N	169° 41.00 W			10	20	20
Samalga	GOA	52° 46.00 N	169° 15.00 W			20	10	20
Adugak I.[5]	BS	52° 54.70 N	169° 10.50 W			10	BA	BA
Umnak I./Cape Aslik[5]	BS	53° 25.00 N	168° 24.50 W			BA	BA	BA
Ogchul I.	GOA	52° 59.71 N	168° 24.24 W			20	10	20
Bogoslof I./Fire I.[5]	BS	53° 55.69 N	168° 02.05 W			BA	BA	BA
Polivnoi Rock[9]	GOA	53° 15.96 N	167° 57.99 W			20	10	20
Emerald I.[12, 9]	GOA	53° 17.50 N	167° 51.50 W			20	10	20
Unalaska/Cape Izigan[9]	GOA	53° 13.64 N	167° 39.37 W			20	10	20
Unalaska/Bishop Pt.[6, 12]	BS	53° 58.40 N	166° 57.50 W			10	10	3
Akutan I./Reef-lava[6]	BS	54° 08.10 N	166° 06.19 W	54° 09.10 N	166° 05.50 W	10	10	3
Unalaska I./Cape Sedanka[9]	GOA	53° 50.50 N	166° 05.00 W			20	10	20

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Old Man Rocks[9]	GOA	53° 52.20 N	166° 04.90 W			20	10	20
Akutan I./Cape Morgan[9]	GOA	54° 03.39 N	165° 59.65 W	54° 03.70 N	166° 03.68 W	20	10	20
Akun I./Billings Head	BS	54° 17.62 N	165° 32.06 W	54° 17.57 N	165° 31.71 W	10	3	3
Rootok[9]	GOA	54° 03.90 N	165° 31.90 W	54° 02.90 N	165° 29.50 W	20	10	20
Tanginak I.[9]	GOA	54° 12.00 N	165° 19.40 W			20	10	20
Tigalda/Rocks NE[9]	GOA	54° 09.60 N	164° 59.00 W	54° 09.12 N	164° 57.18 W	20	10	20
Unimak/Cape Sarichef	BS	54° 34.30 N	164° 56.80 W			10	3	3
Aiktak[9]	GOA	54° 10.99 N	164° 51.15 W			20	10	20
Ugamak I.[9]	GOA	54° 13.50 N	164° 47.50 W	54° 12.80 N	164° 47.50 W	20	10	20
Round (GOA)[9]	GOA	54° 12.05 N	164° 46.60 W			20	10	20
Sea Lion Rock (Amak)	BS	55° 27.82 N	163° 12.10 W			10	7	7
Amak I. And rocks	BS	55° 24.20 N	163° 09.60 W	55° 26.15 N	163° 08.50 W	10	3	3
Bird I.	GOA	54° 40.00 N	163° 17.15 W			10		
Caton I.	GOA	54° 22.70 N	162° 21.30 W			3	3	
South Rocks	GOA	54° 18.14 N	162° 41.25 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Clubbing Rocks (S)	GOA	54° 41.98 N	162° 26.74 W			10	3	3
Clubbing Rocks (N)	GOA	54° 42.75 N	162° 26.72 W			10	3	3
Pinnacle Rock	GOA	54° 46.06 N	161° 45.85 W			3	3	3
Sushilnoi Rocks	GOA	54° 49.30 N	161° 42.73 W			10		
Olga Rocks	GOA	55° 00.45 N	161° 29.81 W	54° 59.09 N	161°30.89 W	10		
Jude I.	GOA	55° 15.75 N	161° 06.27 W			20		
Sea Lion Rocks (Shumagins)	GOA	55° 04.70 N	160° 31.04 W			3	3	3
Nagai I./Mountain Pt.	GOA	54° 54.20 N	160° 15.40 W	54° 56.00 N	160° 15.00 W	3	3	3
The Whaleback	GOA	55° 16.82 N	160° 05.04 W			3	3	3
Chernabura I.	GOA	54° 45.18 N	159° 32.99 W	54° 45.87 N	159° 35.74 W	20	3	3
Castle Rock	GOA	55° 16.47 N	159° 29.77 W			3	3	
Atkins I.	GOA	55° 03.20 N	159° 17.40 W			20	3	3
Spitz I.	GOA	55° 46.60 N	158° 53.90 W			3	3	3
Mitrofania	GOA	55° 50.20 N	158° 41.90 W			3	3	3
Kak	GOA	56° 17.30 N	157° 50.10 W			20	20	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Lighthouse Rocks	GOA	55° 46.79 N	157° 24.89 W			20	20	20
Sutwik I.	GOA	56° 31.05 N	157° 20.47 W	56° 32.00 N	157° 21.00 W	20	20	20
Chowiet I.	GOA	56° 00.54 N	156° 41.42 W	56° 00.30 N	156° 41.60 W	20	20	20
Nagai Rocks	GOA	55° 49.80 N	155° 47.50 W			20	20	20
Chirikof I.	GOA	55° 46.50 N	155° 39.50 W	55° 46.44 N	155° 43.46 W	20	20	20
Puale Bay	GOA	57° 40.60 N	155° 23.10 W			10		
Kodiak/Cape Ikolik	GOA	57° 17.20 N	154° 47.50 W			3	3	3
Takli I.	GOA	58° 01.75 N	154° 31.25 W			10		
Cape Kuliak	GOA	58° 08.00 N	154° 12.50 W			10		
Cape Gull	GOA	58° 11.50 N	154° 09.60 W	58° 12.50 N	154° 10.50 W	10		
Kodiak/Cape Ugat	GOA	57° 52.41 N	153° 50.97 W			10		
Sitkinak/Cape Sitkinak	GOA	56° 34.30 N	153° 50.96 W			10		
Shakun Rock	GOA	58° 32.80 N	153° 41.50 W			10		
Twoheaded I.	GOA	56° 54.50 N	153° 32.75 W	56° 53.90 N	153° 33.74 W	10		
Cape Douglas (Shaw I.)	GOA	59° 00.00 N	153° 22.50 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Kodiak/Cape Barnabas	GOA	57° 10.20 N	152° 53.05 W			3	3	
Kodiak/Gull Point[7]	GOA	57° 21.45 N	152° 36.30 W			10, 3		
Latax Rocks	GOA	58° 40.10 N	152° 31.30 W			10		
Ushagat I./SW	GOA	58° 54.75 N	152° 22.20 W			10		
Ugak I.[7]	GOA	57° 23.60 N	152° 17.50 W	57° 21.90 N	152° 17.40 W	10, 3		
Sea Otter I.	GOA	58° 31.15 N	152° 13.30 W			10		
Long I.	GOA	57° 46.82 N	152° 12.90 W			10		
Sud I.	GOA	58° 54.00 N	152° 12.50 W			10		
Kodiak/Cape Chiniak	GOA	57° 37.90 N	152° 08.25 W			10		
Sugarloaf I.	GOA	58° 53.25 N	152° 02.40 W			20	10	10
Sea Lion Rocks (Marmot)	GOA	58° 20.53 N	151° 48.83 W			10		
Marmot I.[8]	GOA	58° 13.65 N	151° 47.75 W	58° 09.90 N	151° 52.06 W	15, 20	10	10
Nagahut Rocks	GOA	59° 06.00 N	151° 46.30 W			10		
Perl	GOA	59° 05.75 N	151° 39.75 W			10		
Gore Point	GOA	59° 12.00 N	150° 58.00 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Outer (Pye) I.	GOA	59° 20.50 N	150° 23.00 W	59° 21.00 N	150° 24.50 W	20	10	10
Steep Point	GOA	59° 29.05 N	150° 15.40 W			10		
Seal Rocks (Kenai)	GOA	59° 31.20 N	149° 37.50 W			10		
Chiswell Islands	GOA	59° 36.00 N	149° 34.00 W			10		
Rugged Island	GOA	59° 50.00 N	149° 23.10 W	59° 51.00 N	149° 24.70 W	10		
Point Elrington[10, 11]	GOA	59° 56.00 N	148° 15.20 W			20		
Perry I.[10]	GOA	60° 44.00 N	147° 54.60 W					
The Needle[10]	GOA	60° 06.64 N	147° 36.17 W					
Point Eleanor[10]	GOA	60° 35.00 N	147° 34.00 W					
Wooded I. (Fish I.)	GOA	59° 52.90 N	147° 20.65 W			20	3	3
Glacier Island[10]	GOA	60° 51.30 N	147° 14.50 W					
Seal Rocks (Cordova)[11]	GOA	60° 09.78 N	146° 50.30 W			20	3	3
Cape Hinchinbrook[11]	GOA	60° 14.00 N	146° 38.50 W			20		
Middleton I.	GOA	59° 28.30 N	146° 18.80 W			10		
Hook Point[11]	GOA	60° 20.00 N	146° 15.60 W			20		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Cape St. Elias	GOA	59° 47.50 N	144° 36.20 W			20		

BS = Bering Sea, AI = Aleutian Islands, GOA = Gulf of Alaska

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in 50 CFR 679.22(a)(7)(v), (a)(8)(iv), and (b)(2)(iii).

[3] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in columns 7, 8, and 9 around each site and within the Bogoslof area (BA) and the Seguam Foraging Area (SFA).

[4] Some or all of the restricted area is located in the SFA, which is closed to all gear types. The SFA is established as all waters within the area between 52°N lat. and 53°N lat. and between 173°30' W long. and 172°30' W long.

[5] This site lies within the BA, which is closed to all gear types. The BA consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

[6] Hook-and-line no-fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook-and-line and jig vessels.

[7] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 10 nm, effective from January 20, 1200 hours, A.l.t., through June 10, 1200 hours, A.l.t. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 3 nm, effective from September 1, 1200 hours, A.l.t., through November 1, 1200 hours, A.l.t.

[8] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 15 nm, effective from January 20, 1200 hours, A.l.t., to June 10, 1200 hours, A.l.t. Vessels with a Federal Fisheries Permit are prohibited from directed

■ 11. Revise Table 6 to Part 679 to read as follows:

fishing for Pacific cod with trawl gear in waters between 0 nm and 20 nm, effective from September 1, 1200 hours, A.l.t., through November 1, 1200 hours, A.l.t.

[9] Restriction area includes only waters of the Gulf of Alaska Area.

[10] Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[11] The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

[12] See 50 CFR 679.22(a)(7)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

[13] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line and pot gear in waters between 0 nm and 3 nm from rookeries west of 172°59' W long. and in waters located between 0 nm and 20 nm east of 172°59' W long.

[14] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line and pot gears only in waters located between 0 nm and 20 nm of these sites west of 170° W long.

[15] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line gear in waters located between 0 nm and 10 nm on the east side of 170° W long. and are prohibited in waters located between 0 nm and 20 nm on the west side of 170° W long.

[16] Unless otherwise noted, closures apply to reporting areas of the Bering Sea, Aleutian Islands and Gulf of Alaska, including adjacent state waters.

Table 6 to Part 679–Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10
Agattu I./Gillon Pt.	Aleutian Islands	52 24.13 N	173 21.31 E			10
Attu I./Chirikof Pt.	Aleutian Islands	52 49.75 N	173 26.00 E			3
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10
Alaid I.	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	3
Shemya I.	Aleutian Islands	52 44.00 N	174 08.70 E			3
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	10
Kiska I./Cape St. Stephen	Aleutian Islands	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	10
Kiska I./Sobaka & Vega	Aleutian Islands	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	3
Kiska I./Lief Cove	Aleutian Islands	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	10
Kiska I./Sirius Pt.	Aleutian Islands	52° 08.50 N	177° 36.50 E			3
Tanadak I. (Kiska)	Aleutian Islands	51° 56.80 N	177° 46.80 E			3
Segula I.[6]	Aleutian Islands	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	3, 20
Ayugadak Point[6]	Aleutian Islands	51° 45.36 N	178° 24.30 E			20
Hawadax I./Krysi Pt.[6]	Aleutian Islands	51° 49.98 N	178° 12.35 E			20
Little Sitkin I.[6]	Aleutian Islands	51° 59.30 N	178° 29.80 E			20
Amchitka I./Column Rocks	Aleutian Islands	51° 32.32 N	178° 49.28 E			20
Amchitka I./East Cape	Aleutian Islands	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	20
Amchitka I./Cape Ivakin	Aleutian Islands	51° 24.46 N	179° 24.21 E			20
Semisopochnoi/Petrel Pt.[6]	Aleutian Islands	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Semisopochnoi I./Pochnoi Pt. [6]	Aleutian Islands	51° 57.30 N	179° 46.00 E			20
Amatignak I. Nitrof Pt.	Aleutian Islands	51° 13.00 N	179° 07.80 W			3
Unalga & Dinkum Rocks	Aleutian Islands	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	3
Ulak I./Hasgox Pt.	Aleutian Islands	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	10
Kavalga I.	Aleutian Islands	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	3
Tag I.[4]	Aleutian Islands	51° 33.50 N	178° 34.50 W			10, 20
Ugidak I.[4]	Aleutian Islands	51° 34.95 N	178°30.45 W			3, 20
Gramp Rock[4]	Aleutian Islands	51° 28.87 N	178° 20.58 W			10, 20
Tanaga I./Bumpy Pt.[4]	Aleutian Islands	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3, 20
Bobrof I.	Aleutian Islands	51° 54.00 N	177° 27.00 W			20
Kanaga I./Ship Rock	Aleutian Islands	51° 46.70 N	177° 20.72 W			20
Kanaga I./North Cape	Aleutian Islands	51° 56.50 N	177° 09.00 W			20
Adak I.	Aleutian Islands	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	20
Little Tanaga Strait	Aleutian Islands	51° 49.09 N	176° 13.90 W			20
Great Sitkin I.	Aleutian Islands	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	20
Anagaksik I.	Aleutian Islands	51° 50.86 N	175° 53.00 W			20
Kasatochi I.	Aleutian Islands	52° 11.11 N	175° 31.00 W			20
Atka I./North Cape	Aleutian Islands	52°24.20 N	174° 17.80 W			20
Amlia I./Sviech. Harbor[5]	Aleutian Islands	52° 01.80 N	173° 23.90 W			20
Sagigik I.[5, 7]	Aleutian Islands	52° 00.50 N	173° 09.30 W			20
Amlia I./East[5, 7]	Aleutian Islands	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Tanadak I. (Amlia)[5, 7]	Aleutian Islands	52° 04.20 N	172° 57.60 W			20
Agligadak I.[5, 7]	Aleutian Islands	52° 06.09 N	172° 54.23 W			20
Seguam I./Saddleridge Pt.[5, 7]	Aleutian Islands	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	20
Seguam I./Finch Pt.[5, 7]	Aleutian Islands	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	20
Seguam I./South Side[5, 7]	Aleutian Islands	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	12
Amukta I. & Rocks[7]	Aleutian Islands	52° 27.25 N	171° 17.90 W			20
Chagulak I.	Aleutian Islands	52° 34.00 N	171° 10.50 W			20
Yunaska I.	Aleutian Islands	52° 41.40 N	170° 36.35 W			20

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in 50 CFR 679.22(a)(7)(vi).

[3] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in column 7 around each site.

[4] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Atka mackerel using trawl gear in waters located:

a) 0 nm to 20 nm seaward of these sites and east of 178° W long.

b) 0 nm to 3 nm seaward of Ugidak and Tanaga I./Bumpy Pt and west of 178° W long.

c) 0 nm to 10 nm seaward of Tag I. and Gramp Rock and west of 178° W long.

[5] Some or all of the restricted area is located in the Seguam Foraging Area (SFA), which is closed to all gear types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173° 30' W long. and 172° 30' W long.

[6] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Atka mackerel using trawl gear in waters located 0 nm to 20 nm from this site between 178°E long. to 180° long. and in waters located 0 nm and 3 nm from Segula Island west of 178°E long.

[7] The Seguam Atka Mackerel Open Area (SAMOA) to the southeast of Seguam Pass in Area 541 is formed by the following coordinates in the order specified in a clock-wise direction. The SAMOA is open when directed fishing for Atka mackerel in Area 541 is open.

From
172° 17.760' W/51° 57.000' N
172° 41.400' W/51° 57.000' N
172° 37.500' W/52° 0.000' N
172° 30.000' W/52° 0.000' N
172° 30.000' W/52° 3.600' N
172° 20.400' W/52° 4.800' N
172° 13.200' W/52° 7.080' N
172° 6.600' W/52° 9.600' N
172° 2.400' W/52° 12.000' N
172° 0.000' W/52° 12.000' N
172° 0.000' W/52° 14.820' N
171° 58.200' W/52° 18.000' N
171° 58.200' W/52° 24.000' N
171° 54.000' W/52° 24.000' N
171° 54.000' W/52° 27.000' N
171° 42.000' W/52° 27.000' N
171° 42.000' W/52° 18.000' N
171° 48.000' W 52° 18.000' N
171° 48.000' W 52° 11.760' N

[8] Unless otherwise noted, closures apply to reporting areas of the Aleutian Islands, including adjacent state waters.

[FR Doc. 2014–27658 Filed 11–24–14; 8:45 am]
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FEDERAL REGISTER

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–78; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–78. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–78 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–78

Item	Subject	FAR case	Analyst
I	Incorporating Section K in Contracts	2014–001	Glover.
II	Streamlining Claims Processing	2014–011	Loeb.
III	Year Format	2014–006	Loeb.
IV	Higher-Level Contract Quality Requirements	2012–032	Loeb.
V	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–78 amends the FAR as specified below:

Item I—Incorporating Section K in Contracts (FAR Case 2014–001)

This final rule revises the language at FAR subpart 4.12, Representations and Certifications, and adds a new clause at FAR 52.204–19 to standardize the incorporation by reference of representations and certifications in contracts regardless of which contract award form is used. FAR clause 52.212–4 has a new paragraph (v) to cover this issue for commercial items.

Peer reviews and procurement management reviews have found that Section K-Representations and Certifications are inconsistently or not incorporated in contract awards.

This final rule does not change or impact the existing representations and certifications submitted by small entities; this final rule should have no impact on small entities.

Item II—Streamlining Claims Processing (FAR Case 2014–011)

This final rule implements the Streamlining Claims Processing for Federal Contractor Employees Act, Pub. L. 113–50, which transferred certain authority for construction wage under-payments from the Government Accountability Office to the Department of Labor. There is no effect on small businesses.

Item III—Year Format (FAR Case 2014–006)

This final rule amends the FAR to delete obsolete regulations relating to the year 2000 compliance. There is no impact on small businesses.

Item IV—Higher-Level Contract Quality Requirements (FAR Case 2012–032)

This final rule amends FAR parts 44 and 46 to (1) provide that agencies should establish procedures for determining when higher-level quality standards are to be included in a contract, (2) provide that higher-level quality standards should be given special attention during Contractor Purchasing System Reviews, and (3) adds an example of higher-level quality standards as it relates to counterfeit electronic parts. The contracting officer, in accordance with agency procedures, will choose the higher-level quality standards that will apply. These standards will be used to help minimize and mitigate counterfeit items or suspect counterfeit items in Government contracting. This rule impacts large and small businesses who provide critical items directly to the Government or to Government prime contractors.

Item V—Technical Amendments

Editorial changes are made at FAR 1.106, 16.103, 22.1006, 31.109, 52.204–8, and 53.219.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Federal Acquisition Circular (FAC) 2005–78 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–78 is effective November 25, 2014 except for items I, II, III and IV, which are effective December 26, 2014.

Dated: November 17, 2014.

Richard Ginman,

Director, Defense Procurement and Acquisition Policy.

Dated: November 17, 2014.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: November 18, 2014.

Ronald A. Poussard,

Director, Contract and Grant Policy Branch NASA, Office of Procurement.

[FR Doc. 2014–27656 Filed 11–24–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 14, 15, and 52

[FAC 2005–78; FAR Case 2014–001; Item I; Docket No. 2014–0001, Sequence No. 1]

RIN 9000–AM78

Federal Acquisition Regulation; Incorporating Section K in Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to standardize the incorporation by reference of representations and certifications in contracts.

DATES: *Effective:* December 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at (202) 501–1448, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–78, FAR Case 2014–001.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 22615 on April 23, 2014, to revise the language at FAR subpart 4.12, Representations and Certifications, and add a new clause at FAR 52.204–19 to standardize the incorporation by reference of representations and certifications in contracts, regardless of which contract award form is used. FAR clause 52.212–4 has a new paragraph (v) to cover this issue for commercial items. One respondent submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Analysis of Changes

One editorial change was made to the proposed rule as a result of the public comments.

B. Analysis of Public Comments

1. Edits

Comment: The respondent recommended adding commas to the changes in FAR parts 14 and 15.

Response: Instead of commas, the word ''see'' was added.

2. Out of Scope

Comment: The respondent suggested revising the last sentence in the introductory paragraph of FAR 4.1202 (which will become 4.1202(a)) to include a reference to either 52.212–1 or 52.212–3.

Response: No changes were made for the out-of-scope suggestion.

Comment: The respondent suggested that the FAR matrix be revised to indicate that 52.204–6, 52.204–7, 52.204–13, and possibly, 52.204–12 are not applicable to commercial items.

Response: No changes were made for the out-of-scope suggestion.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The objective of this final rule is to standardize the incorporation by reference of representations and certifications in contracts.

No issues were raised by the public in response to the initial regulatory flexibility analysis. There are no reporting, recordkeeping, or other compliance requirements in the final rule. This final rule is an internal procedure requiring the contracting officer to acknowledge the small entity's representations and certifications by incorporating them by reference in the contract award document.

This final rule does not revise or impact the existing representations and certifications submitted by small entities; therefore, this final rule should have no significant economic impact on a substantial number of small entities.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 4, 14, 15, and 52

Government procurement.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 14, 15, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE MATTERS

■ 2. Amend section 4.1200 by—

■ a. Removing from the end of paragraph (a) the word ''and'';

■ b. Removing from the end of paragraph (b) the period and adding ''; and'' in its place; and

■ c. Adding paragraph (c) to read as follows:

4.1200 Scope.

* * * * *

(c) Incorporate by reference the contractor's representations and certifications in the awarded contract.

■ 3. Amend section 4.1201 by adding paragraph (d) to read as follows:

4.1201 Policy.

* * * * *

(d) The contracting officer shall incorporate the representations and certifications by reference in the contract (see 52.204–19, or for acquisitions of commercial items see 52.212–4(v)).

■ 4. Amend section 4.1202 by—

■ a. Redesignating paragraphs (a) through (cc) as paragraphs (a)(1) through (29), respectively;
■ b. Designating the introductory paragraph as paragraph (a); and
■ c. Adding a new paragraph (b) to read as follows:

4.1202 Solicitation provision and contract clause.

* * * * *

(b) The contracting officer shall insert the clause at 52.204–19, Incorporation by Reference of Representations and Certifications, in solicitations and contracts.

PART 14—SEALED BIDDING

■ 5. Amend section 14.201–1 by adding a sentence at the end of paragraph (c) to read as follows:

14.201–1 Uniform contract format.

* * * * *

(c) * * * The representations and certifications shall be incorporated by reference in the contract by using 52.204–19 (see 4.1202(b)) or for acquisitions of commercial items see 52.212–4(v).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 6. Amend section 15.204–1 by revising the last sentence of paragraph (b) to read as follows:

15.204–1 Uniform contract format.

* * * * *

(b) * * * The representations and certifications are incorporated by reference in the contract by using 52.204–19 (see 4.1202(b)) or for acquisitions of commercial items see 52.212–4(v).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.204–8 [Amended]

■ 7. Amend section 52.204–8 by removing from the introductory text ''4.1202'' and adding ''4.1202(a)'' in its place.

■ 8. Add section 52.204–19 to read as follows:

52.204–19 Incorporation by Reference of Representations and Certifications.

As prescribed in 4.1202(b), insert the following clause.

Incorporation by Reference of Representations and Certifications (DEC 2014)

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of clause)

■ 9. Amend section 52.212–4 by revising the date of the clause; and adding paragraph (v) to read as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms And Conditions—Commercial Items (DEC 2014)

* * * * *

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

* * * * *

[FR Doc. 2014–27657 Filed 11–24–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22 and 53

[FAC 2005–78; FAR Case 2014–011; Item II; Docket No. 2014–0011; Sequence No. 1]

RIN 9000–AM83

Federal Acquisition Regulation: Streamlining Claims Processing

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement the Streamlining Claims Processing for Federal Contractor Employees Act which amends the United States Code (U.S.C.) to transfer certain functions from the Government Accountability Office (GAO) to the Department of Labor (DOL) relating to the processing of claims for the payment of workers who were not paid appropriate wages under certain provisions of the U.S.C.

DATES: *Effective:* December 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–78, FAR Case 2014–011.

SUPPLEMENTARY INFORMATION:

I. Background

The Streamlining Claims Processing for Federal Contractor Employees Act (the Act) (Pub. L. 113–50) was enacted on November 21, 2013. The Act transfers certain administrative authorities relating to the processing of claims for the payment of workers who were not paid appropriate wages under certain provisions of title 40 U.S.C. from the GAO to the DOL. One of the specific functions transferred to the DOL at 40 U.S.C. 3144 and 3703 is the authority to pay certain wages. FAR part 22, Application of Labor Laws to Government Acquisitions, which addresses the withholding or suspending of contract payments and the disposition of such payments, requires revision to be consistent with the Act. Specifically, FAR 22.406–9, Withholding from or suspension of contract payments, at paragraph (c), includes instructions regarding the disposition of contract payments that have been withheld or suspended. Also, FAR 22.406–11, Contract terminations, includes instructions for submitting reports when terminations result from violation of labor standards clauses. This final rule revises these FAR sections to appropriately reflect the administrative authorities of the DOL, and to provide a link to the DOL Web site and guidance for disbursement of withheld funds. Reference to Standard Form (SF) 1093, Schedule of Withholdings Under the Construction Wage Rate Requirements Statute (40 U.S.C. Chapter 31, Subchapter IV, Section 3144) and/or the Contract Work Hours and Safety Standards Statute (40 U.S.C. Chapter 37, Section 3703), is deleted. The SF 1093 was previously used to disburse funds to the GAO and is now obsolete.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or

administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it has no effect on contractors or offerors. This rule only revises the regulation by accurately reflecting that the DOL is the administrative authority for certain functions that were formerly the function of the GAO. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 48 CFR Parts 22 and 53

Government procurement.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22 and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 22 and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 2. Amend section 22.406–9 by revising paragraphs (c)(1) and (3) to read as follows:

22.406–9 Withholding from or suspension of contract payments.

* * * * *

(c) *Disposition of contract payments withheld or suspended*—(1) *Forwarding wage underpayments to the Secretary of Labor.* Upon final administrative determination, if the contractor or subcontractor has not made restitution, the contracting officer must follow the Department of Labor guidance published in Wage and Hour Division, All Agency Memorandum (AAM) No. 215, Streamlining Claims for Federal Contractor Employees Act. The AAM No. 215 can be obtained at *http://www.dol.gov/whd/govcontracts/dbra.htm;* under Guidance there is a link for All Agencies Memoranda (AAMs).

* * * * *

(3) *Limitation on returning funds.* If the Department of Labor requested the withholding or if the findings are disputed (see 22.406–10(e)), the contracting officer must not return the funds to the contractor without approval by the Department of Labor.

* * * * *

22.406–11 [Amended]

■ 3. Amend section 22.406–11 by removing from the introductory paragraph ''*, and the Comptroller General''.

PART 53—FORMS

■ 4. Amend section 53.222 by revising the section heading; and removing and reserving paragraph (d) to read as follows:

53.222 Application of labor laws to Government acquisitions (SF's 307, 1413, 1445, 1446, WH–347).

* * * * *

53.301–1093 [Removed]

■ 5. Remove section 53.301–1093.

[FR Doc. 2014–27659 Filed 11–24–14; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 39 and 52

[FAC 2005–78; FAR Case 2014–006; Item III; Docket 2011–0023, Sequence 1]

RIN 9000–AM53

Federal Acquisition Regulation; Year Format

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to delete obsolete regulations relating to the year 2000 compliance.

DATES: *Effective:* December 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–78, FAR Case 2014–006.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 79 FR 16274 on March 25, 2014. No public comments were submitted. The final rule makes no changes from the proposed rule.

DoD, GSA, and NASA are amending the FAR to delete obsolete coverage relating to the year 2000 compliance at FAR 39.002, 39.101(a) and 39.106. Also, the rule makes conforming changes to FAR 39.107 and the introductory text to the clause at FAR 52.239–1. The year 2000 coverage is outdated, and no longer needed because all of the issues addressing the transition to year 2000 compliance language have been resolved. Executive Order (E.O.) 13563, Improving Regulation and Regulatory Review, on retrospective review of regulations, requires agencies to conduct a review and analysis of their regulations and prepare a plan listing regulations that should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. The

deletion of this outdated FAR text is consistent with this E.O.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule amends the FAR to delete obsolete coverage relating to the year 2000 compliance at FAR 39.002, 39.101(a) and 39.106. Also, the rule makes conforming changes to FAR 39.107 and the introductory text to the clause at FAR 52.239–1. The year 2000 coverage is no longer needed because all of the issues addressing the transition to year 2000 compliance language have been resolved. Based upon FPDS data, there were 9021 IT contractors in FY 2013, of which 6284 were small businesses. The impact on small businesses is expected to be neutral since we are deleting an obsolete requirement.

The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat.

V. Paperwork Reduction Act

The rule does not contain any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 48 CFR Parts 39 and 52

Government procurement.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 39 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 39 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

39.002 [Amended]

■ 2. Amend section 39.002 by removing the definition ''Year 2000 compliant''.

39.101 [Amended]

■ 3. Amend section 39.101 by removing paragraph (a); and redesignating paragraphs (b) through (e) as paragraphs (a) through (d), respectively.

39.106 [Removed]

■ 4. Remove section 39.106.

39.107 [Redesignated as 39.106]

■ 5. Redesignate section 39.107 as section 39.106.

PART 52–SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.239–1 [Amended]

■ 6. Amend section 52.239–1 by removing from the introductory text ''39.107'' and adding ''39.106'' in its place.

[FR Doc. 2014–27660 Filed 11–24–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 44, 46, and 52

[FAC 2005–78; FAR Case 2012–032; Item IV; Docket No. 2012–0032, Sequence No. 1]

RIN 9000–AM65

Federal Acquisition Regulation; Higher-Level Contract Quality Requirements

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to clarify when to use higher-level quality standards in solicitations and contracts. The rule also updates the examples of higher-level quality standards by removing obsolete standards and adding new industry standards that pertain to quality assurance for avoidance of counterfeit items.

DATES: *Effective:* December 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–78, FAR Case 2012–032.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 78 FR 72620 on December 3, 2013, to revise FAR subpart 46.2, Contract Quality Requirements. The rule sought to ensure that agencies assess the risk of nonconforming items when determining whether higher-level quality standards should be used by the Government and relied on by contractors. Six respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

1. Revised FAR 46.202–4, Higher-level contract quality requirements to—

a. Clarify that higher-level quality standards include both overarching quality management system standards and product or process specific quality standards;

b. Delete reference to SAE AS6174; and

c. Add the commodity specific quality management system standard for automotive production, ISO/TS 16949.

2. Clarified that the contracting officer will list the title, number, date, and tailoring (if any) of applicable higher-

level quality standard(s) in the clause prescribed at FAR 46.311.

3. Revised FAR 52.246–11, Higher-level Contract Quality Requirements, to clarify that the prime contractor is responsible for flowing down applicable requirements of the higher-level quality standard in subcontracts for critical and complex items at any tier.

B. Analysis of Public Comments

1. Design and Testing

Comment: One respondent recognized the need to consider ''testing'' and ''design'' as considerations for identifying higher-level contract requirements. See FAR 42.202–4(a)(1). However, the respondent seeks clarification on the inclusion of control of ''design'' and ''testing'' for complex and critical item contracts.

Response: Control of design and/or testing are complex processes that require heightened controls in many applications. While not all higher-level quality standards specify controls for design or testing some of them do, such as ISO 9001, which provides detailed requirements/guidelines concerning control of design and testing.

2. Agency Guidance

Comment: One respondent recommended that agency guidance on implementing higher-level quality requirements be completed before any new FAR policy and that it should focus on larger acquisitions to avoid the indiscriminate use of higher-level quality requirements. This respondent further recommended establishing a working group with industry to help define Governmentwide criteria for use of higher-level quality requirements so as to avoid each agency having a different policy. The same respondent recommended that contracting officer higher-level quality standards determinations be made subject to higher-level acquisition approval authority and subject matter expert concurrence and that these documents should be included in the contract file.

Response: The purpose of the rule is to ensure a considered approach to the use of higher-level quality standards so they will not be applied indiscriminately. Agency procedures will provide guidance to the contracting officer about higher-level standards to determine when they are necessary and which standards should apply.

3. Standards List

Comment: One respondent recommended a collaborative approach between the contracting officer and the contractor when determining which higher-level quality standards apply to the prime and subcontractors. Another respondent recommended allowing contractors to have the flexibility to adopt systems and practices that reflect an appropriate standard. Another respondent recommended allowing industry to propose alternate quality standards or be given an opportunity to rebut or deviate from the standard assigned in the clause at FAR 52.246–11.

Response: This rule eliminates the ability for the offeror to indicate its selection of quality standard(s) by checking a block. This option of allowing the offeror to indicate its choice of standard was eliminated to ensure that the Government adequately assesses the necessity and appropriateness of the higher-level quality standard chosen. This rule does not change a contractor's ability to work with the Government acquisition team prior to receipt of proposals to discuss the solicitation, including higher-level quality standards, through exchanges such as conferences, public hearings, one-on-one meetings, draft requests for proposal, etc.

Comment: One respondent recommended that FAR 46.202–4(b) state that if the FAR 52.246–11 clause is used, the cited standards will take precedence over any other higher-level quality requirements separately cited in any other contract document (*e.g.* Statement of Work (SOW), Contract Data Requirements).

Response: The Order of Precedence, FAR 52.212–8, clause already provides the order to follow when there is an inconsistency in the solicitation or contract and states that the contract clause takes precedence over the specifications.

4. Commercial Items

Comments: Several respondents commented that it is unclear whether higher-level quality requirements apply to commercial item/commercially available off-the-shelf item suppliers. One respondent recommended that FAR 46.202–4 and 46.311 be revised to clearly state that 52.246–11 is not to be included in contracts for commercial items.

Response: FAR 52.246–11 does not apply to commercial items or commercially available off-the-shelf items.

5. Flowdown

Comment: One respondent commented that it is unclear whether higher-level quality requirements flow down to subcontractors/suppliers, and recommended that the requirements not flow down to allow contractors to manage their own supply chain risk.

Response: Higher-level quality standards generally require contractors to apply the standards to their subcontractors. In those circumstances, the contractor is contractually obligated to comply with these standards and also ensure its subcontractors adhere. However, because the FAR clause 52.246–11 did not specifically address flowdown, the clause at 52.246–11 is being revised to clarify that the prime contractor is responsible for flowing down applicable requirements of the higher-level quality standards in subcontracts for critical and complex items, at any tier.

6. Obsolescence

Comment: One respondent recommended strengthening policy associated with obsolescence management. Another respondent recommended including new DoD policies on product obsolescence, diminishing manufacturing sources and attempts to leverage DoD expedited process for identification and replacement of obsolete electronic parts.

Response: The FAR rule does not address obsolescence management and diminishing manufacturing sources as these areas are outside the scope of this FAR case.

7. Purchasing System Review

Comment: Respondents commented that the additional oversight of the quality management system as a part of the Contractor Purchasing System Review (CPSR) process is duplicative. One respondent indicated that industry already has strong self-governance in place to ensure compliance consisting of certification by independent bodies and Defense Contract Management Agency (DCMA), who routinely performs quality management system assessments. Also, the commenter indicated that the proposed rule does not provide guidance on how third party approvals such as AS9100 will be utilized to avoid duplication of cost and effort.

Response: Review of quality management systems as a part of the CPSR process has been a longstanding process. A third party audit establishes that the contractor has a documented process in place whereas Government Contract Quality Assurance (QA) validates that the contractor is executing to their process. Attention to implementation of higher-level quality standards during the course of purchasing system reviews is consistent with Government Contract Quality Assurance functions and

responsibilities stated in FAR part 46. It is noted that third party audits are performed by organizations that are hired by the contractor, not the Government, and who do not have formal/legal responsibilities to represent the Government's interests.

Comment: One respondent commented that higher-level quality requirements should not be part of the contractors purchasing system review because a single counterfeit incident could cause withdrawal of purchasing system approval. Another respondent recommended adding language that a deficiency solely related to the implementation of higher-level quality standards will not prevent the overall purchasing system from functioning as if approved.

Response: If the contractor is subject to a QA standard covering detection of counterfeits and a single incidence of a counterfeit part is documented as delivered during a CPSR review, the administrative contracting officer would be required to examine the circumstances to determine whether it is an isolated incident and whether the occurrence could have been prevented by the prime contractor's proper adherence to its policies, procedures, and internal controls before withholding approval of the purchasing system (FAR 44.301 and 44.305–1).

Comment: One respondent commented that a satisfactory purchasing system should obviate the need to identify standards on individual contracts as proposed by FAR 52.246–11.

Response: There are four sections to a Quality Management System (QMS) and the purchasing system is one of six parts in one section; therefore, an acceptable purchasing system does not mean the entire QMS is acceptable.

Comment: One respondent commented that the FAR case presents unbounded content for review during a CPSR process and lacks alignment with the Defense Acquisition Regulations System (DFARS) case, which added nine elements to the CPSR process.

Response: This rule does not change the methodology for conducting a CPSR. It adds content in that, when higher-level QA is applicable to the contract, the Government will, as one part of the purchasing system review, confirm that the contractor is including appropriate quality requirements in their purchases orders. The CPSR review criteria pertaining to the implementation of higher-level quality requirements are bounded by the applicable portions of the contractor's quality standard(s) (*e.g.,* ISO 9001 Clause 7.4–Purchasing). This has been a long-standing process to include this review in CPSRs. The elements added to the DFARS, mentioned by the respondent, are additional elements of the CPSR for DoD coverage of a contractor's counterfeit electronic part detection and avoidance system that are not included in the FAR.

8. Risk-Based Approach

Comment: Two respondents commented that this rule takes a positive step in applying a risk-based approach to the assessment of materials entering the supply chain.

Response: Noted.

9. Scope

Comment: One respondent recommended excluding counterfeit parts standards from higher-level quality requirements.

Response: The Councils disagree with eliminating higher-level quality standards that address counterfeit items due to the significant and growing risk, in quality, reliability, and safety that counterfeiting poses to the Government. This FAR rule case specifically removes outdated or obsolete standards and adds new examples of higher-level quality standards, including a standard related to counterfeiting.

10. Small Business

Comment: Two respondents commented that this rule will have unintended consequences on small businesses, including small business withdrawal from the market place, which will reduce competition.

Response: This rule is not meant to limit small business participation in Government contracting; the purpose of the rule is to ensure that agencies have procedures in place to assess the risk of nonconforming items when determining whether higher-level quality standards should be used by the Government and relied on by all contractors. When contracting for complex or critical items where higher-level quality standards are necessary it would not be prudent to make exceptions based on business size.

11. Source Selection Process

Comment: One respondent recommended providing source selection policy guidance such as choice of contract type, source selection process, and evaluation of performance risk and price, when using higher-level quality requirements.

Response: The FAR subpart 15.1 outlines source selection processes and techniques that are available strategies depending on the type of acquisition. This approach allows the acquisition team to exercise discretion and use business judgment to determine the best approach for a particular acquisition.

12. Standards List

Comment: One respondent supported incorporating requirements for detection and avoidance of counterfeit electronic parts into key Quality Management Systems (QMS) standards (*e.g.* ISO 9000 and AS9100) and including counterfeit electronic parts avoidance and detection standards among the higher-level quality standards.

Response: Noted.

Comment: One respondent recommended that the standards listed in the proposed FAR 46.202–4(b) be more generic; also, applying examples like nuclear standards may mislead personnel into what the minimum requirements are.

Response: FAR 46.202–4(b) includes a list of examples of more specific standards to assist with selecting common standards.

Comments: One respondent recommended adding ISO/TS16949 to the list of higher-level quality standards. Another respondent supported standards that are specific to quality management systems (*e.g.* AS9100, ISO9001 and AS9003) and also incorporating counterfeit parts mitigation strategies through AS5553. One respondent commented that there are a number of different standards including SAE standard AS5553, ISO 27000 series, and Open Group Trusted Technology Provider Standard that help with counterfeit avoidance and supply chain risk management.

Response: The Councils added different examples of higher-level quality standards at FAR 46.202–4(b) to allow agencies flexibility to choose the standard that best meets their quality requirements. The standards listed are examples that could be used by agencies but this list is not exhaustive. The Councils concurred with adding the commodity specific quality management system standard for automotive production, ISO/TS16949. This case further clarifies language at FAR 46.202–4(b) that higher-level quality standards include both overarching quality management system standards and product or process specific quality standards. While the rule does not add a comprehensive list of higher-level quality standards, it does not preclude the use of standards not listed in the examples at FAR 46.202–4(b).

Comments: Several respondents commented that SAE AS6174 should not be included in the list of higher-level quality requirements since the document does not provide guidance to industry or Government in

implementing meaningful counterfeit avoidance processes for material. Two respondents commented that AS6174 should not be cited as guidance as it is not mature enough to use at this stage.

Response: The Councils have accepted this comment and have deleted reference to SAE AS6174 listed in FAR 46.202–4(b).

Comments: Two respondents commented that the proposed rule extends beyond electronic parts, which is outside of section 818 requirements and recommends the Government collaborate with industry on a risk assessment of counterfeit trends to determine the extent that non-electronic parts represent a counterfeiting risk. One respondent recommended that before expanding the scope of the rule beyond electronic parts, steps should be taken to (1) collect information from Federal agencies and departments on the extent to which counterfeit material other than electronics has been identified as a cause of product or system failure; (2) call for routine assessment of trends to determine the extent to which other material commodities emerge as a significant counterfeiting risk; and (3) encourage development of standards to address other material types. Another respondent recommended a phased-in approach to implementation to align with other section 818 regulatory cases.

Response: This rule does not directly implement any specific aspect of section 818, but recognizes the quality, reliability, and safety risk that counterfeit electronic parts represent.

This case removes outdated or obsolete standards and adds new examples of higher-level quality standards, including a standard related to counterfeiting. Contracting officers, along with technical personnel, are not restricted to the list of examples of higher-level quality standards, and may elect other standards that meet the Government's needs.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S. C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S. C. 601, *et seq.* The FRFA is summarized as follows:

The Government must identify items that are critical to accomplishment of the agency mission and apply higher-level quality requirements to those items. The contractor has an obligation to ensure that its deliverables meet the specified quality requirements, which also entails ensuring that its subcontractors adhere to the higher level quality standard where appropriate. This case proposes to (a) specify the higher-level quality requirement and (b) add this to the list of issues to be considered during contractor purchasing system reviews.

Two respondents expressed concern that this rule would have significant effects on small businesses, which would result in their withdrawal from participation in Government contracting. The FAR revisions made by the rule do not increase the burden on businesses, including small businesses, and the rule was not modified to allow for differing quality standards based on business size. No changes were made to the rule as a result of these comments. However, in response to another respondent, it was clarified that flowdown of the higher-level quality assurance standards will only apply to subcontracts involving critical or complex items, thus small business who do not comply with the higher level standards may still compete on other subcontracts.

Large and small businesses provide critical items directly to the Government or to Government prime contractors and these companies may be impacted by this rule. However, there is no easy way to identify the number of contracts that contain higher-level quality standards and how many of these are awarded to both large and small businesses.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S. C. chapter 35).

List of Subjects in 48 CFR Parts 44, 46, and 52

Government procurement.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 44, 46, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 44, 46, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

■ 2. Amend section 44.303 by—

■ a. Removing from the end of paragraph (i) ''and'';

■ b. Removing from the end of paragraph (j) the period and adding ''; and'' in its place; and

■ c. Adding paragraph (k).

The addition reads as follows:

44.303 Extent of review.

* * * * *

(k) Implementation of higher-level quality standards.

PART 46—QUALITY ASSURANCE

■ 3. Revise section 46.202–4 to read as follows:

46.202–4 Higher-level contract quality requirements.

(a) Agencies shall establish procedures for determining when higher-level contract quality requirements are necessary, for determining the risk (both the likelihood and the impact) of nonconformance, and for advising the contracting officer about which higher-level standards should be applied and included in the solicitation and contract. Requiring compliance with higher-level quality standards is necessary in solicitations and contracts for complex or critical items (see 46.203) or when the technical requirements of the contract require—

(1) Control of such things as design, work operations, in-process controls, testing, and inspection; or

(2) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(b) Examples of higher-level quality standards include overarching quality management system standards such as ISO 9001, ANSI/ASQC E4, ASME NQA–1, SAE AS9100, SAE AS9003, and ISO/TS 16949, and product or process specific quality standards such as SAE AS5553.

■ 4. Revise section 46.311 to read as follows:

46.311 Higher-level contract quality requirement.

(a) The contracting officer shall insert the clause at 52.246–11, Higher-Level Contract Quality Requirement, in solicitations and contracts when the inclusion of a higher-level contract quality requirement is necessary (see 46.202–4).

(b) For each higher-level quality standard, the contracting officer shall fill in the title, number, date, and tailoring (if any).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Revise section 52.246–11 to read as follows:

52.246–11 Higher-Level Contract Quality Requirement.

As prescribed in 46.311, insert the following clause:

Higher-Level Contract Quality Requirement (DEC 2014)

(a) The Contractor shall comply with the higher-level quality standard(s) listed below.

[*Contracting Officer insert the title, number, date, and tailoring (if any) of the higher-level quality standards.*]

(b) The Contractor shall include applicable requirements of the higher-level quality standard(s) listed in paragraph (a) of this clause and the requirement to flow down such standards, as applicable, to lower-tier subcontracts, in—

(1) Any subcontract for critical and complex items (see 46.203(b) and (c)); or

(2) When the technical requirements of a subcontract require—

(i) Control of such things as design, work operations, in-process control, testing, and inspection; or

(ii) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(End of clause)

[FR Doc. 2014–27661 Filed 11–24–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 16, 22, 31, 52, and 53

[FAC 2005–78; Item V; Docket No. 2014–0053; Sequence No. 4]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective:* November 25, 2014.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–78, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 1, 16, 22, 31, 52, and 53 this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 1, 16, 22, 31, 52, and 53

Government procurement.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 16, 22, 31, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 16, 22, 31, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by adding in numerical sequence, FAR segment ''52.203–13'' and its corresponding OMB Control Number ''9000–0164''.

PART 16—TYPES OF CONTRACTS

16.103 [Amended]

■ 3. Amend section 16.103 by removing paragraph (d) introductory text and paragraph (d)(3).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1006 [Amended]

■ 4. Amend section 22.1006 by—

■ a. Removing from paragraph (a)(2)(i)(C) ''52.204–8(c)(2)(ii) or (iii)'' and adding ''52.204–8(c)(2)(iii) or (iv)'' in its place;

■ b. Removing from paragraph (e)(2)(i) ''52.204–8(c)(2)(ii)'' and adding ''52.204–8(c)(2)(iii)'' in its place; and

■ c. Removing from paragraph (e)(4)(i) ''52.204–8(c)(2)(iii)'' and adding ''52.204–8(c)(2)(iv)'' in its place.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.109 [Amended]

■ 5. Amend section 31.109 by—

■ a. Adding the word ''and'' at the end of paragraph (h)(15);

■ b. Removing paragraph (h)(16); and

■ c. Redesignating paragraph (h)(17) as paragraph (h)(16).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 52.204–8 by removing paragraphs (c)(1)(xxi)(i) through (vi); and adding paragraph (c)(2) to read as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

(c) * * *

(2) The following certifications are applicable as indicated by the Contracting Officer:

[*Contracting Officer check as appropriate.*]

__ (i) 52.204–17, Ownership or Control of Offeror.

__ (ii) 52.222–18, Certification Regarding Knowledge of Child Labor for Listed End Products.

__ (iii) 52.222–48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

__ (iv) 52.222–52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.

__ (v) 52.223–9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

__ (vi) 52.227–6, Royalty Information.

__ (A) Basic.

__ (B) Alternate I.

__ (vii) 52.227–15, Representation of Limited Rights Data and Restricted Computer Software.

* * * * *

PART 53—FORMS

53.219 [Amended]

■ 7. Amend section 53.219 by removing ''(*Rev.* OCT 2014)'' and adding ''(Rev. 8/2014)'' in its place.

[FR Doc. 2014–27662 Filed 11–24–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0052, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–78; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–78, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–78, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: November 25, 2014.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–78 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–78

Item	Subject	FAR case	Analyst
*I	Incorporating Section K in Contracts	2014–001	Glover.
II	Streamlining Claims Processing	2014–011	Loeb.
*III	Year Format	2014–006	Loeb.
*IV	Higher-Level Contract Quality Requirements	2012–032	Loeb.
V	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–78 amends the FAR as specified below:

Item I—Incorporating Section K in Contracts (FAR Case 2014–001)

This final rule revises the language at FAR subpart 4.12, Representations and Certifications, and adds a new clause at FAR 52.204–19 to standardize the incorporation by reference of representations and certifications in contracts regardless of which contract award form is used. FAR clause 52.212–4 has a new paragraph (v) to cover this issue for commercial items.

Peer reviews and procurement management reviews have found that Section K—Representations and Certifications are inconsistently or not incorporated in contract awards.

This final rule does not change or impact the existing representations and certifications submitted by small entities; this final rule should have no impact on small entities.

Item II—Streamlining Claims Processing (FAR Case 2014–011)

This final rule implements the Streamlining Claims Processing for Federal Contractor Employees Act, Pub. L. 113–50, which transferred certain authority for construction wage under-payments from the Government Accountability Office to the Department of Labor. There is no effect on small businesses.

Item III—Year Format (FAR Case 2014–006)

This final rule amends the FAR to delete obsolete regulations relating to the year 2000 compliance. There is no impact on small businesses.

Item IV—Higher-Level Contract Quality Requirements (FAR Case 2012–032)

This final rule amends FAR parts 44 and 46 to (1) provide that agencies should establish procedures for determining when higher-level quality standards are to be included in a contract, (2) provide that higher-level quality standards should be given special attention during Contractor Purchasing System Reviews, and (3) adds an example of higher-level quality standards as it relates to counterfeit electronic parts. The contracting officer, in accordance with agency procedures, will choose the higher-level quality standards that will apply. These standards will be used to help minimize and mitigate counterfeit items or suspect counterfeit items in Government contracting. This rule impacts large and small businesses who provide critical items directly to the Government or to Government prime contractors.

Item V—Technical Amendments

Editorial changes are made at FAR 1.106, 16.103, 22.1006, 31.109, 52.204–8, and 53.219.

Dated: November 17, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–27663 Filed 11–24–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Tuesday,

No. 227 November 25, 2014

Part IV

Environmental Protection Agency

40 CFR Part 98

Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2011–0512; FRL–9918–95–OAR]

RIN 2060–AR96

Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing revisions and confidentiality determinations for the petroleum and natural gas systems source category and the general provisions of the Greenhouse Gas Reporting Rule. These revisions include changes to certain calculation methods, amendments to certain monitoring and data reporting requirements, clarification of certain terms and definitions, and corrections to certain technical and editorial errors that have been identified during the course of implementation. This action also finalizes confidentiality determinations for new or substantially revised data elements contained in these amendments and revises the confidentiality determination for one existing data element.

DATES: This final rule is effective on January 1, 2015.

ADDRESSES: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReportingRule@epa.gov.* For technical information, please go to the Greenhouse Gas Reporting Rule Web site, *http://www.epa.gov/ghgreporting/.* To submit a question, select Help Center, followed by ''Contact Us.''

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on the EPA's Greenhouse Gas Reporting Rule Web site at *http://www.epa.gov/ghgreporting/index.html.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. This final rule revises certain calculation methods, monitoring, and data reporting requirements and finalizes confidentiality determinations for the petroleum and natural gas systems source category and the general provisions of the Greenhouse Gas Reporting Rule (40 CFR part 98). The Administrator determined that 40 CFR part 98 is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of section 307(d) apply to ''such other actions as the Administrator may determine''). Entities affected by this final rule are owners and operators of petroleum and natural gas systems that directly emit greenhouse gases (GHGs), which include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
Petroleum and Natural Gas Systems	211111	Crude petroleum and natural gas extraction.
	211112	Natural gas liquid extraction.
	221210	Natural gas distribution.
	486210	Pipeline transportation of natural gas.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. Types of facilities other than those listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A and 40 CFR part 98, subpart W. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What is the effective date? The final rule is effective on January 1, 2015. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. The EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' Thus, section 553(d) of the APA does not apply to this rule. The EPA is nevertheless acting consistently with the purposes underlying APA section 553(d) in making this rule effective on January 1, 2015. Section 5 U.S.C. 553(d)(3) allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' As explained below, the EPA finds that there is good cause for this rule to become effective on January 1, 2015, even though this may result in an effective date fewer than 30 days from date of publication in the **Federal Register**.

While this action is being signed prior to December 1, 2014, there is likely to be a significant delay in the publication of this rule as it contains complex equations and tables and is relatively long. As an example, the EPA Administrator signed the Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems proposed rule on February 7, 2014, but the proposed rule was not published in the **Federal Register** until March 10, 2014 (79 FR 13394). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their

behavior and prepare before the final rule takes effect.

To employ the 5 U.S.C. 553(d)(3) ''good cause'' exemption, an agency must balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.[1] Where, as here, the final rule will be signed and made available on the EPA Web site more than 30 days before the effective date, but where the publication is likely to be delayed due to the complexity and length of the rule, the regulated entities are afforded this reasonable amount of time. This is particularly true given that many of the revisions being made in this package provide flexibilities to sources covered by the reporting rule, or otherwise relieve a restriction. We balance these circumstances with the need for the amendments to be effective by January 1, 2015; a delayed effective date would result in regulatory uncertainty, program disruption, and an inability to have the amendments (many of which clarify requirements, relieve burden, and/or are made at the request of the regulated facilities) effective for the 2015 reporting year. Accordingly, we find good cause exists to make this rule effective on January 1, 2015, consistent with the purposes of 5 U.S.C. 553(d)(3).

Judicial Review. Under CAA section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by January 26, 2015. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Section 307(d)(7)(B) of the CAA also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, William Jefferson Clinton Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Note that under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

AGR—acid gas removal
APA—Administrative Procedure Act
API—American Petroleum Institute
BAMM—best available monitoring methods
CAA—Clean Air Act
CBI—confidential business information
CFR—Code of Federal Regulations
CH_4—methane
CO_2—carbon dioxide
CO_2e—carbon dioxide equivalent
EIA—Energy Information Administration
EPA—U.S. Environmental Protection Agency
FERC—Federal Energy Regulatory Commission
FR—Federal Register
GHG—greenhouse gas
GOR—gas to oil ratio
HHV—higher heating value
hp—horsepower
ICR—information collection request
ID—identification
IR—infrared
LNG—liquefied natural gas
mmBtu—million British thermal units
MMscf—million standard cubic feet
N_2O—nitrous oxide
NAICS—North American Industry Classification System
NESHAP—National Emission Standards for Hazardous Air Pollutants
NGL—natural gas liquids
NOD—not-operating-depressurized
NSPS—New Source Performance Standards
NTTAA—National Technology Transfer and Advancement Act
O&M—operation and maintenance
OMB—Office of Management and Budget
psig—pounds per square inch gauge
QA/QC—quality assurance/quality control
REC—reduced emissions completion
RFA—Regulatory Flexibility Act
scf—standard cubic feet
U.S.—United States
UMRA—Unfunded Mandates Reform Act of 1995
WWW—worldwide web

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. Background
A. Organization of This Preamble
B. Background on This Action
C. Legal Authority
D. How do these amendments apply to 2014 and 2015 reports?
II. Summary of Final Revisions and Other Amendments to Subpart W and Responses to Public Comment
A. Summary of Final Revisions to Provide Consistency Throughout Subpart W
B. Summary of Final Revisions to Calculation Methods and Reporting Requirements
C. Summary of Final Revisions to Missing Data Provisions
D. Summary of Final Amendments to Best Available Monitoring Methods
E. Summary of Final Additions of New Data Elements and Revisions to Reporting Requirements
III. Final Confidentiality Determinations
A. Summary of Final Confidentiality Determinations for New or Revised Subpart W Data Elements
B. Summary of Public Comments and Responses on the Proposed Confidentiality Determinations
IV. Impacts of the Final Amendments to Subpart W
A. Impacts of the Final Amendments
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V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act (UMRA)
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act (NTTAA)
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background

A. Organization of This Preamble

Section I of this preamble provides background information regarding the origin of the final amendments. This section also discusses the EPA's legal authority under the CAA to promulgate and amend 40 CFR part 98 of the Greenhouse Gas Reporting Rule (hereinafter referred to as ''Part 98'') as well as the legal authority for making confidentiality determinations for the data to be reported. Section II of this preamble contains information on the final revisions to Part 98, subpart W (Petroleum and Natural Gas Systems) (hereinafter referred to as ''subpart W''), including a summary of the major comments that the EPA considered in

[1] *Omnipoint Corp.* v. *FCC,* 78 F3d 620, 630 (D.C. Cir. 1996), quoting *U.S.* v. *Gavrilovic,* 551 F.2d 1099, 1105 (8th Cir. 1977).

the development of this final rule. Section III of this preamble discusses the final confidentiality determinations for new or substantially revised (*i.e.,* requiring additional or different data to be reported) data reporting elements, as well as a revised confidentiality determination for one existing data element. Section IV of this preamble discusses the impacts of the final amendments to subpart W. Finally, Section V of this preamble describes the statutory and executive order requirements applicable to this action.

B. Background on This Action

On October 30, 2009, the EPA published Part 98 for collecting information regarding GHGs from a broad range of industry sectors (74 FR 56260). The 2009 rule, which finalized reporting requirements for 29 source categories, did not include the Petroleum and Natural Gas Systems source category. A subsequent rule was published on November 30, 2010, finalizing the requirements for the Petroleum and Natural Gas Systems source category at 40 CFR part 98, subpart W (75 FR 74458) (hereinafter referred to as ''the subpart W 2010 final rule''). Following promulgation, the EPA finalized several actions revising subpart W (76 FR 22825, April 25, 2011; 76 FR 59533, September 27, 2011; 76 FR 80554, December 23, 2011; 77 FR 51477, August 24, 2012; 78 FR 25392, May 1, 2013; 78 FR 71904, November 29, 2013; 79 FR 63750, October 24, 2014).

On March 10, 2014, the EPA proposed the ''Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Proposed Rule'' (79 FR 13394) to make revisions to certain provisions of subpart W, including the clarification and correction of certain calculation methods, monitoring, and reporting requirements for which errors were identified during the course of implementation. At that time, the EPA also proposed confidentiality determinations for new and substantially revised (*i.e.,* requiring additional or different data to be reported) data elements contained in the proposed amendments, as well as a revised confidentiality determination for one existing data element. The public comment period for these proposed rule amendments ended on April 24, 2014.

In this action, the EPA is finalizing certain revisions to the subpart W calculation, monitoring, and reporting requirements with some changes made in response to public comments and one clarifying edit, as proposed, to a definition in the general provisions (Part 98, subpart A) that applies to subpart W reporters. Responses to comments submitted on the proposed amendments can be found in Sections II, III, and IV of this preamble as well as in the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512.

C. Legal Authority

The EPA is finalizing these rule amendments under its existing CAA authority provided in CAA section 114. As stated in the preamble to the 2009 final GHG reporting rule (74 FR 56260, October 30, 2009), CAA section 114(a)(1) provides the EPA broad authority to require the information to be gathered by this rule because such data would inform and are relevant to the EPA's carrying out a wide variety of CAA provisions. See the preambles to the proposed (74 FR 16448, April 10, 2009) and final GHG reporting rule (74 FR 56260, October 30, 2009) for further information.

In addition, pursuant to sections 114, 301, and 307 of the CAA, the EPA is publishing final confidentiality determinations for the new or substantially revised data elements and a revised confidentiality determination for one existing data element, required by these amendments. Section 114(c) requires that the EPA make information obtained under section 114 available to the public, except for information that qualifies for confidential treatment. The Administrator has determined that this action is subject to the provisions of section 307(d) of the CAA.

D. How do these amendments apply to 2014 and 2015 reports?

These amendments are effective on January 1, 2015. Thus, beginning on January 1, 2015, facilities must follow the revised methods in subpart W, as amended, to calculate emissions occurring during the 2015 calendar year. The first annual reports of emissions calculated using the amended requirements will be those submitted by March 31, 2016, covering the 2015 calendar year. For the 2014 calendar year, reporters will continue to calculate emissions and other relevant data for the reports that are submitted according to the requirements in Part 98 that are applicable to the 2014 calendar year (*i.e.,* the requirements in place until the effective date of this final rule). For this reason, we determined that it was not appropriate to revise Table A–7 to subpart A of Part 98 to reflect the revised reporting requirement section references in this final rule. For the 2011 through 2014 calendar years, subpart W reporters must report any data that are inputs to emissions equations according to the requirements in 40 CFR 98.3(c)(vii) and in Table A–7 to subpart A of Part 98 following the requirements in Part 98 that are applicable for that calendar year. For more information on the reporting of 2011 through 2014 data that are inputs to emissions equations, see 79 FR 63750 (October 24, 2014).

As noted in Section II.D of this preamble, we are providing short-term transitional best available monitoring methods (BAMM) for reporters for emission sources that are subject to new monitoring or measurement requirements as part of these final revisions. These reporters have the option of using BAMM from January 1, 2015, to March 31, 2015, without seeking prior EPA approval for certain parameters that cannot reasonably be measured according to the monitoring and quality assurance/quality control (QA/QC) requirements of 40 CFR 98.234. Reporters also have the opportunity to request an extension for the use of BAMM from April 1, 2015, through December 31, 2015; those owners or operators must submit a request to the EPA by January 31, 2015.

II. Summary of Final Revisions and Other Amendments to Subpart W and Responses to Public Comment

The EPA is finalizing technical corrections, clarifying revisions, and other amendments to subpart W. These final amendments improve the quality and consistency of the collected data, and many of the changes are in response to feedback received from stakeholders during program implementation. These final amendments include changes to clarify or simplify calculation methods for certain sources at a facility; revisions to units of measure, terms, and definitions in certain equations to provide consistency throughout the rule, provide clarity, or better reflect facility operations; revisions to reporting requirements to clarify and align more closely with the calculation methods and to clearly identify the data that must be reported; and other revisions identified as a result of working with the affected sources.

Sections II.A through II.E of this preamble describe the corrections and other amendments that we are finalizing in this rulemaking. Section II.A describes revisions which provide consistency throughout subpart W, including revisions to definitions. Section II.B describes the final revisions to calculation methods and reporting requirements for the emission source types identified in subpart W. Section II.C describes the final revisions to the

missing data procedures of subpart W. Subpart II.D provides a summary of the final amendments to the best available monitoring requirements. Finally, Section II.E describes the final additions of new data elements and revisions to reporting requirements. The amendments described in each section are followed by a summary of the major comments on those amendments and the EPA's responses. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and the EPA's responses.

In addition to the specific revisions or amendments discussed in this section of the preamble, the EPA is finalizing minor technical revisions to subpart W. These revisions improve readability, create consistency in terminology, and/or correct typographical or other errors in subpart W to improve the final rule. These final revisions are further explained in the memorandum, ''Minor Technical Corrections to Subpart W, Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule'' and the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512.

A. Summary of Final Revisions To Provide Consistency Throughout Subpart W

This section includes minor cascading revisions that affect multiple requirements of subpart W. Sections II.A.1 through II.A.3 describe the amendments we are finalizing in this rulemaking and, if major comments were received, provide a summary of the major comments and the EPA's responses.

1. Consistency in Units of Measure for Emissions Reporting

The EPA is amending 40 CFR 98.236 to revise the reporting of GHG emissions from units of metric tons of carbon dioxide equivalent (CO_2e) of each reported GHG to metric tons of each reported GHG. Specifically, we are revising the units of emissions reported in 40 CFR 98.236 to require reporting in metric tons of methane (CH_4), carbon dioxide (CO_2), and nitrous oxide (N_2O), as applicable, instead of reporting each gas in metric tons of CO_2e. The cumulative GHG emissions in units of metric tons of CO_2e across all pollutants will also be reported as required in the general provisions at 40 CFR 98.3(c)(4)(i). These changes increase consistency between the reporting requirements for subpart W and the rest of Part 98, which generally requires the reporting of metric tons of individual GHGs. The EPA received only supportive comments to these revisions. The final amendments remove a reference to CO_2e in the introductory paragraph of 40 CFR 98.236(a) that was inadvertently retained in the proposal. Otherwise, these revisions are finalized as proposed.

2. Onshore Production Source Category Definition

a. Summary of Final Revisions

We are finalizing, with minor changes from proposal, amendments to the source category definition of ''onshore petroleum and natural gas production'' at 40 CFR 98.230(a)(2) to clarify the emission sources covered for purposes of GHG reporting. As proposed, we are adding references to engines, boilers, heaters, flares, and separation and processing equipment, and we are removing references to gravity separation equipment and auxiliary non-transportation-related equipment for being redundant with other sources specified in the definition. In this final rule, we are not including the reference to ''maintenance and repair equipment'' that was included in the proposed rule after considering public comments indicating confusion regarding that proposed text. Thus, the first sentence of 40 CFR 98.230(a)(2) reads, ''Onshore petroleum and natural gas production means all equipment on a single well-pad or associated with a single well-pad (including but not limited to compressors, generators, dehydrators, storage vessels, engines, boilers, heaters, flares, separation and processing equipment, and portable non-self-propelled equipment, which includes well drilling and completion equipment, workover equipment, and leased, rented or contracted equipment) used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum and/or natural gas (including condensate).''

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to the proposed amendments to the source category definition of ''onshore petroleum and natural gas production.'' See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and the EPA's responses.

Comment: Two commenters supported part of the proposed revisions to the source category definition of ''onshore petroleum and natural gas production'' at 40 CFR 98.230(a)(2). These commenters supported the removal of the term ''auxiliary non-transportation related equipment'' but objected to the addition of the term ''maintenance and repair equipment.'' One commenter asserted that based on the current rule language, maintenance and repair equipment is not included in the onshore production industry segment because this equipment is not directly used in the production, extraction, recovery, lifting, stabilization, separation, or treating of petroleum and natural gas. Two commenters pointed to the description of stationary or portable fuel combustion equipment in 40 CFR 98.232(c)(22), which includes only emissions from equipment that is ''integral to the extraction, processing, or movement of oil or natural gas.'' These commenters asserted that maintenance and repair equipment is not integral. The commenters stated that the proposed rule expands the definition, which places an undue burden on industry because emissions from maintenance and repair equipment, such as welding machines and pressure washers, are small relative to integral equipment like prime movers, and the equipment is frequently moved between well sites and tracking is difficult. The commenters requested that the EPA remove the term ''maintenance and repair equipment'' from the final definition.

Response: The EPA recognizes that, by specifically including reference to maintenance and repair equipment within the parenthetical, some reporters may misinterpret that to mean all maintenance and repair equipment, regardless of whether or not that equipment is actually used in the production, extraction, recovery, lifting, stabilization, and separation or treating of petroleum and/or natural gas. This was not our intent. To reduce the potential for confusion, we are removing the reference to ''maintenance and repair equipment'' from the source category definition for the onshore petroleum and natural gas production segment in this final rule. However, the EPA notes that the parenthetical list is not an all-inclusive list (''. . . including but not limited to . . .'') and, as noted at 40 CFR 98.232(c)(22), if the facility has maintenance and repair equipment that is integral to the continued production, extraction, recovery, lifting, stabilization, separation or treating of petroleum and/or natural gas, then it would be covered by the onshore petroleum and natural gas production segment.

With respect to the need to determine combustion emissions from maintenance and repair equipment, 40 CFR 98.232(c)(22) requires emissions ''. . . from stationary or portable fuel combustion equipment that cannot move under its own power or drive train, and that is located at an onshore petroleum and natural gas production facility . . .'' to be reported. 40 CFR 98.232(c)(22) further specifies that ''[s]tationary or portable equipment are the following equipment, which are integral to the extraction, processing, or movement of oil or natural gas: Well drilling and completion equipment, workover equipment, natural gas dehydrators, natural gas compressors, electrical generators, steam boilers and process heaters.'' The list provided in 40 CFR 98.232(c)(7)(22) is not open-ended and few pieces of ''maintenance and repair equipment'' would qualify as ''stationary or portable equipment'' for which combustion emissions must be calculated and reported. If the maintenance and repair equipment have applicable combustion emissions, reporters must report the emissions from this equipment provided that it includes external combustion sources with rated heat capacity greater than 5 million British thermal units (mmBtu) per hour or internal fuel combustion sources with rated heat capacity greater than 1 mmBtu per hour (or 130 horsepower (hp)), as specified in 40 CFR 98.233(z).

3. Definition of Sub-Basin Category

a. Summary of Final Revisions

The EPA is finalizing, as proposed, revisions to the definition of sub-basin category at 40 CFR 98.238. Specifically, we have defined sub-basin category as ''a subdivision of a basin into the unique combination of wells with the surface coordinates within the boundaries of an individual county and subsurface completion in one or more of each of the following five formation types: Oil, high permeability gas, shale gas, coal seam, or other tight gas reservoir rock. The distinction between high permeability gas and tight gas reservoirs shall be designated as follows: High permeability gas reservoirs with greater than 0.1 millidarcy permeability and tight gas reservoirs with less than or equal to 0.1 millidarcy permeability. Permeability for a reservoir type shall be determined by engineering estimate. Wells that produce only from high permeability gas, shale gas, coal seam, or other tight gas reservoir rock are considered gas wells; gas wells producing from more than one of these formation types shall be classified into only one type based on the formation with the most contribution to production as determined by engineering knowledge. All wells that produce hydrocarbon liquids (with or without gas) and do not meet the definition of a gas well in this sub-basin category definition are considered to be in the oil formation. All emission sources that handle condensate from gas wells in high permeability gas, shale gas, or tight gas reservoir rock formations are considered to be in the formation that the gas well belongs to and not in the oil formation.''

b. Summary of Comments and Responses

The EPA received only supportive comments regarding these revisions, therefore, there are no changes from proposal to the final rule based on these comments.

B. Summary of Final Revisions to Calculation Methods and Reporting Requirements

The final amendments described in this section include technical revisions and corrections to the calculation and reporting requirements of subpart W. In general, these revisions provide greater flexibility and potentially reduce burden to facilities, and they increase the clarity and congruency of the calculation and reporting requirements.

These final amendments also include organizational revisions to the reporting requirements in 40 CFR 98.236. These revisions restructure 40 CFR 98.236 to more closely align the reporting requirements with the calculation methods, clarify the data elements to be reported, and improve data utility. As proposed, we are reorganizing the reporting section by source type and, for each industry segment, listing which source types must be reported. We are also finalizing the addition of new data elements which would improve the quality of the data reported. These additional data elements are discussed in Section II.E of this preamble.

The final amendments to the calculation and reporting requirements in subpart W are described in this section by emission source type (*e.g.,* natural gas pneumatic device venting, acid gas removal vents, etc.). The amendments for each source type are followed by a summary of the major comments, if any, on those amendments and the EPA's responses. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and the EPA's responses. Additional minor corrections, including minor edits to the calculation requirements of the final rule, are included in the memorandum, ''Minor Technical Corrections to Subpart W, Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule'' in Docket Id. No. EPA–HQ–OAR–2011–0512. Further information on the final changes to the reporting section may be found in the memorandum, ''Final Revisions to the Subpart W Reporting Requirements in the 'Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule' '' in Docket Id. No. EPA–HQ–OAR–2011–0512.

1. Natural Gas Pneumatic Device Venting

a. Summary of Final Revisions

We are finalizing revisions to Equation W–1 in 40 CFR 98.233(a) to sum the natural gas pneumatic device venting emissions across all types of pneumatic devices with minor revisions. We are revising the summation symbol to remove the ''i'' at the bottom of the summation symbol, which was inadvertently included with the summation symbol. This revision is needed to clarify that the summation is across different types of pneumatic devices (designated by ''t'') and not across different GHGs (designated by ''i''). We are finalizing revisions to 40 CFR 98.233(a)(1), (a)(2), and (a)(3) as proposed to simplify how ''$Count_t$'' of Equation W–1 (total number of natural gas pneumatic devices of type ''t'') must be calculated each year as new devices are added. For the onshore petroleum and natural gas production industry segment, reporters continue to have the option in the first two reporting years to estimate ''$Count_t$'' using engineering estimates. The EPA is also finalizing the reporting requirements with minor revisions from proposal. Specifically, the EPA is clarifying that certain reporting requirements in 40 CFR 98.236(b)(1) and (2) should be reported by device type. These revisions clarify our original intent and address public comments received.

b. Summary of Comments and Responses

Comment: One commenter noted that it appears that the EPA is removing the requirement to report information separately for each pneumatic controller type (continuous high bleed, continuous low bleed, intermittent bleed) and is instead requesting that all information from all three categories be lumped together in the proposed revisions to 40

CFR 98.236(b). According to the commenter, this seems like a backwards step in data collection and, given the current high interest in pneumatic controllers in oil and gas sector studies and by the EPA in technical white papers on the oil and gas sector, it seems illogical for the EPA to stop collecting this device-type-specific information. The commenter also noted a discrepancy between the proposed rule text at 40 CFR 98.236(b), which says ''you must report the information specified in paragraphs (b)(1) through (b)(4) of this section'' while the memorandum entitled ''Revisions to the Subpart W Reporting Requirements as proposed in the Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Proposed Rule'' says ''you must report the information specified in paragraphs (b)(1) through (b)(4) of this section for each device type.''

Response: The EPA agrees with the commenter that certain reporting elements in 40 CFR 98.236(b) should be reported by device type. We removed the phrase ''for each device type'' from paragraph 40 CFR 98.236(b) prior to proposal because the reporting elements in paragraphs (b)(3) and (b)(4) are aggregate emissions across the three device types (''. . . combined, calculated using Equation W–1''). It was not our intent to collect aggregated data regarding the number of pneumatic devices. For example, the reporting element in paragraph 40 CFR 98.236(b)(2) specifically indicates that the reporting element is ''T_t'' in Equation W–1, which is specific to the type of pneumatic device. To address this issue, we are revising paragraphs (b)(1)(i), (b)(1)(ii)(A) and (B), and (b)(2) to indicate that these reporting elements must be reported for each type of pneumatic device. These data will allow the EPA to verify the aggregate emissions calculated using Equation W–1 and perform more detailed analysis of emissions by device type.

2. Acid Gas Removal Vents

a. Summary of Final Revisions

For acid gas removal (AGR) vents, we are finalizing several technical revisions as proposed and adding minor clarifying revisions to address public comments received. We are finalizing minor clarifying edits to 40 CFR 98.233(d) as proposed to clearly label each calculation method and to clarify provisions by providing references to equations where appropriate. We are also finalizing the proposed revisions to the parameters ''Vol_{CO2}'' in Equation W–3 and parameters ''Vol_I'' and ''Vol_O'' in Equation W–4A and W–4B to clarify that the volumetric fraction used should be the annual average. As proposed, we are specifying in 40 CFR 98.233(d)(8) that reporters may use sales line quality specifications for CO_2 in natural gas only if a continuous gas analyzer is not available.

In response to public comments, we are making four minor corrections and clarifying revisions to the calculation and reporting requirements for AGR units. First, we are removing an errant proposed requirement in 40 CFR 98.236(d)(10) to calculate annual mass emissions ''at standard conditions.'' Second, in response to a comment that the sub-basin identification (ID) reporting requirement in 40 CFR 98.236(d)(1)(vi) is unclear when an AGR unit treats gas from wells in more than one sub-basin, we are revising the data element to require reporting of the sub-basin ID ''that best represents the wells supplying gas to the unit.'' Third, in response to comments on the proposed missing data procedures for AGR units (proposed 40 CFR 98.235(a), we are adding the clause ''. . . for each quarter that the AGR unit is operating . . .'' in paragraphs 40 CFR 98.233(d)(6), (7), and (8)(ii) to clarify that quarterly samples are only required to be collected for quarters when the unit is operated. Fourth, in response to a comment on the proposed confidentiality determinations for AGR units, we are correcting the reporting requirements for the amount of CO_2 from AGR units that is recovered and transferred outside the facility (40 CFR 98.236(d)(1)(iv)); the requirement to report this quantity ''under subpart PP'' was inadvertently omitted from the proposed rule. See Section II.C of this preamble for additional discussion of changes to the missing data procedures related to AGR units, and see Section III.B of this preamble for additional discussion of the confidentiality determination for the data element related to reporting the amount of CO_2 recovered and transferred outside the facility.

b. Summary of Comments and Responses

The EPA did not receive any major comments on the proposed revisions to the calculation and reporting requirements for AGR units. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

3. Dehydrators

a. Summary of Final Revisions

The EPA is clarifying that Calculation Method 1 in 40 CFR 98.236(e)(1) is not applicable to desiccant dehydrators. We proposed this clarification by including the word ''absorbent'' to describe the types of dehydrators for which Calculation Method 1 applies. We received comment that the term ''absorbent dehydrators'' was not a common term used by industry and was not defined in the rule. We are finalizing amendments to both 40 CFR 98.236(e)(1) and (e)(3) to clarify our original intent that Calculation Method 1 is applicable to glycol (liquid absorbent) dehydrators and that emissions from desiccant dehydrators of any size should be determined using Calculation Method 3 in 40 CFR 98.236(e)(3). We are finalizing revisions as proposed to clarify that the 0.4 million standard cubic feet (MMscf) per day throughput relates to the natural gas throughput of the dehydrator for determining the applicability of Calculation Method 1. We are finalizing revisions to clarify the calculation methods for dehydrators to provide for the adjustment of emissions vented to a vapor recovery system as proposed. We are finalizing clarifications to the calculation of emissions when vented to a flare with minor revisions to those proposed. Specifically, we are including reference to 40 CFR 98.233(e)(5) in paragraph (e)(6)(i) in the event a portion of the dehydrator vent emissions are recovered and a portion are vented to a flare. Finally, we are finalizing, as proposed, clarification to the reporting requirements in 40 CFR 98.236(e)(2) for glycol dehydrators with an annual average daily natural gas throughput less than 0.4 MMscf per day to account for scenarios in which a dehydrator may be vented to more than one emission point (*e.g.,* with one vent routed to a flare and one vent routed to vapor recovery).

b. Summary of Comments and Responses

Comment: One commenter objected to the term ''absorbent dehydrator.'' The commenter stated that this is not a term used by industry, is not defined in the rule, and may cause confusion with desiccant dehydrator requirements as they use an absorbent. The commenter recommended the term ''glycol dehydrator'' be used rather the proposed ''absorbent dehydrator'' term.

Response: The EPA agrees with the commenter in that desiccant dehydrators use a solid absorbent, so the term ''absorbent dehydrator'' is

ambiguous. We considered amending the descriptive clause to ''liquid absorbent'' dehydrators; however, based on available information, liquid absorbent systems use glycol and the term glycol dehydrators is already used to describe the dehydrators for which Calculation Method 2 is applicable. Therefore, to clarify our original intent, we are replacing the proposed ''absorbent dehydrator'' term with the term ''glycol dehydrator'' in the first sentence in 40 CFR 98.236(e)(1). We are also revising the first sentence in 40 CFR 98.233(e)(3) to begin as follows: ''For dehydrators of any size that use desiccant, you must calculate emissions . . .'' These edits clarify our original intent and address the commenter's concerns regarding the proposed ''absorbent dehydrator'' term.

4. Well Venting for Liquids Unloading

a. Summary of Final Revisions

As proposed, the EPA is revising the calculation and reporting requirements for well venting from liquids unloading. These revisions include allowances for annualizing venting data for facilities that calculate emissions using a recording flow meter (Calculation Method 1 at 40 CFR 98.233(f)(1)); revisions to Calculation Method 1 at 40 CFR 98.233(f)(1) and reporting requirements at 40 CFR 98.236 to separate the calculation and reporting of emissions from wells that have plunger lifts and wells that do not have plunger lifts; and clarification of the term ''SP_p'' in Equation W–8 (40 CFR 98.233(f)(2)) to specify that, if casing pressure is not available for each well, reporters may determine the casing pressure using a ratio of the casing pressure to tubing pressure from a well in the same sub-basin where the casing pressure is known.

b. Summary of Comments and Responses

The EPA received supportive comments for the proposed revisions and did not receive major comments opposing the proposed revisions to the calculation and reporting requirements for well venting from liquids unloading. The EPA is not making any changes to the proposed amendments in the final rule as a result of public comments. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

5. Gas Well Completions and Workovers

a. Summary of Final Revisions

The EPA is finalizing several definitions pertinent to gas well completions and workovers. The EPA is finalizing amendments to 40 CFR 98.238 to add definitions for ''reduced emissions completion'' and ''reduced emissions workover'' with minor revisions from the proposed definitions. The proposed definitions of these terms implied that there would be no direct releases to the atmosphere. Public comments indicated that this phrase was too restrictive and we have revised the definition to clarify that a ''reduced emissions completion'' or a ''reduced emissions workover'' will have de minimis venting to the atmosphere and may have short periods of flaring. The EPA is finalizing as proposed the definition of ''well completions'' in 40 CFR 98.6 of subpart A to delete the term ''re-fracture'' as this term applies to an already producing well and is considered a well workover, not a well completion, for the purposes of part 98.

We are also revising the reporting requirements for gas well completions and workovers to differentiate between different well type combinations in each sub-basin category, as proposed. A well type combination is a unique combination of the following factors: Vertical or horizontal, with flaring or without flaring, and reduced emissions completion (REC)/workover or no REC/workover.

As proposed, we are revising Equation W–10A, the time variable ''T_p'' in Equation W–10A and W–10B, the calculation section at 40 CFR 98.233(g) and (h), and Equation W–13 in 40 CFR 98.233(h) and adding new Equation W–13B in 40 CFR 98.233(h). We are revising 40 CFR 98.233(g)(1) and (g)(2) as proposed to clarify measurement requirements. We are also finalizing revisions as proposed for the parameter ''$PR_{s,p}$'' in Equations W–10A and W–10B and Equation W–12 to clarify that the first 30 day average production flow rate is the average taken after completions of newly drilled gas wells or workovers.

The final rule also corrects two errors in the proposed reporting requirements in 40 CFR 98.236(g)(5)(i) so that the final reporting requirements are consistent with the variables used in the revised Equation W–10A. First, the final rule uses the term ''flowback'' instead of ''backflow.'' Second, instead of requiring reporting of the ''cumulative backflow time,'' which is an artifact of requirements in the subpart W 2010 final rule, the final 40 CFR 98.236(g)(5)(i) requires reporting of the cumulative gas flowback time from when gas is first detected until sufficient quantities are present to enable separation (''$T_{p,i}$'' in Equation W–10A) and the cumulative flowback time after sufficient quantities of gas are present to enable separation (''$T_{p,s}$'' in Equation W–10A).

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to the proposed amendments to gas well completions and workovers. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Two commenters asserted that the proposed rule significantly increases the burden by expanding the definition of well type in 40 CFR 98.233(g)(2) to differentiate between the scenarios of with or without flaring and with REC/workover or without REC/workover. The commenters stated that expanding the well type definition increases the maximum number of measurement combinations to be reported from 10 (five formation types and two well types) to 40 (five formation types and eight well types). Additionally, one commenter stated that it is difficult for reporters to identify and plan for which wells to measure, because the reporter cannot predict whether a well will need a flare or a vent until after beginning the actual flowback. The commenter noted that implementation of 40 CFR part 60, subpart OOOO, will sharply reduce, but not eliminate, the number of flowbacks where gas is not flared and/or RECs are not performed; therefore, these scenarios will still be present and would need to be measured. Another commenter requested that the EPA reconsider splitting the reporting and measurement categories for well completions and workovers because reporters have established data collection and management systems based on the existing well types. The commenter stated that the proposed changes would double or quadruple the number of required measurements or calculations, input data management, and reporting requirements. One commenter supported the changes in the data collection, stating that disaggregated data will help distinguish emissions by well type and control technology, facilitate a deeper understanding of the factors affecting oil and gas sector emissions, and improve the data for use in the Inventory of U.S. Greenhouse Gas Emissions and Sinks.

Response: In the final rule, the EPA is maintaining the requirement to measure emissions separately per sub-basin and well type combination instead of aggregations of these distinct operational practices. As some commenters noted, the disaggregated

data will improve data quality for emissions from gas well completions and workovers with hydraulic fracturing. We disagree with some of the commenters that the new requirements will impose a significant additional burden on reporters. The EPA expects that operational practices will generally be the same in a given sub-basin and considers it unlikely that a reporter would conduct drilling activities for a given sub-basin in all the different well type combinations of vertical or horizontal, with flaring or without flaring, and REC/workover or no REC/workover. For example, gas well hydraulic fracturing focused on horizontal drilling in a shale gas formation in a county using reduced emissions completions and flaring would constitute one category. As one commenter noted, owners or operators of gas wells must comply with 40 CFR part 60, subpart OOOO. While some of the other categories may be present for some reporters, compliance with subpart OOOO will result in most reporters being in the category of reduced emissions completions with flaring. Additionally, subpart W provides flexibility by allowing reporters to determine flowback rates using engineering calculations provided in Equations W–11A or W–11B.

Comment: One commenter asked whether the proposed definition for REC was intended to be consistent with the definition used in 40 CFR part 60, subpart OOOO. The commenter requested that if this is the EPA's intent, then the definition should be expanded to clarify that there may be some degree of venting during some portion of the flowback period. The commenter stated that the proposed Part 98 definition does not acknowledge that flowback is vented, and that the definition should include clarification. The commenter noted that, as proposed, the definition of ''reduced emissions completion'' would result in no RECs reported due to the phrase ''no direct release to the atmosphere.'' In addition, the commenter stated that the subpart W definition does not provide for flaring to occur on wells with RECs. The commenter requested that the EPA modify the definition for reduced emission completions to harmonize with the revised calculation approach for completions and workovers with hydraulic fracturing, which addresses the small amount of venting during initial flowback and provides for flaring associated with well completions and workovers.

Response: We agree with the commenter that there can be a small amount of venting during the initial flowback, and that in some situations flaring is conducted. In the final rule we are revising the definitions of ''reduced emissions completion'' and ''reduced emissions workover'' to clarify the venting and flaring activities that may occur.

6. Blowdown Vents

a. Summary of Final Revisions

The EPA is finalizing, with some modifications, the proposed revisions to include a compressibility term in Equations W–14A and W–14B for calculating emissions from blowdown vents and also in Equations W–33 and W–34 to convert volumetric emissions at actual conditions to standard conditions. The EPA proposed to allow reporters to use a compressibility factor of 1 under certain temperature and pressure conditions, otherwise a site-specific compressibility factor must be calculated and used for each blowdown event or conversion to standard conditions. Commenters indicated that these requirements posed a significant burden on reporters without significantly improving the calculated emissions. After considering the public comments, we are finalizing the inclusion of the compressibility term in Equations W–14A, W–14B, W–33 and W–34, but we are optionally allowing reporters to use a default value of 1 or a site-specific compressibility factor regardless of the temperature and pressure conditions.

The EPA is finalizing the equipment type categories and the reporting requirements for blowdown vents with minor modifications to those proposed. In the final rule, we have incorporated the term ''equipment or event type'' rather than simply ''equipment type'' where appropriate to include reference to emergency shutdown blowdown activities. We clarified the ''emergency shutdown'' category to include all emergency shutdown blowdown emissions regardless of equipment type. We also revised the category proposed as ''station piping'' to be ''facility piping'' to be more applicable to the onshore natural gas processing and liquefied natural gas (LNG) import and export equipment industry segments; we also clarified the distinction between ''facility piping'' and ''pipeline venting.'' We also revised the category proposed as ''all the other blowdowns greater than or equal to 50 cubic feet'' category to ''all other equipment with a physical volume greater than or equal to 50 cubic feet'' to clarify it is the physical volume of the equipment, not the blowdown volume (converted to standard conditions), to which the 50 cubic feet threshold applies.

The EPA is also adding an optional calculation method (40 CFR 98.233(i)(3)) for blowdown emissions for situations where a flow meter is in place and including associated reporting requirements in 40 CFR 98.236. If a flow meter is in place to measure emissions, the emissions are reported on a facility basis and would not be aggregated by emission type per 40 CFR 98.236(i)(2). These revisions are finalized with minor revisions to clarify that reporters may use flow meters for some blowdown stacks and use equipment or event type calculations for other blowdown vent stacks at the same facility.

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to blowdown vent emissions. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Three commenters opposed the proposed mandatory use of a compressibility factor (Z) in equations W–14A, W–14B, W–33, and W–34. The commenters stressed that requiring the calculation of Z places a significant burden on industry without producing a substantive benefit in terms of increased data and emissions accuracy. One commenter also claimed that the inclusion of a mandatory compressibility factor would result in inconsistencies with prior year reports. The three commenters supported allowing the optional use of a compressibility factor that would not impose new burdens but would provide greater flexibility to reporters. One commenter asserted that some companies already use a compressibility term in their blowdown emission calculations, and some reporters have existing company algorithms and programs used to track blowdown venting and calculations emissions that account for compressibility. Another commenter stated that mandating the use of the compressibility factor in the blowdown vent calculations would require changes to these existing systems and increase implementation costs. The commenters argued that the EPA has not considered or justified these costs.

One commenter noted that the proposed conditions for using the compressibility term would require the calculation of Z for nearly all equipment blowdown calculations at transmission and storage facilities. The commenter stated that transmission pipelines

typically operate in the range of about 500 to about 1,000 pounds per square inch gauge (psig), therefore the proposed rule would require a calculated value of Z for most, if not all, transmission segment blowdown emission calculations. One commenter asserted that the EPA has not demonstrated that inclusion of the compressibility factor will significantly or cost-effectively reduce the overall uncertainty of the blowdown vent emission estimates. The commenter disagreed with the EPA's assessment of uncertainty and argued that the potential uncertainty introduced by failure to use a compressibility factor is only on the order of 10 percent.

Response: The EPA evaluated the commenters' concerns and is changing the requirements from proposal. We have revised the final rule to allow reporters the option to use a default compressibility factor or a site-specific factor instead of being required to use a site specific factor for specific temperature and pressure ranges. We maintain that the accuracy of the emission calculation is improved if a compressibility factor is included. However, we also recognize the commenters' concern that, for many reporters, programs and algorithms are already in place that do not include the site-specific factor in the calculations, and any revision would incur additional burden and cost in updating the programs and algorithms. We agree with the commenters' suggestion to allow the optional use of site-specific compressibility factors. This approach allows for improved accuracy for facilities that have processes in place to determine site-specific compressibility factors, while not increasing the burden to facilities that do not. Therefore, in this final rule, reporters may use either a default value of 1 or a site-specific compressibility factor regardless of the temperature or pressure range of the system.

Comment: Several commenters supported the use of equipment type categories for aggregating and reporting blowdown emissions, but one of these commenters stated that the rule should allow reporters to optionally report emissions by unique blowdown volumes. Two commenters requested clarification of several of the blowdown categories. First, the commenters recommended that the seven categories be called ''equipment/event types'' to more accurately describe the ''emergency shutdown'' category. The commenters suggested that the EPA clarify that emergency shutdown blowdown emissions should always be categorized under the ''emergency shutdown'' category, regardless of the type of equipment that is blown down and that the EPA should clarify the distinction between ''station piping'' (*i.e.,* within the compressor station boundary) and ''pipeline venting'' (*i.e.,* pipe external to the compressor station that is vented within the station boundary). Finally, the commenters recommended that the category ''all other blowdowns greater than or equal to 50 cubic feet'' should be ''all other equipment with a physical volume greater than or equal to 50 cubic feet.'' One commenter also recommended that the EPA include clarification that, if a blowdown event results in emissions across multiple equipment types and the emissions cannot be apportioned to the different equipment types, then the reporter may categorize the emissions to the equipment type that represents the largest portion of the emissions from the blowdown event.

Response: The EPA disagrees with the one commenter's suggestion to make the blowdown categories optional. The EPA, as well as other commenters, have agreed that the requirement reduces burden and simplifies the rule. Providing the categories as optional to reporters would result in inconsistencies in the reported data and may limit the EPA's ability to compare and review information between reporters. The EPA agrees with the commenters that further clarification would be helpful regarding the categories for reporting blowdown emissions. In the final rule, we have incorporated the term ''equipment or event type'' when referring to all seven categories to more clearly include emergency shutdown blowdown activities. We also revised the emergency shutdown category to indicate that this category includes emergency shutdown blowdown emissions regardless of equipment type. In reviewing the commenters' suggested clarification of station piping and pipeline venting, we found that the nomenclature was very specific to onshore natural gas transmission compression industry segment, but blowdown emissions may also be reported for the onshore natural gas processing and LNG import and export equipment industry segments. Therefore, we have revised the ''station piping'' category to be ''facility piping.'' We have also clarified that station piping refers to ''piping within the facility boundary other than physical volumes associated with distribution pipelines'' and that pipeline venting refers to ''physical volumes associated with distribution pipelines vented within the facility boundary.'' We also revised the category proposed as ''all the other blowdowns greater than or equal to 50 cubic feet'' category to ''all other equipment with a physical volume greater than or equal to 50 cubic feet'' to clarify it is the physical volume of the equipment, not the blowdown volume (converted to standard conditions), to which the 50 cubic feet threshold applies. Finally, we are incorporating the commenter's suggestion to specify that if a blowdown event results in emissions across multiple equipment types and the emissions cannot be apportioned to the different equipment types, then the reporter may categorize the emissions to the equipment type that represents the largest portion of the emissions from the blowdown event. We note that the phrase ''equipment type'' is correct here because this assignment would only be necessary if the blowdown event is not associated with an emergency shutdown.

Comment: One commenter recommended that the rule should clearly indicate that both the method for determining emissions from blowdown vent stacks using a flow meter and the method for determining emissions from blowdown vent stacks according to equipment type can be used for different blowdown emission sources at a given facility. The commenter also recommended that the rule clearly indicate that, when a flow meter is used, that it is not necessary to categorize emissions by equipment type.

Response: The EPA has evaluated the commenter's suggestions and agrees that the changes would clarify the rule. In the final rule, the EPA is clarifying in 40 CFR 98.233(i) that the facility may use the equipment/event type method for some blowdown vent stacks and use the flow meter for other blowdown vent stacks. We are also clarifying the reporting requirements in 40 CFR 98.236(i) to accommodate reporting when both calculation methods are used. Facility owners or operators must report by the equipment/event type categories for the blowdown stack vents that use the equipment or event type calculation method and they must report the cumulative emissions for all blowdown vent stacks that use flow meters to determine blowdown emissions.

Comment: Two commenters recommended a change to the emissions calculations for blowdown volumes. The commenters asserted that the current order of calculations for blowdown vents is incorrect. The commenters noted that gases in the same equipment can have very different compositions, and that the

presumptions in the proposed rule, which would apply the same gas composition to all equipment types, would not represent actual emissions. The commenters suggested that emissions be summed into equipment types after applying applicable gas compositions (*i.e.,* after application of 40 CFR 98.233(u) and (v)) to each individual unique physical volume.

Response: The EPA evaluated the order of the emissions calculations for blowdown volumes presented in the proposed rule and agrees that, for certain industry segments, the order of calculations would introduce inaccuracies and create confusion over which gas compositions to use in the calculation. For certain industry segments, such as onshore natural gas transmission compression and LNG import and export equipment, the order of the summation does not introduce inaccuracies because the gas composition is expected to be the same in all equipment at the facility. Therefore, in the final rule, the EPA has revised the order of calculations to first require that the CH_4 and CO_2 volumetric and mass emissions be calculated for each physical volume (*e.g.,* the inlet volume) associated with each equipment or event category. The total annual CH_4 and CO_2 mass emissions must then be calculated for each equipment or event category by summing the CH_4 and CO_2 mass emissions for all unique physical volumes associated with the equipment or event category. These changes allow reporters to apply the appropriate gas composition for each physical volume prior to aggregating emissions by equipment or event type. However, the final rule also allows reporters in the onshore natural gas transmission compression and LNG import and export equipment sectors to elect to sum their natural gas volumetric emissions first and then apply composition data to determine CH_4 and CO_2 volumetric and mass emissions since the composition data is expected to be the same for all volumes.

7. Onshore Production Storage Tanks

a. Summary of Final Revisions

We are finalizing revisions to the introductory text at 40 CFR 98.233(j) with minor modifications to those proposed to clarify the calculation methods that must be used for onshore production storage tanks. We are also finalizing amendments to 40 CFR 98.233(j)(6), with minor modifications to those proposed. We received comment that the proposed revisions to 40 CFR 98.233(j)(6) appeared to expand the applicability of this requirement to all tanks rather than tanks with an annual average daily throughput of 10 barrels per day or more. This was an inadvertent error. Therefore, we are clarifying in this final rule, both in the 40 CFR 98.233(j) introductory text and 40 CFR 98.233(j)(4), that you must calculate emissions from dump valve leakage only if you use Calculation Method 1 or Calculation Method 2. We are also revising the parameter ''E_n'' in Equation W–16 from the proposed rule to remove the reference to Calculation Method 3, which was erroneously included in the proposed rule.

In reviewing the comments received on the proposed rule, we noted inconsistencies in Calculation Method 2 between the calculation method described in 40 CFR 98.233(j)(2) and the implementation of that method as described in paragraphs (j)(2)(i) and (j)(2)(ii). In the proposed rule, we attempted to consolidate within Calculation Method 2 the calculation methods for storage tanks receiving oil directly from the production well without passing through a wellhead separator and storage tanks receiving oil from a wellhead separator. The introductory text in the proposed paragraph (j)(2) references composition at the separator temperature and pressure, which is appropriate if there is a separator, but it also requires use of either paragraphs (j)(2)(i) and (j)(2)(ii), both of which describe composition at the wellhead, which is only appropriate if there is not a separator. Therefore, we are revising Calculation Method 2 to more clearly designate that the composition at separator temperature and pressure should be used if the storage tank receives oil after passing through a separator and to use the wellhead composition if the tank receives oil directly from the well.

We are finalizing the amendments to the reporting requirements for onshore production storage tanks as proposed (except as described in Section III.A. of this preamble).

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to onshore production storage tanks. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Two commenters objected to proposed revisions in 40 CFR 98.233(j)(6) that appeared to expand the reporting of emissions from stuck dump valves to all tanks, including those with throughput less than 10 barrels per day. One commenter considered this expansion in reporting to be burdensome and costly, given the investments already made to manage data collection in response to the original rule.

Response: We agree with the commenters that the calculation methods in (j)(6), as proposed, would apply to all storage tanks that have dump valves that are not closing properly, while Equation W–16 previously did not consider emissions from storage tanks with throughput less than 10 barrels per day. It was not the EPA's intent to require reporting of emissions from stuck dump valves to storage tanks with a throughput less than 10 barrels per day. Therefore, we are clarifying in 40 CFR 98.233(j) and 40 CFR 98.233(j)(6) that you must calculate emissions from dump valve leakage only if you use Calculation Method 1 or Calculation Method 2 (applicable for storage tanks with a throughput of 10 barrels per day or more). We are also revising the parameter ''E_n'' in Equation W–16 from the proposed rule to remove the reference to Calculation Method 3, which was erroneously included in the proposed rule.

8. Transmission Storage Tanks

a. Summary of Final Revisions

We are finalizing revisions to the provisions for transmission storage tanks in 40 CFR 98.233(k) with minor modification to those proposed to reorder the calculations in response to comments received. We are finalizing the amendments to the reporting requirements for transmission storage tanks with minor revisions to correct section number references to the reordered paragraphs in 40 CFR 98.233(k) and other editorial revisions in response to comments received.

b. Summary of Comments and Responses

Comment: One commenter noted that the order of the requirements in 40 CFR 98.233(k) were confusing and should be changed to match the actual calculation progression. The commenter noted that cross-references in the reporting section at 40 CFR 98.236(k) will need to be revised if the calculation order is revised.

Response: We reviewed the proposed calculation order and agree with the commenter that the calculation order should be clarified. We moved the calculations for determining annual emissions proposed at 40 CFR 98.233(k)(2)(iii) and (k)(2)(iv) to a new paragraph 40 CFR 98.233(k)(4) and renumbered the flare calculation

paragraph from (k)(4) to (k)(5). We made corresponding revisions to the cross-references in 40 CFR 98.236(k).

9. Associated Gas Venting and Flaring

a. Summary of Final Revisions

In order to improve data quality and avoid over-estimating emissions, the EPA is finalizing revisions to Equation W–18 (40 CFR 98.233(m)(3)) to add the term ''$SG_{p,q}$'' as proposed to account for situations where part of the associated gas from a well goes to a sales line while another part of the gas is flared or vented. The EPA is not finalizing the addition of the proposed term ''$ERE_{p,q}$'' for emissions reported under other sources, because the overlap in emissions reported elsewhere has been determined by the EPA to be negligible and because commenters have identified these emissions as potentially burdensome to track. The EPA is also finalizing revisions as proposed to the term ''$GOR_{p,q}$'' and the emission result ''$E_{s,n}$'' in Equation W–18 to specify that the gas-to-oil ratio (GOR) and the result of the calculation are calculated at standard conditions rather than actual conditions.

The EPA also proposed to add a definition for the term ''Associated gas venting or flaring'' to clarify what is included in this source. We are finalizing these amendments as proposed.

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to associated gas venting and flaring. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: One commenter disagreed with the addition of the term ''$ERE_{p,q}$'' to equation W–18 for ''emissions reported elsewhere''. The commenter stated that including the term would significantly increase the burden, provide little increase in the accuracy of reported emissions, and, due to the difference in methods used to account for the equation parameters, may result in the calculation of negative volumes. The commenter recommended removing the term and revising the definition of the summation term for the equation to indicate that it applies to associated gas not reported elsewhere, consistent with the new definition for associated gas venting and flaring.

Response: The EPA included the term ''$ERE_{p,q}$'' in Equation W–18 of the proposed rule to harmonize with the proposed definition of ''associated gas venting or flaring,'' which was defined to exclude venting or flaring resulting from activities that are reported elsewhere, such as tank venting. Equation W–18 calculates associated gas emissions based on the gas-to-oil ratio (GOR) and volume of oil produced during the venting or flaring period. After considering the public comments, we determined that the potential for double-counting emissions using Equation W–18 with emissions reported elsewhere was minimal, particularly given the proposed definition of ''associated gas venting or flaring.'' For example, the EPA determined that the emissions as calculated using Equation W–18 are not expected to include or double-count emissions from onshore production storage tanks receiving oil from a separator at the wellhead. If onshore production storage tanks receive oil directly from the wellhead, these emissions are accounted for in the provisions for onshore production storage vessels, and these emissions would not constitute ''associated gas venting or flaring'' as defined in the proposal. Therefore, we concluded that the ''$ERE_{p,q}$'' term was not needed in Equation W–18. We are revising the proposed Equation W–18 to remove the ''$ERE_{p,q}$'' term, and we are finalizing the definition of ''associated gas venting or flaring'' as proposed.

10. Flare Stack Emissions

The EPA is finalizing revisions as proposed to simplify and clarify the calculation requirements for flare stack emissions in order to improve the accuracy of the collected data. As proposed, we are amending the calculation method for emissions from a flare stack to revise the calculations to standard conditions and to account for the fraction of emissions that are not combusted when sent to an unlit flare. The fraction of feed gas sent to an unlit flare is determined by using engineering estimates and process knowledge.

The EPA is finalizing amendments, as proposed, to include flare stack emissions to the list of sources for which emissions must be calculated for the onshore natural gas transmission compression, underground natural gas storage, LNG storage, and the LNG import and export equipment industry segments. The EPA did not receive major comments on these provisions and is not making any changes to the final rule as a result of public comments. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

11. Centrifugal and Reciprocating Compressors

a. Summary of Final Revisions

The EPA is finalizing amendments to the monitoring requirements for compressors with revisions to the proposed requirements. First, we are finalizing changes to the centrifugal and reciprocating compressor calculation sections (40 CFR 98.233(o) and (p)) to allow for the measurement of combined volumetric emissions from a manifolded group of compressor sources. In the proposed rule, reporters that had manifolded compressors were required to take at least three measurements per year and report the average of the measurements. In this final rule, we are requiring reporters to take a single measurement per year from manifolded compressors, which is commensurate with the measurement frequency for compressors that are not part of a manifold group of compressors. In the proposed rule, measurements from manifolded compressors were required to be taken before emissions are comingled with other non-compressor emission sources. We received comments that this requirement would often require new sampling ports in unsafe locations. In this final rule, we are changing this requirement to read as follows: ''Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources''.

The proposed rule inadvertently removed the use of acoustic device measurement for blowdown valve leakage for centrifugal and reciprocating compressors. It was not the EPA's intent to remove these provisions. As noted in the subpart W 2010 final rule and reiterated by commenters, the EPA has allowed the use of acoustic device measurement to address concerns regarding safety or inaccessibility issues for some vent measurements. As a result, we are allowing for quantification of emissions due to leaks from compressor blowdown valve leakage using an acoustic leak detection device. In this final rule, we are allowing the use of screening methods in 40 CFR 98.234(a) to determine whether quantitative emissions measurements are needed. We are finalizing the proposed reporting requirements for individual compressors and for manifolded compressors with minor changes intended to improve clarity.

We are also finalizing four definitions in 40 CFR 98.238 to support the addition of the calculation method for manifolded vents. We are finalizing the

definitions of ''compressor mode,'' ''manifolded compressor source,'' and ''manifolded group of compressor sources'' as proposed. The EPA received comments asserting that the fourth proposed definition for ''compressor source'' was unnecessarily vague. To address this concern, we are finalizing a revised definition of ''compressor source'' that includes detailed information regarding the types of emissions sources covered within the definition. We are finalizing the definition for ''compressor source'' to mean ''the source of certain venting or leaking emissions from a centrifugal or reciprocating compressor. For centrifugal compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and wet seal oil degassing vents. For reciprocating compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and rod packing emissions.''

For compressors that are routed to an operational flare, we are finalizing revisions as proposed to allow operators to calculate and report emissions with other flare emissions. As we proposed, reporters must still report certain compressor-related activity data for each compressor that is routed to an operational flare (as provided for in 40 CFR 98.236(o)(1) and (o)(2) and (p)(1) and (p)(2)).

The EPA is also finalizing several changes with regard to mode-specific measurements as proposed. We are finalizing as proposed the revisions to the requirements to measure each compressor in the not-operating-depressurized (NOD) mode at least once in any 3 consecutive calendar years provided that the measurement can be taken during a scheduled shutdown and, if there is no scheduled shutdown within three consecutive calendar years, the measurement must be made at the next scheduled depressurized compressor shutdown. We have included additional clarification in this final rule that a scheduled shutdown means a shutdown that requires a compressor to be taken off-line for planned or scheduled maintenance. A scheduled shutdown does not include instances when a compressor is taken offline due to a decrease in demand but must remain available. We are not finalizing the proposed requirement to perform a measure for each operating mode once every three years.

We are also finalizing provisions, as proposed, that clarify that for reporters that elect to conduct ''as found'' measurements for individual compressor sources, all measurements from a single owner or operator may be used when developing an emission factor (using Equation W–24 or W–28 of 40 CFR 98.233) for each compressor mode-source combination. If the reporter elects to use this option, the reporter emission factor must be applied to all reporting facilities for the owner or operator. Finally, we are restructuring and revising the centrifugal and reciprocating compressor sections (40 CFR 98.233(o) and 40 CFR 98.233(p)), as proposed, in order to improve clarity for reporters.

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to centrifugal and reciprocating compressors. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Several commenters stated that the proposed rule did not address reporter concerns about measuring emissions from compressors. Several commenters requested that the EPA consider developing industry-wide emission factors to replace the current measurement-based approach in subpart W. One commenter requested that the EPA use data from outside studies and leverage the data collected from 2011 and 2012 to develop emissions factors and remove the annual measurement requirement after a reasonable timeframe. Another commenter requested that the EPA use emission factors that reflect the recently enacted New Source Performance Standards (NSPS) for the natural gas industry (40 CFR part 60, subpart OOOO). Two commenters suggested that reporter emission factors developed for individual compressors should be used when compressor sources are comingled with other non-compressor emission sources.

Response: The EPA appreciates the suggestions provided by the commenters and agrees that credible and accurate emission factors can provide a cost-effective means of calculating GHG emissions for purposes of reporting under Part 98. In particular, the EPA is willing to consider an emission factor approach under Part 98 for compressors.

As part of the development of the subpart W 2010 final rule, the EPA had previously considered using an emission factor approach for compressors. The EPA found that although a 1996 Gas Research Institute study on methane emissions from the natural gas industry provides much of the current knowledge on which emission factors from this sector are based, information on compressors was not necessarily reflective of current operational conditions for purposes of GHG reporting and therefore additional measurement data were needed in order to understand emissions related to specific modes of operation for compressors.

The EPA agrees that facilities have collected data under part 98 related to centrifugal and reciprocating compressors that can be used to inform an emission factor. However, the data which are inputs to emissions equations have not yet been reported to the EPA because they are deferred for reporting until 2015. The deferred reporting elements include the reporter-specific emission factors that are used to calculate emissions and the total time that a compressor is in a particular mode. The reporter-specific emission factors provide information on how measured data are applied to a reporter's other compressors that were not measured in a particular mode, and these factors are applied to all compressors for the total time each compressor is operated in each mode. Therefore the deferred data provide important information that could help inform the development of emission factors for each mode of operation. The EPA intends to analyze this deferred information after it is received in 2015. The EPA notes that the prevalence of BAMM in the reported data can affect cross-facility comparisons for developing emission factors, but the effect of BAMM cannot be fully analyzed until the inputs data are reported.

In addition, the data that will be reported under these final rule amendments will provide additional data that can inform the development of emission factors, such as information on the power output of the compressor driver. Furthermore, the compressor revisions that are being finalized in this rule will improve the quality of the reported data and address technical issues received from stakeholders during program implementation. The EPA also plans to review information that will be made available in the near future through outside studies.

The EPA is committed to working with stakeholders to review regulatory requirements, methods, and the quality of the information reported. The EPA looks forward to reviewing the deferred Part 98 data, data that will be reported under these revisions and data from

outside studies in order to determine if appropriate emission factors can be developed, and, if so, the EPA may revise the calculation and reporting requirements for compressors in a future rulemaking.

Comment: Several commenters objected to the requirements for measuring emissions from manifolded compressor sources. Two commenters asserted that the proposed rule fails to address issues that may preclude measurement from manifolded compressor sources (*e.g.,* unsafe to access and technically infeasible measurement locations, or vent gas from manifolded compressor sources that is comingled with gas from other emission sources) and two commenters noted that compressor vents are sometimes manifolded such that obtaining measurements of individual compressors is not possible; one of these commenters requested that these manifolded compressors be exempt from emissions measurements.

One commenter stated that the EPA has not addressed the burden associated with installing sampling ports on manifolded configurations. Another commenter objected to the proposed rule requirements specifying that manifolded compressor source emissions must be measured at a single point in the manifold downstream of all compressor inputs and where emissions cannot be comingled with other non-compressor emission sources; this commenter asserted that for compressor sources with emissions comingled with other sources, a sample port would need to be installed prior to the comingling of gases from the compressor sources and the non-compressor sources and could require the shutdown of all associated equipment.

Multiple commenters opposed the proposed requirements to conduct three measurements per year for manifolded compressors. One commenter claimed that the requirement to collect three measurements appears to be arbitrary and is not supported by 2011 or 2012 reported data. The commenter contended that the EPA has failed to explain how manifolded source-mode emissions data are expected to be different from other compressor source emissions data or why three measurements are expected to reduce measurement uncertainty associated with dissimilar measurements. Three commenters stated that the EPA did not address the cost and potential logistical problems associated with the mobilization of a test team two additional times per year (*i.e.,* total of three times a year) to conduct measurements on manifolded compressor sources. One commenter argued that the proposed requirements do not address concerns regarding the burden and costs associated with the installation of sample ports, or shutdown complications for port installation. One commenter argued that the EPA misrepresented the rule revision as a positive change beneficial to industry and a reduction in burden.

Response: The EPA disagrees with commenters who object to the need to independently categorize compressor source measurements from manifolded compressors; however, we acknowledge that some of the proposed clarifications inadvertently increased the stringency of the rule. The subpart W 2010 final rule included provisions that required the measurement of emissions from all vents, including emissions from individual compressors manifolded to common vents. The proposed rule changes do not alter that requirement and were intended to help current reporters to comply with subpart W.

The existing 2010 measurement requirements apply to the vent from the manifolded system without mention of co-mingled emission sources. We prefer and encourage measurements of manifolded compressors to be performed prior to co-mingling with other sources, as proposed. However, based on comments, we recognize that this may not be possible for certain installations. Therefore, we are not finalizing this provision as proposed. Instead, we are revising the requirement from the proposed rule so that the final rule reads as follows ''Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources''. We are also adding a reporting element for compressor measurements of manifolded systems to indicate whether the measurement location is prior to comingling with other non-compressor emission sources.

We proposed that reporters that had manifolded compressors be required to take at least three measurements per year and report the average of the measurements. In this final rule, we are requiring reporters to take a single measurement per year from manifolded compressors, which is commensurate with the measurement frequency for compressors that are not part of a manifolded group of compressors and consistent with the existing 2010 measurement requirements.

Comment: Three commenters requested that the EPA improve the definition of ''compressor source'' in 40 CFR 98.238 for clarity. One commenter contended that the proposed definition is not sufficiently clear to manage compliance and could lead to broad interpretation to sources not specifically called out in the rule. The commenter requested that the definition for ''compressor source'' be revised to specifically list the required sources.

Response: The EPA agrees with commenters that the proposed definition for ''compressor source'' could be read as potentially ambiguous and create confusion with regards to compliance with Part 98. Therefore, we are clarifying the definition of ''compressor source'' in this final rule to specify the applicability of the rule to specific compressor emission sources. We are finalizing the definition for ''compressor source'' to mean ''the source of certain venting or leaking emissions from a centrifugal or reciprocating compressor. For centrifugal compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and wet seal oil degassing vents. For reciprocating compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and rod packing emissions.'' These revisions clearly delineate the emission sources for which reporters must measure and account for emissions in the final rule.

Comment: Several commenters opposed the proposed requirements to measure compressors in the NOD mode once every 3 years, provided that a measurement can be taken during a scheduled shutdown. Three commenters requested that the EPA eliminate the requirement to measure compressors in the NOD mode in its entirety. One commenter argued that the proposed rule fails to provide sufficient justification to continue to require NOD mode measurements every three years. Another commenter argued that based on the monitoring data collected to date, the NOD mode compressor emissions are minimal, and the monitoring requirements are not cost effective. Another commenter stated that the measurements collected in 2011 and 2012 show that transmission and storage sources completed hundreds of measurements in the NOD mode, with about the same number of ''as found'' tests completed in shutdown mode as other modes.

Response: The EPA disagrees with commenters opposed to the proposed requirements to measure compressors in the NOD mode. The EPA established the requirements to measure compressors in the NOD mode once every 3 years as

part of the subpart W 2010 final rule. As the EPA previously noted (75 FR 18608, April 12, 2010), depending on operational practices, the various operating modes of centrifugal and reciprocating compressors may have significantly different emissions. The EPA noted at that time that unit isolation valves and compressor blowdown valves can have excessive leakage, especially when a compressor is not in operation. Following consideration of commenter input, the EPA finalized as part of the subpart W 2010 final rule these provisions to require measurements in the NOD mode once every 3 years.

The EPA reviewed the 2011, 2012 and 2013 reported emissions data for compressors and determined that compressor emissions from the NOD mode can contribute to a significant amount of the measured emissions for centrifugal compressors and reciprocating compressors. For more information, see the memorandum, ''Greenhouse Gas Reporting Rule: Technical Support for 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule'' in Docket Id. No. EPA–HQ–OAR–2011–0512. Therefore, we are not removing the requirement to measure emissions from compressors in the NOD mode in this final rule.

Comment: Several commenters stated that the EPA has not considered logistical issues in developing the requirements to measure compressors in the NOD mode once every 3 years, provided that a measurement can be taken during a scheduled shutdown. One commenter claimed that the proposed ''scheduled shutdown'' exception to the three-year requirement does not avoid the costs associated with mandatory testing in the NOD mode, such as out-of-sequence scheduling costs or the obligation to maintain records on compressor shutdown testing status. Two commenters stated that operators would likely force unit shutdowns while the measurement contractor is on site, which could result in the emissions of additional GHGs.

One commenter supported the proposed revision to allow the measurement to be taken during the next scheduled depressurized shutdown, however, the commenter asked that the scheduled shutdown not include instances when a scheduled compressor shutdown is only for a short duration, such that it is not possible to complete the measurement, or when a ''scheduled shutdown'' may occur without sufficient lead time to arrange for or mobilize a measurement team. Four commenters stressed that the proposed rule did not clearly define what constitutes a shutdown or ''scheduled shutdown.'' Another commenter noted that transmission compressors often start up and ''shutdown'' to meet demands; the commenter stated that it is not clear if this type of ''shutdown'' would be included under the proposed rule text. One commenter requested that the EPA provide a definition for the term ''scheduled shutdown'' that includes a shutdown of longer duration and likely associated with major maintenance and unit unavailability. Another commenter requested that the definition refer to a major maintenance outage that is scheduled months in advance, as opposed to a shutdown scheduled in direct response to a particular event (*e.g.,* in response to change in demand or operational disruption). One commenter argued that even if a scheduled shutdown refers to extended compressor shutdown for major maintenance, facilities would still face scheduling and logistical issues as well as increased costs.

One commenter responded to the EPA's request for comment on the option of requiring measurements in the NOD mode every five years rather than every three years. The commenter requested that the EPA extend the monitoring frequency to once every five years but noted that this change may not result in a unit being available at a specific time. The commenter suggested that emission factors be developed for the NOD mode as soon as feasible.

Response: The EPA is aware of commenter concerns regarding the need to shut down, purge, and blow down emissions from compressors in order to conduct emissions measurements. We are reducing the burden on facilities by augmenting the three-year measurement requirement to specify that reporters must take a measurement in the NOD mode within three years or at the next scheduled shutdown. If three consecutive calendar years occur without measuring the compressor in the NOD mode, then we are requiring that the NOD mode measurement must be made at the next scheduled depressurized compressor shutdown. We agree with commenters that indicated that the term ''scheduled shutdown'' was potentially nebulous and requires clarification. Therefore, we are clarifying in this final rule that a scheduled shutdown means a shutdown that requires a compressor to be taken off-line for planned or scheduled maintenance. This may include maintenance such as replacement of compressor rod packing for reciprocating compressors or replacement of wet or dry seals in centrifugal compressors. A scheduled shutdown does not include instances when a compressor is taken offline due to a decrease in demand but remains available to meet increases in demand. These final revisions clarify that operators do not have to plan a shutdown of their equipment solely to take a measurement of their compressor in the NOD mode but may take the measurement as part of regular planned maintenance. These revisions also clarify that the compressor must be depressurized. These provisions will ensure that facilities have sufficient time to mobilize a test team and coordinate testing to occur during periods of planned shutdown. Therefore, this will reduce the need for reporters to schedule additional shutdowns outside of planned maintenance, reducing compliance costs. Although the EPA considered extending the period to collect measurements in the NOD mode to every 5 years, it would not necessarily alleviate reporter concerns regarding the need to schedule a shutdown solely for emissions measurements. As the EPA has previously noted in finalizing the subpart W 2010 final rule, three years is generally accepted as the period during which compressors would be shut down for regular maintenance. Therefore, we have determined that the final provisions provide an adequate extension for reporters for which the maintenance period extends beyond 3 years, while ensuring that the EPA collects the data in a timely manner as it comes available.

Comment: Two commenters objected to the proposed requirement to complete operating-mode measurements every three years or the next year that compressor operation exceeds 2,000 hours. These commenters stated that the EPA has not justified the need for or explained the benefit of this requirement in the proposed rule or the technical support document. Both commenters remarked that the subpart W measurement data currently reported includes hundreds of operating-mode tests completed within the first two years. One commenter stated that, at a minimum, the EPA should review and analyze 2011–2013 data to ascertain the need for such requirements. One commenter asserted that the proposed time interval has no basis. Two commenters stated that the proposed requirement would unnecessarily increase compliance costs in excess of EPA's presumed costs for completing measurements.

Multiple commenters requested that compressor measurements be completed

''as found'' without mandating mode-specific measurements. Three commenters noted that because the annual as-found measurements have already generated data in all three modes, further mode- and time-specific testing does not result in additional meaningful emissions data. The commenters urged that the proposed rule failed to justify the need for further mode- and time-specific testing requirements.

Response: The EPA proposed this change in order to ensure data for all compressor operating modes would be collected for all compressors. After considering comments and further reviewing the available reported data, the EPA concluded that additional mode specific measurements to ensure characterization of modes other than not-operating-depressurized mode are not necessary. Therefore, we are not finalizing the proposed requirement to perform a measure for each operating mode once every three years.

Comment: Five commenters objected to revisions in the proposed rule that appeared to eliminate the use of the acoustic method for blowdown valve leakage measurements for centrifugal compressors in operating-mode and for reciprocating compressors in operating mode or standby-pressurized-mode. The commenters noted that EPA had added a provision for leak rate quantification to the existing subpart W rule in response to comments on the re-proposed subpart W rule, in order to address concerns regarding safety or inaccessibility issues for some vent measurements. Commenters stated that the EPA had previously included this method to ensure safety in the collection of data from certain sources. One commenter noted that in the first three reporting years, many reporters have relied on the acoustic method for reciprocating compressor and centrifugal compressor measurements of isolation valve and blowdown valve leakage and condensate tank dump valve leakage. Several commenters requested that this method not be eliminated unless other alternative rule requirements, such as the use of an infrared camera for screening, are implemented.

Three commenters recommended that the EPA consider allowing the use of an infrared (IR) camera for screening vents that require measurement. These commenters requested that the rule include additional viable measurement methods and contended that an IR camera option would provide flexibility for reporters. One commenter noted that the IR camera could be used to screen for leaks from compressor isolation valves, blowdown valves, or rod packing released through a vent and identify whether vent measurement is needed. The commenter asserted that this method would be invaluable for screening vents that are unsafe or impractical to access. The commenter stated that several companies have received approval of BAMM requests to use the IR camera to screen these compressor sources for emissions.

Response: The EPA agrees with commenters that the acoustic device measurement method should not be eliminated from the final rule. During the revision of the centrifugal and reciprocating compressor calculation and monitoring requirements, the use of the acoustic device measurement for blowdown valve leakage for centrifugal and reciprocating compressors was erroneously removed. The EPA has previously allowed the use of acoustic device measurement to address concerns regarding safety or inaccessibility issues for some vent measurements, and we are aware that many reporters have relied upon acoustic device measurement to comply with the rule. The EPA understands the safety and inaccessibility concerns raised by commenters, and we did not intend to remove these provisions or to reduce flexibility for reporters in the proposed rule. In this final rule, we are maintaining provisions that allow for quantification of emissions due to leaks from compressor blowdown valve leakage using an acoustic leak detection device. Specifically, we have included these provisions in 40 CFR 98.233(o)(2)(i)(C) and 40 CFR 98.233(p)(2)(i)(C) of the final rule.

The EPA also agrees with the commenters' suggestion to allow for the use of optical gas imaging equipment or an infrared (IR) camera for compressor vent screening. The EPA has reviewed the methods in 40 CFR 98.234(a) and determined that these methods are appropriate for pre-screening for leakage from compressor vents. The use of an IR camera is currently allowed under subpart W to screen for dump valve leakage through tank vents in 40 CFR 98.233(k) and is a proven tool for identifying leakage from these emissions sources. Therefore, we have determined that it would be appropriate to allow the use of the methods in 40 CFR 98.234(a) for pre-screening of emissions from isolation valves, blowdown valves, or rod packing released through a vent, provided that sources conduct follow-up measurements if leaks are detected. The EPA agrees with commenters that this method would provide flexibility for reporters. We are finalizing provisions in 40 CFR 98.233(o)(2)(i)(D) and 40 CFR 98.233(p)(2)(i)(D) to allow the use of the methods in 40 CFR 98.234(a) to allow for pre-screening for leaks from compressor isolation valves, blowdown valves, or rod packing released through a vent. Reporters may use this method to identify whether further vent measurement is needed. If any emissions are detected, then reporters are required to use one of the methods currently specified in subpart W (acoustic leak detection device, calibrated bagging or high volume sampler, or temporary meter such as a vane anemometer) to quantify emissions. If no emissions are detected, the reporter would not be required to follow-up with a measurement to quantify emissions. We do not anticipate that these final revisions will negatively impact the quality of the data collected, as reporters will continue to use the existing measurement methods under subpart W to quantify emissions that are detected using the IR camera.

12. Natural Gas Distribution: Leak Detection Equipment and Emissions From Components

a. Summary of Final Revisions

The EPA is finalizing, with minor revisions from the proposed rule, amendments to revise Equations W–30A, W–30B, W–31, W–32A and W–32B to place the natural gas distribution facility meter/regulator run emission factors calculation in 40 CFR 98.233(q) instead of 40 CFR 98.233(r) while also clarifying that the emission factor is calculated separately for CO_2 and CH_4 and is on a meter/regulator run operational hour basis instead of a meter/regulator run component basis. The proposed rule inadvertently omitted appropriate provisions for calculating and reporting emissions from equipment leaks at above-grade transmission-distribution stations that are not surveyed during the reporting year as noted in the public comments received. Therefore, the EPA is finalizing minor revisions to Equations W–31 and W–32B as well as 40 CFR 98.233(q) introductory text, (q)(8)(ii) and (iii), and adding paragraph (q)(9) to specify how emissions from equipment leaks at above-grade transmission stations not surveyed during the reporting year are to be calculated. In the final rule, facilities must calculate annual emissions from above-grade transmission-distribution transfer stations surveyed during the calendar year using Equation W–30 of 40 CFR 98.233(q). The emissions are calculated in Equation W–30 on a per-component basis based on equipment leak survey results and emission factors for above-

grade transmission-distribution transfer station components listed in Table W–7. The results of the component-level annual emissions calculations using Equation W–30 are then used to develop the annual facility meter/regulator run population emission factors for CO_2 and CH_4 using Equation W–31. Paragraph 40 CFR 98.233(q)(8)(iii) was revised from proposal to provide more specificity on how the emission factors from Equation W–31 must be recalculated as additional equipment leak survey data become available from above-grade transmission-distribution transfer stations that use a multiple year equipment leak survey cycle. To calculate annual emissions from above-grade metering-regulating stations that are not above-grade transmission-distribution transfer stations and from all above-grade transmission-distribution transfer stations at facilities that use a multiple year equipment leak survey cycle must use the emission factors (calculated in Equation W–31) in the annual emissions calculation of Equation W–32B in 40 CFR 98.233(r). The primary difference from proposal is that the calculations for above-grade transmission-distribution transfer stations that elect to use a multiple year equipment leak survey cycle, which were inadvertently omitted, are now specified in the new paragraph at 40 CFR 98.233(q)(9). Completing the calculations for all above-grade transmission-distribution transfer stations allows for more unified reporting of the emissions for all above-grade transmission-distribution transfer stations 40 CFR 98.236(q).

As proposed, emissions from below-grade metering-regulating stations, below-grade transmission-distribution transfer stations, distribution mains, and distribution services are calculated using Equation W–32A of 40 CFR 98.233(r) using population emission factors listed in Table W–7.

The EPA is also finalizing the definition of ''meter/regulator run'' with minor revisions from the proposed rule. The revisions clarify that the term ''meter/regulator run'' refers only to components in the natural gas distribution industry segment. The final definition of ''meter/regulator run'' reads as follows: ''Meter/regulator run means a series of components used in regulating pressure or metering natural gas flow, or both, in the natural gas distribution industry segment. At least one meter, at least one regulator, or any combination of both on a single run of piping is considered one meter/regulator run.''

b. Summary of Comments and Responses

This section summarizes the major comments and responses related to leak detection equipment and emissions from components for the natural gas distribution segment. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: One commenter noted that proposed text for 40 CFR 98.233(q)(8)(i) allows all distribution facility above-grade transmission-distribution transfer stations to be surveyed over multiple years up to a five-year cycle, while the emission calculation requirements of 40 CFR 98.233(q) and emission reporting requirements of 40 CFR 98.236(q)(2) only apply to equipment leaks at above-grade transmission-distribution stations surveyed during the reporting year. The commenter noted that emissions for equipment leaks at the above-grade transmission-distribution transfer stations not surveyed during the reporting year are not calculated or reported. The commenter suggested revising the associated text and equations to calculate these emissions using Equation W–32B and the emission factors calculated using Equation W–31.

Response: The commenter is correct that the proposed revisions inadvertently omitted provisions for calculating and reporting emissions from above-grade transmission-distribution transfer stations that were not surveyed in the first cycle of a multi-year cycle. In this final rule, natural gas distribution facilities may choose to conduct equipment leak surveys at all above-grade transmission-distribution transfer stations over multiple years, not exceeding a five year period. To account for annual emissions from above-grade transmission-distribution transfer stations that have not been surveyed in the current survey cycle (*i.e.,* whose emissions were not calculated using Equation W–30), we are revising the language proposed in 40 CFR 98.233(q)(8) and adding a paragraph (q)(9) to clarify that facilities must use the emission factors (calculated in Equation W–31) in the annual emissions calculation of Equation W–32B in 40 CFR 98.233(r). Additionally, we are revising the term ''$Count_{M,R}$'' in Equation W–32B to include meter/regulator runs at above-grade transmission-distribution transfer stations when required to be used according to the new paragraph at 40 CFR 98.233(q)(9). We are finalizing harmonizing edits to 40 CFR 98.236(q) and removing some reporting elements in 40 CFR 98.236(r) to clarify the applicability of the reporting requirements for equipment leaks at the above-grade transmission-distribution transfer stations and adding specific requirements for reporting elements when equipment leak surveys for above-grade transmission-distribution transfer stations are performed using multiple year cycles.

13. Calculation of GHG Emissions From Natural Gas Volume Emissions

a. Summary of Final Revisions

We are finalizing revisions as proposed to clarify onshore natural gas transmission compression, LNG storage, LNG import and export, and natural gas distribution facilities may use either site-specific composition or a default gas composition (95 percent CH_4 and 1 percent CO_2) to calculate GHG emissions from natural gas volume emissions at 40 CFR 98.233(u)(2)(iii), (v), (vi) and (vii). We are also finalizing analogous revisions to 40 CFR 98.233(u)(2)(iv) to clarify the option to use either site-specific composition data or a default gas composition (95 percent CH_4 and 1 percent CO_2) for underground natural gas storage facilities as well. The EPA requested comment on whether the use of site-specific composition data for calculating emissions should be required or optional. The EPA received comments supporting only the optional use of site-specific gas composition data; no commenters supported the mandatory use of site-specific gas composition data.

We are also finalizing several clarifications regarding the need to calculate emissions for certain equations in actual conditions based on public comments received. The EPA intended that the existing provision in 40 CFR 98.233(t) allowed for measurements to be made at standard conditions even when the equations specified actual conditions. However, we concluded that additional revisions could clarify this intent for reporters. First, we are finalizing revisions to the introductory text at 40 CFR 98.233 to read: ''You must calculate and report the annual GHG emissions as prescribed in this section. For calculations that specify measurements in actual conditions, reporters may use a flow or volume measurement system that corrects to standard conditions and determine the flow or volume at standard conditions; otherwise, reporters must use average atmospheric conditions or typical operating conditions as applicable to the respective monitoring methods in this section.'' Second, the introductory text at 40 CFR 98.236 is revised to read: ''In

addition to the information required by § 98.3(c), each annual report must contain reported emissions and related information as specified in this section. Reporters that use a flow or volume measurement system that corrects to standard conditions as provided in the introductory text in § 98.233 for data elements that are otherwise required to be determined at actual conditions, report gas volumes at standard conditions rather the gas volumes at actual conditions and report the standard temperature and pressure used by the measurement system rather than the actual temperature and pressure.''

b. Summary of Comments and Responses

Comment: Several commenters stated that requiring the conversion of gas flow rates from ''standard conditions'' to ''actual conditions'' when applying required estimation methodology is burdensome and overly complicated. These estimations then have to be converted back into standard conditions for reporting under the regulatory requirements. Since instrumentation used in the industry typically measures gas flow rates in standard conditions, the commenters requested the EPA to revise Equations W–3, W–4A, W–4B, W–7, W–17A, W–17B, W–34, W–39A, and W–39B to reflect that the measured gas volumes and/or estimated gas volumes used in these equations, and the resulting emissions, are in standard conditions to better meet reporting requirements and consistency.

Response: The EPA reviewed the existing provision in 40 CFR 98.233(t), which states that ''[i]f equation parameters in § 98.233 are already at standard conditions, which results in volumetric emissions at standard conditions, then paragraph (t) does not apply,'' and concluded that it effectively allows for measurement in either standard or actual conditions. However, in reviewing the calculation requirements in 40 CFR 98.233 and the reporting requirements in 40 CFR 98.236, we understand that additional clarity could be provided. We recognize that there are automated flow or volume measurement systems that automatically convert measurements to standard conditions. It was not our intent to require facilities to convert these data to actual conditions to fulfill the certain calculation and reporting requirements, then convert the volumes back to standard conditions prior to determining GHG mass emissions. We disagree with the commenters' suggestion that all of these equations should be expressed in standard conditions because not all facilities automatically correct the actual volumetric flow measured to standard conditions. Our intent was to provide an allowance to use either actual volumetric flow at the conditions present or volumetric flow corrected to standard conditions. In order to clarify this intent for reporters, we are finalizing revisions to the introductory text at 40 CFR 98.233 and 98.236 to clarify that use of systems that automatically correct to standard conditions is allowed. Specifically, the introductory text at 40 CFR 98.233 is revised to read, ''You must calculate and report the annual GHG emissions as prescribed in this section. For calculations that specify measurements in actual conditions, reporters may use a flow or volume measurement system that corrects to standard conditions and determine the flow or volume at standard conditions; otherwise, reporters must use average atmospheric conditions or typical operating conditions as applicable to the respective monitoring methods in this section.'' The introductory text at 40 CFR 98.236 is revised to read, ''In addition to the information required by § 98.3(c), each annual report must contain reported emissions and related information as specified in this section. Reporters that use a flow or volume measurement system that corrects to standard conditions as provided in the introductory text in § 98.233 for data elements that are otherwise required to be determined at actual conditions, report gas volumes at standard conditions rather the gas volumes at actual conditions and report the standard temperature and pressure used by the measurement system rather than the actual temperature and pressure.''

Comment: Five commenters supported the option to use site-specific data while retaining the option to use the default methane and CO_2 composition values currently specified in subpart W. Four of these commenters stated that the use of site-specific composition data should not be mandatory. One commenter noted that compressor stations are normally not equipped with gas chromatographs for determination of site-specific gas composition; the commenter stated that mandatory reporting of site-specific gas composition would require the collection of extended gas analyses annually at each compressor station. Two commenters remarked that requiring mandatory use of site-specific composition data would result in increased costs and burden to reporters. Other commenters stated that the optional use of site-specific composition data adds flexibility for operators already using site gas quality data for other reporting purposes. Two commenters remarked that retaining the use of default composition values simplifies reporting without compromising GHG emission estimates for operators. These commenters noted that natural gas composition values downstream of natural gas processing facilities are much less variable than upstream operations.

Response: Paragraphs at 40 CFR 98.233(u)(2)(iii) through (vii) previously specified that these facilities ''may'' use the default composition, but they did not clearly specify the alternative to the default. In the proposed rule, we clarified that the alternative to the default was ''site specific engineering estimates based on best available data.'' The EPA specifically requested comment on whether the use of site-specific composition data for calculating emissions should be required or optional and solicited information on when a facility would not have site-specific composition data available. As the commenters noted, determining site-specific composition data based on measurement data would add burden to the industry, particularly where appropriate sampling and analysis equipment are not available. However, we note that the proposed language did not limit the site-specific composition to be based on site-specific measurement data, but rather ''site specific engineering estimates based on best available data.'' We agree with commenters that facilities should be allowed to use site-specific data when the data are available. We also agree with commenters that, when data are not available, the default values are reasonable alternatives for industries downstream of the processing plants. Therefore, after considering the information provided by commenters, the EPA is finalizing revisions in 40 CFR 98.233(u)(2)(iii) through (vii) to clarify that natural gas transmission compression, underground natural gas storage, LNG storage, LNG import and export, and natural gas distribution facilities may use either site-specific composition data (based on engineering estimates) or the default gas compositions.

14. Onshore Petroleum and Natural Gas Production and Natural Gas Distribution Combustion Emissions

1. Summary of Final Revisions

In this final rule, the EPA is clarifying that emissions and volume of fuel combusted must be reported for all internal combustion units that drive

compressors in 40 CFR 98.236. The EPA is revising this reporting requirement to be consistent with the emission estimation methods in 40 CFR 98.233(z)(4), which specify that the exemption from reporting emissions for internal combustion units with a rated heat input capacity less than or equal to 1 mmBtu per hour (130 hp) does not apply to internal fuel combustion sources that drive compressors. These revisions are finalized as proposed. We are also finalizing revisions to the description of the ''HHV'' term for Equation W–40 with minor revisions from the proposed rule. Specifically, we are finalizing that, for field gas or process vent gas, the reporter may use either the default higher heating value (HHV) or a site-specific HHV.

2. Summary of Comments and Responses

Comment: One commenter requested that the EPA modify the description of the term ''HHV'' used in Equation W–40 to allow the use of site-specific (measured) higher heating values for field gas or process vent gas, when the data are available, as an alternative to the currently specified default value. The commenter noted that allowing the use of site-specific HHV data would be similar to the proposed changes to allow site-specific GHG concentrations instead of default values.

Response: We agree with the commenter that the use of measured higher heating values should be allowed, when available. It was not our intent to mandate the use of the HHV default value but to allow its use when measurement data were not available. Therefore, we are finalizing the description of the ''HHV'' term in Equation W–40 to read as follows: ''Higher heating value of fuel, mmBtu/unit of fuel (in units consistent with the fuel quantity combusted). For field gas or process vent gas, you may use either a default higher heating value of 1.235×10^{-3} mmBtu/scf or a site-specific higher heating value.''

C. Summary of Final Revisions to Missing Data Provisions

1. Summary of Final Revisions

The EPA is finalizing amendments to 40 CFR 98.235, with revisions from the proposed rule, to clarify the procedures for addressing missing data. We proposed various missing data procedures for different types or frequencies of measurement data. For AGR vents, we proposed that missing quarterly samples must use the average of the value of the last four quarterly samples. We received comments on how to implement this requirement when less than four quarters of data are available (*e.g.,* for new sources). Rather than establishing unique missing data procedures for this source, we are finalizing a requirement for these sources to use the ''before'' and ''after'' approach analogous to the missing data procedures proposed for continuous measurement data. Similarly, we are also finalizing, with minor revisions from proposal, the missing data requirements for measurement devices such as continuous flow monitors and composition analyzers to standardize these requirements to all measurements required by the rule except for annual measurement data. For stationary and portable combustion sources, we are finalizing amendments as proposed to require reporters to use the missing data procedures in subpart C of part 98.

As proposed, the EPA is finalizing amendments to allow the use of best engineering estimates for any parameter that cannot be reasonably measured or obtained according to the requirements in subpart W for up to 6 months from the facility's first date of subpart W applicability. We are also finalizing, with minor revisions from proposal, amendments to allow the use of best engineering estimates for any parameter that cannot be reasonably measured or obtained according to the requirements in subpart W for up to 6 months for facilities that are subject to subpart W and that acquire new sources from another facility that is not subject to reporting under subpart W. We originally proposed this amendment for new wells, but after reviewing the public comments received, we determined this allowance should be more broadly applied to any new emissions source acquired by the existing facility from another facility that is not subject to reporting under subpart W. Only data and calculations associated with those newly acquired sources fall under these provisions.

We are finalizing missing data provisions for annual and biannual (once every two year) measurements that are similar to the previous missing data requirements in 40 CFR 98.235 as provided in the subpart W 2010 final rule. These provisions require repeat of the estimation or measurement as soon as possible, with allowance to use measurements made after December 31 (in the subsequent year) as substitute values for the missing data in the reporting year.

We are not finalizing the reporting requirements for use of missing data procedures as proposed. In the proposed rule, we required missing data elements to be reported with significant specificity, including dates in which substitution values were used, equations in which the substitute value is used, a description of the circumstances that led to missing data, a description of the procedure used to develop the substitute value, the missing data procedure citation claimed, and a description of how missing data procedures will be avoided in the future. After reviewing public comments, we determined that reporting for missing data should more closely align with the requirements in other Part 98 source categories as guided by the requirements in 40 CFR 98.3(c)(8). We are finalizing reporting requirements to identify the data element for which missing data procedures were used and the number of hours (or required measurements) for which missing data procedures were used. We are also finalizing recordkeeping requirements regarding the use of missing data procedures to include some of the detail of the proposed reporting requirements. Specifically, reporters that use missing data procedures are required to keep a record listing the emission source type, a description of the circumstance that resulted in the need to use missing data procedures, the missing data provisions in 40 CFR 98.235 that apply, the calculation or analysis used to develop the substitute value, and the substitute value.

2. Summary of Comments and Responses

This section summarizes the major comments and responses related to missing data provisions. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Several commenters recommended that if BAMM is eliminated as proposed, then the missing data provisions should be expanded to include all case-specific monitoring circumstances for which the EPA has previously reviewed and approved BAMM requests from 2011 through 2014, including (1) vent lines that cannot be safely or feasibly measured and where acoustic device measurement is not an option; (2) equipment and piping configurations that cannot be easily modified without incurring significant expense and operational delays; and (3) compressor measurement data in a specific mode.

Response: The EPA has considered the implications of removing BAMM requirements and commenters' concerns. Although the EPA indicated in the preamble to the proposed rule

that missing data procedures may provide clarity for reporters who may have unintentionally missed collecting required data, the missing data procedures are not intended to replace BAMM or to be used by reporters as BAMM. In the final rule, the EPA is finalizing multiple revisions to the rule that address commenter concerns related to BAMM. See Section II.D of this preamble for further discussion on BAMM.

Comment: Four commenters suggested that missing data procedures be expanded beyond ''activity data'' specified in 40 CFR 98.235(g) to include emissions from locations that are required to be directly measured and other data such as temperature and pressure. The commenters asserted there are situations where standard measurement procedures cannot be conducted and alternatives are necessary. These commenters asked the EPA to clarify whether activity data include the data elements similar to those used in Equation W–6 (*e.g.,* atmospheric pressure; pressure of the gas being discharged; percent of packed vessel volume that is gas; and the number of dehydrator openings in the calendar year). Other commenters asked that the missing data provisions specifically account for compressor vent and rod packing measurements. These commenters indicated it is not clear whether the EPA intended to include these measurements in 40 CFR 98.235(g).

Response: Activity data referred to in 98.235(g) includes data that are not measured, such as counts of the number of dehydrator openings in the calendar year. The provisions proposed in 40 CFR 98.233(g) were intended to cover only activity data values used in emissions calculations that could not be determined using the methods in 40 CFR 98.233; it does not refer to values that are required to be measured. In our proposed revisions of the missing data provisions, the EPA inadvertently omitted missing data procedures for measurements conducted annually, such as compressor measurements, or biannually, such as flow measurements of well venting for liquids unloading and flowback determinations for gas well venting during completions and workovers with hydraulic fracturing. It was our intent to maintain the existing missing data procedures for these data elements, which entails re-measurement of the emissions source. The EPA expects all reporters to comply with annual measurement requirements as specified in 40 CFR 98.233, unless the missing data provisions for new facilities or newly acquired sources apply. However, the EPA agrees with the commenters that missing data procedures are needed for the annual measurements to accommodate a variety of issues that may arise during sampling and analysis, including sample breakage during shipping, equipment malfunction during analysis. Therefore, we have included in this final rule specific missing data procedures for all estimation and measurements that are required to be performed annually or biannually. These provisions are the same as the previous missing data requirements in 40 CFR 98.235 as provided in the subpart W 2010 final rule. These provisions require repeat of the estimation or measurement as soon as possible, with allowance to use measurements made after December 31 (in the subsequent year) as substitute values for the missing data in the reporting year.

Comment: One commenter recommended a clarification of the missing data provisions for transmission storage tanks in 40 CFR 98.235(b). The commenter pointed out that although the provisions indicated that leakage for the entire year should be assumed, it does not provide a leak rate. The commenter suggested that the provisions allow for the use of a default rate equal to the leak rate threshold of 3.1 standard cubic feet (scf) per hour defined in 40 CFR 98.234(a)(5).

Response: The commenter is correct in noting that the measured emissions rate is critical to the calculation and that the proposed missing data procedures in 40 CFR 98.235(b) could be improved for calculating the emissions. The EPA disagrees that the default value of 3.1 scf per hour referenced by the commenter should be used. The value of 3.1 scf per hour in 40 CFR 98.234(a)(5) is the minimum level of a leak that can be detected with the acoustic leak detection device. If a leak is present, the leak can have a much higher flow rate than this value. In this case, assigning a default leak rate may grossly underestimate the emissions. As noted previously in this preamble section, the EPA has included in this final rule specific missing data procedures for all estimation and measurements that are required to be performed annually. These provisions require repeat of the estimation or measurement as soon as possible, with allowance to use measurements made after December 31 (*e.g.,* in the subsequent year) as substitute values for the missing data in the reporting year.

Comment: Some commenters suggested 40 CFR 98.235(e) should be revised to allow best engineering estimates for the first reporting year for facilities that become newly subject to subpart W. One commenter pointed out that a late year event (*e.g.,* unexpected blowdown in December) could result in a facility becoming newly subject to the rule. Two commenters asserted that 6 months was not sufficient and that a facility would require the use of best engineering estimates for the initial reporting year because the previously not subject facility would not have been collecting all data required for subpart W reporting. These commenters argued that these provisions should be available to both newly affected facilities and subject facilities with new emissions sources. Similarly, other commenters requested that 40 CFR 98.235(f) be broadened for all subpart W emission sources (rather than just wells) for the scenario where there is a change (*e.g.,* new source, new acquisition) at a subject facility, and the reporter cannot reasonably acquire necessary data. One commenter provided an example of adding new compression capacity on-line late in the year at a transmission or storage facility to meet demands in the winter months. The commenter stressed that it would be difficult and overly burdensome to require vent measurements from newly installed compressors. Another commenter requested that 40 CFR 28.235(f) be applicable to newly acquired wells whether or not the well was subject to subpart W previously.

Response: The EPA contends that 6 months is enough time for a newly subject facility to begin using the methods required in 40 CFR 98.233. The reporting rule general provisions at 40 CFR 98.2(h) recommend that facilities reassess applicability (including revising any relevant emissions calculations) whenever there is any change that could cause a facility to meet the applicability requirements of Part 98. Therefore, facilities which currently operate just under the reporting threshold for subpart W are aware of what changes would likely cause the facility to become subject to subpart W and should have an understanding of the calculation reporting requirements; although reporters may not be aware when an unexpected blowdown will occur, they would know whether an unexpected blowdown could cause them to be subject. The reporting rule general provisions at 40 CFR 98.3(b)(3) also state that if a facility becomes subject, the first annual report must cover the month during which the change that caused them to exceed the applicability limit occurred and the remainder of the year. Therefore, the facility does not

have to report measurements on the preceding months when no measurements were conducted. We have clarified 40 CFR 98.235(f) to specify that these missing data procedures apply to source types that were acquired from another company and were not previously subject to subpart W. These sources may require sampling ports to be installed or other modifications to accommodate measurements required in 40 CFR 98.233.

The EPA agrees that the proposed provisions in 40 CFR 98.235(e) and (f) should be extended to all subpart W emission sources, because issues that make it unreasonable to perform measurements for new wells may also exist for other subpart W emission sources. Therefore, we are finalizing these provisions to more broadly apply to ''sources'' rather than ''wells.''

The EPA disagrees that the proposed provisions in 40 CFR 98.235(f) should be extended to sources acquired from other companies that were previously subject to subpart W. The reporting rule general provisions in 40 CFR 98.4(h) provide for changes in owners and operators and provide that such owner or operator shall be responsible for the representations, actions, inactions, and submissions of the designated representative and any alternate designated representative of the facility or supplier. Therefore, reporters are responsible for gathering data in a timely manner for acquired sources. Also, for sources acquired from companies that were previously subject to subpart W, any necessary sampling ports or other modifications would have previously been made to the equipment to accommodate measurement. Because facilities typically spend several months planning the acquisition and installation of new equipment, we anticipate that any issues can be addressed during this time, before the equipment begins to operate.

While we are not extending the missing data provisions proposed in 40 CFR 98.235(e) and (f) to facilities already subject to subpart W, we acknowledge that there are special cases where new compressors can be added to an existing facility and it may not be possible to perform an ''as found'' measurement of that new compressor source during the calendar year, for example, if the compressor is installed in late December. To address this issue, we have revised the proposed amendments for compressors at 40 CFR 98.233(o)(1)(i) and (p)(1)(i) to not require annual measurements of compressors installed after annual compressor measurements have already been conducted for all existing compressors at the facility. If not all of the existing compressors at the facility have been measured, then there is no additional burden associated with identifying and scheduling a testing crew for measuring the newly installed compressor. However, if a facility has already conducted their annual compressor measurements, requiring measurement of emissions for the newly installed compressor would impose a significant additional burden and may not be logistically possible within the calendar year. Therefore, in today's final rule, an annual measurement of a newly installed compressor would not be required if annual compressor measurements have already been conducted for all existing compressors at the facility. In this case, no missing data provisions are needed or are applicable for these newly installed compressors.

Comment: Several commenters took issue with the provisions in 40 CFR 98.235(h) and portions of related reporting requirements in 40 CFR 98.236(bb). The commenters objected to reporting a description of the unique or unusual circumstance that led to missing data use and a description of how the owner or operator will avoid the use of missing data in the future. The commenters argued that this would create an unneeded burden on reporters, go beyond the requirements of a reporting program, and are an overreach of the EPA's authority. Other industries subject to Part 98 are not required to this level of detail. One commenter also asserted that aggregation of missing data values is appropriate.

Response: Reporting elements for the missing data provisions are necessary for the EPA to understand what missing data substitute values were used; however, we agree with the commenter that the level of detail required in the proposed reporting requirements could become burdensome, especially for continuously monitored parameters. We reviewed the reporting requirements associated with the use of missing data procedures in the general provision 40 CFR 98.3(c)(8) and other subparts in Part 98. Although we disagree that the proposed missing data reporting requirements go beyond the requirements of a reporting program or is an overreach of the EPA's authority, we recognize that missing data can occur, such as due to calibration checks that indicate an instrument needs to be recalibrated. After considering the proposed reporting requirements in light of the comments received and the reporting provisions in other subparts, we determined that revisions were needed to the proposed missing data reporting requirements. In this final rule, we are requiring reporting of the use of missing data procedures following the general provision requirements in 40 CFR 98.3(c)(8), except we are providing for the reporting of number of times missing data procedures were used for an element that is not based on continuously monitored parameters.

Comment: One commenter noted that the missing data procedures proposed in 40 CFR 98.235(a) should be amended to accommodate new AGR vents that may not have four previously taken samples available. Another commenter indicated that 40 CFR 98.235(d) poses a problem where ''before'' or ''after'' values are not available for a data element that requires measurement. The commenter asserted that instances where a ''before'' or ''after'' value is not available for substitution require additional flexibility to enable compliance. The commenter provided, as an example, a situation where information from a third-party equipment operator, such as a third-party operated dehydrator, is not received and no data are available to substitute. The commenter also noted that there may be instances where a well completion in a sub-basin category/county/well-type combination is a single unique well and the measurement equipment necessary to measure flowback or calculate flowback malfunctions. The commenter argued that in this case, a reporter will not have ''before'' data to substitute.

Response: With respect to the missing data procedures for AGR vents, we agree with the commenter that additional clarification is needed, particularly to address new AGR vents that do not have four previous quarterly samples. In considering potential clarifications for the missing data procedures for AGR vents in light of the various scenarios of data availability, the missing data procedures for this source mirrored the procedures proposed in 40 CFR 98.235(d). Furthermore, we determined that the use of the average of a ''before'' and ''after'' sample would provide as good an estimate of the missing data as the average of four ''before'' samples. Therefore, we are generalizing the proposed missing data procedures in 40 CFR 98.235(d) to apply to all measurements that are required to be performed quarterly or more frequently.

The provisions proposed at 40 CFR 98.235(d) include specific provisions that can be used to determine the missing value in the absence of a ''before'' or ''after'' measurement. We find that the proposed procedures are reasonable for any data element that is

required to be monitored quarterly or more frequently. The proposed provisions of 40 CFR 98.235(d) are not meant to address measurement data that are required annually or biannually or situations such as the supply of information by third-party vendors. Reporters should know what information is needed for the annual reports. If reporters elect to use third-party vendors for certain services, the information needed for the annual reports may be specified in the third-party contract or agreement to ensure the necessary information is provided. We are not including any missing data provision in the final rule to allow for use of third-party operators that do not provide the required information needed for determining the emissions from dehydrators or other emissions sources.

D. Summary of Final Amendments to Best Available Monitoring Methods

1. Summary of Final Revisions

In this final rule, the EPA is removing all prior provisions in 40 CFR 98.234(f) for BAMM as proposed, but we are also adding transitional BAMM provisions for the 2015 calendar year after considering public comments. Specifically, we are revising 40 CFR 98.234(f) to provide short-term transitional BAMM for reporters who are subject to new monitoring or measurement requirements as part of these final amendments. Reporters have the option of using BAMM from January 1, 2015, to March 31, 2015, for certain parameters that cannot reasonably be measured according to the monitoring and QA/QC requirements of 40 CFR 98.234. Specifically, the transitional 2015 BAMM provisions cover the following data:

- Well-related measurement data that cannot reasonably be measured for well venting for liquids unloading and gas well venting during well completions and workovers with hydraulic fracturing, from wells not previously measured.
- Reciprocating compressor blowdown valve, isolation valve, and rod packing venting from manifolded vents, when conducting ''as found'' measurements according to revised 40 CFR 98.233(p)(4) or (p)(5).
- Centrifugal compressor blowdown valve, isolation valve, and wet seal oil degassing venting from manifolded vents, when conducting ''as found'' measurements according to revised 40 CFR 98.233(o)(4) or (o)(5).

For these parameters, reporters have the option to use BAMM from January 1, 2015, to March 31, 2015, without seeking prior EPA approval. Reporters will also have the opportunity to request an extension for the use of BAMM beyond March 31, 2015; those owners or operators must submit a request to the Administrator by January 31, 2015. The EPA is not providing transitional BAMM for these revised requirements beyond December 31, 2015. The provision of 3 months of automatic transitional BAMM will allow reporters to prepare for data collection while automatically being able to use BAMM, which is consistent with BAMM schedules in prior Part 98 rulemakings. This additional time for reporters to comply with the revised monitoring methods in subpart W will allow facilities to install the necessary monitoring equipment during other planned (or unplanned) process unit downtime, thus avoiding process interruptions.

We are also removing and reserving 40 CFR 98.234(g). As described in the preamble to the proposed rule, we intended to remove and reserve this section but the removal of this section was not included in the regulatory text. These removed provisions are specific to the 2011 and 2012 reporting years, and the removal of this provision does not impact the reporting requirements for subsequent reporting years.

2. Summary of Comments and Responses

This section summarizes the major comments and responses related to best available monitoring methods. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Three commenters supported the removal of BAMM for natural gas distribution facilities beginning in the 2015 calendar year. One commenter stated that replacing BAMM with explicit reporting requirements for petroleum and natural gas systems will reduce transaction costs, improve compliance, improve access to information about the oil and gas sector, and increase confidence in the rule. A second commenter believed that by clarifying the reporting emissions from natural gas distribution facilities, there should be no need to use BAMM after January 1, 2015. A third commenter pointed out that BAMM was originally a transitional tool, and other industry-specific subparts of Part 98 have eliminated BAMM. The commenter stated that the use of BAMM in 2012 created difficulties in comparing data across facilities and understanding discrepancies between GHG and other inventories. The commenter supported the addition of expanded missing data procedures and compliance pathways for facilities to use in the future. The commenter suggested that if operators require more flexibility than the ones EPA has proposed, that flexibility should be incorporated through a rulemaking effort rather than BAMM requests.

Eight commenters disagreed with the removal of BAMM beginning in the 2015 calendar year. Several commenters stated that eliminating BAMM would compromise compliance of impacted sources, especially in instances when it is not feasible to obtain a required measurement or where a direct measurement may be unsafe. These commenters requested the ongoing availability of BAMM or a revision of the missing data procedures for those instances where a reporter demonstrates a legitimate need.

Commenters pointed out that access to alternative methods is necessary for regulations. Some of the commenters pointed out that the EPA has allowed alternative compliance and monitoring methods in other regulatory programs (*e.g.,* NSPS in 40 CFR part 60, National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR part 63, and the Acid Rain Program in 40 CFR part 75) and urged the EPA to create a replacement, such as robust missing data provisions, for BAMM if it is eliminated. Other commenters stated that subpart W includes additional and more complex measurements than other Part 98 source categories. Some commenters expressed the importance of BAMM for sources that subsequently become subject to GHG reporting or where unpredictable future events occur. One commenter considered the flexibility of alternative methods to be important in the development of new technology and asked that the EPA should consider allowances in those cases. The commenter provided example scenarios in which the commenter stated that BAMM or an alternative method should be required, although the scenarios are not necessarily ''unique or unusual,'' such as vent lines that are unsafe to access and are unable to be assessed with an acoustic device, operating modes that are rarely used, and facilities where a late year addition of a new source precludes the ability to gather data.

Another commenter explained that future changes in operation or equipment may cause the facility to exceed the reporting threshold or create circumstances in which emission points meet the subpart W criteria, though that may not be known until the facility is surveyed. The commenter stated that

there may be time to resolve the situation before the monitoring deadline, but BAMM or a robust missing data provision would be needed. Two commenters asked that BAMM be allowed for newly acquired wells that were previously reported by prior owners and wells that have never reported, as both situations require the same level of effort to comply.

Three commenters requested at least a 6-month transitional BAMM following the final rule. The commenters requested adequate time to implement changes following the final rule. One commenter stated that a transitional BAMM of 6 months would allow flexibility to reporters, provide time for clarifications, allow for the development for the required systems, and accommodate issues regarding situations beyond the facility's control which require BAMM. Another commenter stated that developing processes for monitoring data or activities that have never before been subject to federal or state reporting may take significant time and effort. The commenter pointed out that until the final rule has been issued, reporters will not be able to determine what is required and will not know if BAMM is needed. Another commenter stated that if BAMM is not extended, small operators without the resources to quickly implement the rule would be unfairly disadvantaged.

Response: The EPA has considered the concerns raised by commenters in the development of this final rule. We are removing the prior BAMM requirements in 40 CFR 98.234(f) because we have determined that these provisions, which applied broadly to circumstances in which data collection methods did not meet safety regulations, were technically infeasible, or were counter to state, local, or federal regulations, are no longer necessary to comply with the final rule. As one commenter noted, BAMM was originally included in Part 98 as a transitional tool, and all other industry-specific subparts of Part 98 have eliminated BAMM from their monitoring options. The revisions in this final rule will resolve the need for BAMM for the scenarios mentioned above for subpart W and can, therefore, bring this subpart into alignment with the monitoring provisions in other industry-specific subparts by removing the current BAMM provisions. In the development of this final rule, the EPA reviewed BAMM request submittals for the 2014 reporting year. In our review, the EPA found that the sources with the most frequent BAMM requests included centrifugal compressors, reciprocating compressors, blowdown vent stacks, and combustion emissions, which are addressed in this rulemaking. The most common concerns raised in BAMM requests were associated with technical infeasibility including concerns related to having to shut down a facility to install access ports to conduct compressor measurements. Other concerns related to compressors routed to a flare, manifolded lines, and compressor vents that were unsafe or inaccessible to measure. As discussed in Section II.B.10 of this preamble, we are making several revisions in this final rule that will allow for the testing of these compressor vents. First, we are clarifying that operators do not have to shut a facility down for the sole purpose to test a compressor in its non-operating mode, but that the measurement must be made at the next scheduled shutdown that requires a compressor to be taken off-line for planned or scheduled maintenance. These provisions reduce the burden on reporters to schedule a shutdown solely for the purposes of conducting measurements. The EPA has also provided the option for facilities to conduct continuous measurements using a permanent meter. Next, we are providing for reporters to conduct a single annual ''as found'' measurement for manifolded compressors routed to a common vent, in lieu of a measurement for each individual compressor manifolded to the common vent. We are also allowing the use of an IR camera for pre-screening of emissions from blowdown valves on compressors in operating mode or standby-pressurized mode and for isolation valves on compressors in not-operating-depressurized mode. The option to use an IR camera to screen for emissions, in addition to the current allowance for use of an acoustic measurement device, eases the burden on facilities with inaccessible or unsafe-to-measure valves. Finally, for compressors routed to a flare, we are finalizing provisions to allow operators to calculate and report emissions with other flare emissions. In this case, reporters are no longer required to sample compressors routed to a flare individually.

The EPA is also addressing the most common scenarios for which BAMM was previously requested for other emission sources. For example, for blowdown vent emissions, the EPA previously approved BAMM requests for reporting data by unique physical volume. In this final rule, we are revising the reporting of blowdown emissions to aggregate emissions by equipment type, as discussed in Section II.B.6 of this preamble. Similarly, for well venting for liquids unloading, the final rule allows for annualizing of venting data to account for situations where it was not feasible to gather vent hours or the number of unloadings from all controllers on January 1 or December 31, and it provides alternatives to determining the shut-in pressure required in Equation W–8. We have incorporated revisions in this final rule to address BAMM concerns for onshore production tanks and well completions and workovers. Additionally, we are finalizing missing data procedures that add clarity and specificity in how to treat and report missing data, including continuous measurements, periodic measurements and activity data. These missing data procedures are not intended to replace BAMM, however, they provide clarity for reporters who may have unintentionally missed collecting required data. These missing data procedures would also apply to facilities for which changes in operation or equipment may cause the facility to exceed the reporting threshold or result in creating circumstances in which emission points meet the subpart W criteria, as well as for newly acquired sources that were not previously reported under subpart W. We also note that there have been previous BAMM requests in which facilities noted technical concerns including instances where equipment modifications or installations were necessary. By the 2015 reporting year, facilities will have had four years to implement any necessary changes in order to fully comply with subpart W, which we have determined to be sufficient time to make any equipment modifications or installations. Therefore, we are not including BAMM provisions for these scenarios in this final rule.

Regarding the comment that other regulatory programs allow alternative compliance and monitoring methods, the EPA acknowledges that the provisions of NSPS and NESHAP allow facilities to request alternative monitoring and testing methods. However, the NSPS and NESHAP provisions typically require that specific monitoring methods be used (*e.g.* EPA Method 18 for gas compositional analysis), and they do not allow facilities to use alternative monitoring and testing methods without the method first being approved by the EPA. The EPA has provided a great deal of flexibility in the methods allowed in subpart W, such as certain provisions that allow the use of standard methods published by consensus-based standard organizations and that allow the use of

industry standard practice. Given the flexibility in the methods allowed under Part 98, we do not agree with the commenters.

Although we are removing the current BAMM provisions of 40 CFR 98.234(f), the final rule introduces new short-term transitional BAMM provisions for certain parameters for the 2015 calendar year. The EPA agrees with commenters that some facilities may need to obtain the necessary equipment to conduct measurements as required under the revised calculation methods in this final rule. Thus, under the final rule, reporters have the option of using BAMM for certain parameters that cannot be reasonably measured according to the monitoring and QA/QC requirements of 40 CFR 98.234. For example, we are revising the emission estimation methods for well completions and workovers from wells with hydraulic fracturing to separate reporting by well completions and workovers and by the sub-basin and well-type combination. In some cases, we expect reporters will be required to measure existing wells of a well-type combination for which they have not previously reported separately. In this case, reporters have the option to use BAMM for well-related data (*i.e.,* initial and average flowback rates for Calculation Method 1 or pressures upstream and downstream of the choke for Calculation Method 2). Other situations where the final rule provides an option to use BAMM in the 2015 calendar year are for determining vented gas flow when using Calculation Method 1 to estimate emissions from liquids unloading, and for determining vented emissions from compressor sources that are manifolded.

In some cases, although we are revising emissions calculation methods in the final rule, we are not providing the BAMM option because the underlying measurement methods have not changed. For example, although we have separated the calculation of emissions from completions and workovers from wells without hydraulic fracturing in 40 CFR 98.233(h), reporters are still collecting the same well data and measurements. We are not providing BAMM in this case or in similar cases where reporters would not be required to change their data collection methods.

We are not providing the BAMM option for parameters in revised calculation methods where the rule already provides alternatives to direct measurements. For example, the final rule requires facilities in the onshore natural gas transmission compression, underground natural gas storage, LNG storage, and LNG import export industry segments to report emissions from flares based on using the calculation methods for flare stacks. BAMM is not needed in this case because 40 CFR 98.233(n)(1) specifies that flare gas flow may be estimated using engineering calculations based on process knowledge, company records, and best available data. Similarly, 40 CFR 98.233(n)(2) specifies that as an alternative to using a continuous gas composition analyzer on the flare gas, a reporter in the four industry segments now required to report flare emissions may use a representative composition determined by engineering calculation based on process knowledge and best available data. The BAMM option also is not being provided for activity data such as completion or workover counts and venting or operating time because the final rule does not specify monitoring equipment that must be used for measuring these parameters.

The final rule allows reporters to use BAMM for the specified parameters during the January 1, 2015 to March 31, 2015 time period without seeking prior EPA approval. By automatically allowing BAMM until March 31, 2015, this schedule allows additional time following the publication of the final rule for reporters to prepare for data collection and install the necessary monitoring equipment. The final rule also provides for reporters the option to request an extension for the use of BAMM beyond March 31, 2015, but no further than December 31, 2015. Reporters who request an extension must submit a request to the Administrator by January 31, 2015, and demonstrate to the Administrator's satisfaction that it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by April 1, 2015, to receive approval to use BAMM beyond March 31, 2015. In these cases, the Administrator will only approve BAMM for the parameters specified in Section II.D.1 of this preamble. We anticipate that the number of BAMM requests approved for the 2015 calendar year will be limited and will not greatly impact the quality of the data collected in 2015.

E. Summary of Final Additions of New Data Elements and Revisions to Reporting Requirements

1. Summary of Final Revisions

We are finalizing the addition of several data elements to 40 CFR 98.236, with revisions from the proposed rule based on review of comments and other considerations. Although the EPA received comments objecting to the proposed addition of these data elements, these new data elements are based on data that are already collected by the reporter or are readily available to the reporter. The reporting of these data elements will improve the quality of the data reported, improve the verification of reported emissions, and reduce the amount of correspondence with reporters that is associated with follow-up and revision of annual reports.

After proposal, we determined that some proposed data elements could be removed to lessen reporter burden. For offshore production facilities, the final rule requires reporting of the total quantity of oil handled at the offshore platform, which includes the quantity from blended oil/condensate streams; this reporting element replaces the proposed requirements to report the amount of oil and the amount of condensate separately. Additionally, we are not finalizing the proposed requirements to report the model name, description, and installation year for each compressor.

As a result of comments received on the proposed rule, we are adding requirements to report two data elements for centrifugal and reciprocating compressors. Affected facilities with centrifugal or reciprocating compressors will be required to indicate whether the measured volume of flow from the compressor includes blowdown emissions, according to 40 CFR 98.236(o)(4)(iii) and 40 CFR 98.236 (p)(4)(iii), respectively.

2. Summary of Comments and Responses

This section summarizes the major comments and responses related to the addition of new reporting requirements in 40 CFR 98.236(aa). See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: One commenter questioned the proposal's requirements to report information that does not address emissions but instead requires ancillary information such as compressor ratings. The commenter considered these new measurement and reporting requirements to go beyond the authority of the EPA under CAA Sections 114 and 208, making the changes arbitrary and capricious if finalized. The commenter considered the proposed reporting requirement changes to be an overreach for an emissions reporting program and points out that 40 CFR 98.236(aa) in particular appears to be using Part 98 as a vehicle to construct detailed profile of

the oil and gas production sector. The commenter considered the proposed changes to unnecessarily expand the measurements and reporting requirements from the existing Part 98 and points out examples.

Multiple commenters provided examples of data elements that they stated are not within the scope of Part 98 because they are not directly related to emissions quantification or are redundant: For transmission storage tank vent stack, whether scrubber dump leakage is occurring for the underground storage vent—§ 98.236(k)(l)(iii); year compressor was installed—§ 98.236(p)(1)(xiv); compressor model name and description—§ 98.236(p)(1)(xv); date of last rod packing—§ 98.236(p)(1)(xvi); average time surveyed components were found leaking and operational—§ 98.236(q)(2)(iii); average upstream pipeline pressure, psig—§ 98.236(aa)(4)(iv); average downstream pipeline pressure, psig—§ 98.236(aa)(4)(v); quantity of gas injected into storage—§ 98.236(aa)(5)(i); quantity of gas withdrawn from storage—§ 98.236(aa)(5)(ii); number of compressors—§ 98.236(aa)(4)(ii); total compressor power rating for all compressors combined, hp—§ 98.236(aa)(4)(iii); and total storage capacity for underground natural gas storage facilities—§ 98.236(aa)(5)(iii).

One commenter stated that the EPA should explain or justify the need for addition of these data elements. Multiple commenters stated that the new reporting requirements are not relevant for quantifying emissions and developing this information in order to report represents a substantial burden.

Response: The EPA disagrees with commenters that the proposed data elements are beyond the authority of the EPA under CAA section 114. CAA section 114 authorizes the EPA to gather the information under this rule. Specifically, section 114 provides for the gathering of information from direct sources of GHG emissions, as long as that information is for purposes of carrying out any provision of the CAA. CAA section 208 applies to mobile sources, which are not covered by subpart W.

The additional reporting requirements included in this final rule provide production, capacity, and operational information for sources subject to subpart W and are similar to the data collected under other subparts of Part 98. These data elements are useful for the verification of existing data. For example, production, capacity, or operational information may be used to normalize the data collected and adequately characterize emissions sources. Therefore, the EPA is finalizing these reporting requirements as proposed, with minor clarifications. Further information on the final changes to the reporting section may be found in the memorandum, ''Final Revisions to the Subpart W Reporting Requirements in the ''Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule'' in Docket Id. No. EPA–HQ–OAR–2011–0512.

III. Confidentiality Determinations

A. Summary of Final Confidentiality Determinations for New or Revised Subpart W Data Elements

In the proposed rule, we assigned new or revised data elements to the appropriate direct emitter data categories created in the 2011 Final CBI Rule based on the type and characteristics of each data element. For data elements the EPA assigned to a direct emitter category with a categorical determination, the EPA proposed that the categorical determination for the category be applied to the proposed new or revised data element. For data elements assigned to the ''Unit/Process 'Static' Characteristics that Are Not Inputs to Emission Equations'' and ''Unit/Process Operating Characteristics that Are Not Inputs to Emission Equations,'' we proposed confidentiality determinations on a case-by-case basis taking into consideration the criteria in 40 CFR 2.208, consistent with the approach used for data elements previously assigned to these two data categories. We also proposed individual confidentiality determinations for 11 new or substantially revised data elements without making a data category assignment and we proposed to revise the confidentiality determination for one existing subpart W data element. Refer to the preamble to the proposed rule (79 FR 13394, March 10, 2014) for additional information regarding the proposed confidentiality determinations.

With consideration of the data provided by commenters, the EPA is finalizing the confidentiality determinations as proposed for all but 7 of the new and substantially revised data elements that were proposed. Specifically, the EPA is finalizing the proposed decision to require each of the new data elements and the one existing data element for which we revised the confidentiality determination be designated as ''not CBI'', with the exception of seven new data elements for which we have subsequently identified potential confidentiality concerns, as discussed in this section. The seven data elements with revised confidentiality determinations apply to onshore natural gas plants and natural gas transmission facilities.

For onshore natural gas plants, the EPA has revised the determination for the following four data elements: The quantity of natural gas received at the gas processing plant in the calendar year (reported under 40 CFR 98.236(aa)(3)(i)), the quantity of processed (residue) gas leaving the gas processing plant (reported under 40 CFR 98.236(aa)(3)(ii)), the quantity of natural gas liquids (NGL) (bulk and fractionated) received (reported under 40 CFR 98.236(aa)(3)(iii)), and the quantity of NGL (bulk and fractionated) leaving the plant (reported under 40 CFR 98.236(aa)(3)(iv)). In the proposal, we indicated that we designated the annual quantity of natural gas received at a gas plant and the annual quantity of residue gas leaving a gas plant to be ''not CBI'' because the average annual flow and plant utilization rate are published on the Energy Information Administration's (EIA's) Web site and are already in the public domain. However, upon reexamination we determined that reporting to EIA of the amount of natural gas received is less frequent than that required under subpart W and we have not identified any reliable public sources of the quantity of residue gas produced. Thus, we have decided to maintain the annual quantity of natural gas received at gas plants and the annual quantity of processed (residue) gas leaving gas plants as confidential.

We indicated in the proposal that the two NGL data elements were aggregated values for all NGL received and all NGL supplied by a natural gas processing plant. We also explained that this information would not cause competitive harm to reporters because the data for individual NGL products (which would be likely to cause competitive harm) would not be disclosed. While most plants receive and supply several different NGL products, we have identified a few plants that receive and/or supply only one NGL product. For example, some plants remove only ethane from the natural gas received. For this subset of plants, the quantity to be reported under subpart W is identical to the quantity reported under subpart NN, which the EPA determined to be CBI (see 76 FR 30782, May 26, 2011). Thus, the EPA has decided not to make a confidentiality determination for 40 CFR 98.236(aa)(3)(iii) and (aa)(3)(iv).

The confidentiality status of these data elements will be evaluated on a case-by-case basis, in accordance with the existing CBI regulations in 40 CFR part 2, subpart B, upon receipt of a public request for these data elements.

For the natural gas transmission sector, the EPA has revised the confidentiality determination in this action for three data elements: The quantity of gas transported through a compressor station (reported under 40 CFR 98.236(aa)(4)(i)) and the average upstream and downstream pressures (reported under 40 CFR 98.236(aa)(4)(iv) and (v), respectively). We proposed that these data elements be designated as ''not CBI.'' We noted that the natural gas transmission sector was heavily regulated by the Federal Energy Regulatory Commission (FERC) and state commissions due to a lack of competition between companies. We further noted that FERC controls pricing, sets rules for business practices, and is responsible for approving the location, construction, and operations of companies operating in this sector. However, we received comments from this industry sector noting that FERC Order 636 had introduced greater competition to this sector and that some companies charge customers less than the FERC approved rates because of competitive market pressures. The three data elements identified above would provide information on the quantity of gas transported by a specific pipeline. This information may potentially cause competitive harm to some pipeline companies operating in more competitive market areas. Since the determination would depend on the particular market conditions for each company, the EPA was not able to make a determination for these data elements that would apply for all reporters. Thus, the EPA has decided not to make a confidentiality determination for 40 CFR 98.236(aa)(4)(i), (iv) and (v). The confidentiality status of these data elements will be evaluated on a case-by-case basis, in accordance with the existing CBI regulations in 40 CFR part 2, subpart B, upon receipt of a public request for these data elements.

The EPA received several comments questioning the proposed determination that several new or revised data elements should be treated as non-confidential. Specifically, we received comments requesting that the EPA classify certain data elements associated with exploratory wells (delineation and wildcat wells) as CBI for a period of at least 24 months from the start of exploration. These comments and the EPA's responses are summarized in Section III.B of this preamble. Based on consideration of these comments and consistent with the EPA's previous decisions related to exploratory wells under Part 98 (79 FR 63750, October 24, 2014), the EPA is revising the final rule to provide reporters with the option to delay reporting of 12 data elements for two reporting years in situations where exploratory wells are the only wells in a sub-basin. For a given sub-basin, in situations where wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the required measurement, the following data elements associated with the delineation or wildcat well may be delayed for two reporting years: (1) Cumulative flowback time for each sub-basin (40 CFR 98.236(g)(5)(i)); (2) measured flowback rate for each sub-basin (40 CFR 98.236(g)(5)(ii)); (3) average daily gas production rate for all completions without hydraulic fracturing in the sub-basin without flaring (40 CFR 98.236(h)(1)(iv)); (4) average daily gas production rate for all completions without hydraulic fracturing in the sub-basin with flaring (40 CFR 98.236(h)(2)(iv)); (5) if using Calculation Method 1 or 2 for atmospheric storage tanks, the total annual gas-liquid separator oil volume that is sent to atmospheric storage tanks in the sub-basin, in barrels; (6) if using Calculation Method 3 for atmospheric storage tanks, the total annual oil throughput that is sent to atmospheric tanks in the basin (40 CFR 98.236(j)(2)(i)(A)); (7) if oil well testing is not performed where emissions are not vented to a flare, the average flow rate in barrels of oil per day for well(s) tested (40 CFR 98.236(l)(1)(iv); (8) if oil well testing is performed where emissions are vented to a flare, the average flow rate in barrels of oil per day for well(s) tested (40 CFR 98.236(l)(2)(iv)); (9) if gas well testing is performed where emissions are not vented to a flare, average annual production rate in actual cubic feet per day for well(s) tested (40 CFR 98.236(l)(3)(iii)); (10) if gas well testing is performed where emissions are vented to a flare, average annual production rate in actual cubic feet per day for well(s) tested. (40 CFR 98.236(l)(4)(iii)); (11) volume of oil produced in the calendar year during the time periods in which associated gas was vented or flared (40 CFR 98.236(m)(5)); and (12) total volume of associated gas sent to sales in the calendar year during time periods in which associated gas was vented or flared (40 CFR 98.236(m)(6))).

Six of the 12 data elements for which reporting may be delayed by 2 years are inputs to emission equations and the EPA provided the same option in the EPA's previous decisions related to exploratory wells under Part 98 (79 FR 63750, October 24, 2014). Five of the 12 data elements are inputs only when the applicable data are related to a single well (40 CFR 98.236(g)(5)(i), (h)(1)(iv), (h)(2)(iv), (m)(5), and (m)(6)), and one data element is never an input (40 CFR 98.236(j)(2)(i)(A)). The EPA decided to treat all early disclosure concerns related to exploratory wells consistently throughout subpart W by providing the option to delay reporting by 2 years to all 12 data elements. For the six data elements that are not always inputs, the finalized confidentiality determinations of ''not CBI'' apply in situations where the data elements are not an input to an equation. Specifically, the ''not CBI'' determination applies to all situations that involve multiple non-exploratory wells or a mix of exploratory and non-exploratory wells, and the ''not CBI'' determinations also will apply to data elements related to multiple exploratory wells once the data are reported to the EPA following the 2 year delay. For the situations when the data elements are used as inputs to equations, the EPA is assigning them to the ''Inputs to Emission Equations'' data category and is not making confidentiality determinations for these data.

In response to public comments, the EPA has added eight new data elements related to compressors as reporting requirements and has assigned them to the ''Unit/Process 'Static' Characteristics That Are Not Inputs to Emission Equations'' data category. Two of the new data elements require reporters to indicate whether compressor blowdown emissions are included in the measured volume of flow from compressor sources that are monitored continuously. Four of the new data elements require reporters to indicate whether measurements for manifolded groups of compressor sources are located prior to or after comingling with non-compressor emissions. These six data elements apply to both centrifugal compressors and reciprocating compressors, and they are located in 40 CFR 98.236(o)(3)(i)(F), (o)(4)(iii), (o)(4)(iv), (p)(3)(i)(F), (p)(4)(iii), and (p)(4)(iv). For each centrifugal and reciprocating compressor equipped with blind flanges, the other two new data elements require reporters to provide the dates when the blind flanges were in place, and these elements are located in 40 CFR 98.236(o)(1)(x) and (p)(1)(xii). All eight of the new data elements are the same type of data as other data elements included in this category in

the March 2014 proposal such as the data element that requires reporters to indicate whether any compressor source emissions are routed to a flare. Like other data elements in this category, the new data elements do not vary with time or with the operation of the compressor. Additionally, the new data elements describe only an aspect of the compressor design and emissions handling technique that reveals no sensitive information that would be likely to cause substantial harm to any type of natural gas facility. The March 2014 proposal addressed the same type of data elements. We conclude that it is appropriate to assign the data elements to this data category and finalize our determination that these data elements are ''not CBI'' in this action.

The EPA has determined that we inadvertently omitted proposing confidentiality determinations for 12 new data reporting elements. The measured scrubber dump valve leak rate vented directly to atmosphere (40 CFR 98.236(k)(2)(ii)), the measured scrubber dump valve leak rate vented to flare (40 CFR 98.236(k)(3)(ii)), and the annual CO_2 and CH_4 emissions from above grade metering-regulating stations that are not above grade transmission-distribution transfer stations (40 CFR 98.236(r)(2)(v)(A) and (r)(2)(v)(B), respectively) are data representing emissions to the atmosphere. The March 2014 proposal addressed numerous similar elements and assigned them to the ''Emissions'' data category, which has a categorical confidentiality determination of ''not CBI.'' We conclude that it is appropriate to assign the four previously omitted data elements to the ''Emissions'' data category and finalize our determination that these data elements are ''not CBI'' in this action.

Five of the new data elements for which we did not propose confidentiality determinations in the proposed rule are similar to data elements that were assigned to the ''Unit/Process Operating Characteristics That are Not Inputs to Emission Equations'' data category. For example, the type of control device for emissions from glycol dehydrators with an annual average daily natural gas throughput less than 0.4 MMscf per day (40 CFR 98.236(e)(2)(iii)) is the same as the data element in 40 CFR 98.236(e)(3)(i) for reporting the type of control device used to control emissions from dehydrators that use desiccant. The number of atmospheric tanks in the sub-basin that did not control emissions with flares (40 CFR 98.236(j)(2)(ii)(B)) and the number of atmospheric tanks in the sub-basin that controlled emissions with flares (40 CFR 98.236(j)(2)(iii)(B)) are comparable to the data elements in 40 CFR 98.236(e)(2) and (e)(3) for the counts of dehydrators that vent to atmosphere, flare, vapor recovery, or other types of control devices. The duration of time that a scrubber dump valve leak occurred (40 CFR 98.236(k)(2)(iii)) and the duration of time that flaring of a scrubber dump valve leak occurred (40 CFR 98.236(k)(3)(iii)) are comparable to the data element in 40 CFR 98.236(j)(3)(ii) for the total time that dump valves on gas-liquid separators did not close properly. Furthermore, as we noted in the discussion of the confidentiality determination for 40 CFR 98.236(j)(3)(ii) in the preamble to the proposed rule, because the time period during which a dump valve is malfunctioning provides little insight into maintenance practices or the nature or cost of repairs that are needed, public disclosure of such information would not be likely to cause substantial competitive harm to reporters. The finalized confidentiality determinations for all of the data elements that are comparable to the five data elements that were inadvertently omitted from the analysis at proposal are ''not CBI.'' We conclude that it is appropriate to assign the five previously omitted data elements to the ''Unit/Process Operating Characteristics That are Not Inputs to Emission Equations'' data category and finalize our determination that these data elements are ''not CBI'' in this action.

Three of the new data elements for which we did not propose confidentiality determinations in the proposed rule are identical to other data elements that were included in the analysis at proposal. The centrifugal compressor name or ID (40 CFR 98.236(o)(2)(i)(A)), the centrifugal compressor source (40 CFR 98.236(o)(2)(i)(B)), and the unique name or ID for the leak or vent (40 CFR 98.236(o)(2)(i)(C)) are identical to the corresponding data elements for reciprocating compressors in 40 CFR 98.236(p)(2)(i)(A), (p)(2)(i)(B), and (p)(2)(i)(C). These data elements for reciprocating compressors were assigned to the ''Facility and Unit Identifier Information'' data category, and the final confidentiality determination for these data elements is ''not CBI.'' We conclude that it is appropriate to assign the three previously omitted data elements to the ''Facility and Unit Identifier Information'' data category and finalize our determination that these data elements are ''not CBI'' in this action.

As discussed in Section II.B.5 of this preamble, the final rule clarifies the reporting requirements for the time variable used in Equation W–10A (40 CFR 98.236(g)(5)(i)). Specifically, the final rule requires reporting of both cumulative gas flowback time values used in the revised Equation W–10A (''$T_{p,i}$'' and ''$T_{p,s}$''), whereas the proposed rule inadvertently retained the current reporting of the single value that is used in Equation W–10A from the subpart W 2010 final rule. At proposal, the data element was determined to be an input. However, it is an input only when one completion or workover has been conducted in a particular sub-basin and well type combination category. When data for completions or workovers for multiple wells are included in the calculation, it is a data element for which a confidentiality determination is required. The final data elements in 40 CFR 98.236(g)(5)(i) are similar to the data element in 40 CFR 98.236(h)(2)(iii) for reporting the total number of hours of venting during completions without hydraulic fracturing. We assigned the data element in 40 CFR 98.236(h)(2)(iii) to the ''Unit/Process Operating Characteristics That are Not Inputs to Emission Equations'' data category and proposed a confidentiality determination of ''not CBI'' because the cumulative venting time for multiple completions or workovers would not disclose information on individual wells and is not likely to cause substantial competitive harm. For the same reasons, we conclude that it is appropriate to assign the data elements in 40 CFR 98.236(g)(5)(i), in the cases where they are not inputs to equations (*i.e.,* when data for more than one well are used in Equation W–10A), to the ''Unit/Process Operating Characteristics That are Not Inputs to Emission Equations'' data category and finalize our determination that these data elements are ''not CBI'' in this action. In the situations where these data elements are used as an input to an equation, we are assigning them to the ''Inputs to Emission Equations'' data category and not making a confidentiality determination for these data.

In the final rule, the EPA has also edited for clarity numerous reporting elements based on public comments. Portions of 40 CFR 98.236 also were rearranged to improve clarity in the final rule. These edits did not change the type of data to be reported and, thus, the confidentiality determinations do not need to be reassessed. All of the changes are documented in the Memorandum ''Final Revisions to the Subpart W Reporting Requirements in the 'Greenhouse Gas Reporting Rule:

2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule' '' in Docket Id. No. EPA–HQ–OAR–2011–0512.

B. Summary of Comments and Responses

This section summarizes the major comments and responses related to the proposed categorical assignments and confidentiality determinations. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses. See the memorandum ''Final Data Category Assignments and Confidentiality Determinations for Data Elements (excluding inputs to emission equations) in the 'Greenhouse Gas Reporting Rule: 2014 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems; Final Rule' '' in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of final data category assignments and confidentiality determinations, and a discussion of changes since proposal.

Comment: Two commenters disagreed with the EPA's statement that the natural gas transmission industry is ''inherently uncompetitive'' or ''less competitive than other industries.'' One commenter pointed out that although interstate natural gas pipeline rates are established on a cost-of-service basis by FERC, the FERC-issued Order 636 has fostered a competitive culture by unbundling pipeline merchant and transportation services. The commenter argued that pipelines face multiple forms of competition which affect service offerings and prices, including: Competition with alternative fuels, competition between gas supply basins, and competition among pipelines. The commenter argued that pipelines sometimes charge customers less than the FERC-approved maximum tariff rate due to competitive market conditions. Another commenter stated that they operate in markets in which other natural gas pipeline companies regularly compete for pipeline business through discounting and other competitive market practices. Both commenters stated that the release of specific operational data could result in substantial harm to a pipeline operator's competitive position.

Response: The EPA agrees with commenters that Order 636 did increase competition. We note, however, that many of the data elements are already publicly available from other sources. The number of compressors (reported under 40 CFR 98.236(aa)(4)(ii)) and the total compressor power rating (reported under 40 CFR 98.236(aa)(4)(iii)) are also available to the public through state and federal construction and operating permits and FERC. The quantity of gas injected into underground storage (reported under 40 CFR 98.236(aa)(5)(i)), the quantity of gas withdrawn from underground storage (reported under 40 CFR 98.236(aa)(5)(ii)), the quantity of LNG injected into storage (reported under 40 CFR 98.236(aa)(8)(ii)), the quantity of LNG withdrawn from storage (reported under 40 CFR 98.236(aa)(8)(ii), the total underground storage capacity (reported under 40 CFR 98.236(aa)(5)(iii)) and the total LNG storage capacity (reported under 40 CFR 98.236(aa)(8)(iii)) are reported annually to the EIA on forms EIA–176 (Annual Report of Natural and Supplemental Gas Supply) and EIA–191 (Monthly Underground Gas Storage Report). The EIA publishes this data on their Web site.[2] Since these data elements are already in the public domain, they are not entitled to confidential treatment under 40 CFR 2.208. We are therefore finalizing as proposed the determination that these data elements are ''not CBI.''

We have not identified any reliable public sources for the following data elements: The quantity of gas transported through a compressor station (reported under 40 CFR 98.236(aa)(4)(i)) and the average upstream and downstream pressures (reported under 40 CFR 98.236(aa)(4)(iv) and (v), respectively). These data elements provide information on the quantity of gas transported by a specific pipeline and disclosure of this data may potentially cause competitive harm to some pipeline companies operating in more competitive market areas. Since the determination would depend on the particular market conditions for each company, the EPA was not able to make a determination for these data elements that would apply for all reporters. Thus, the EPA has decided not to make a confidentiality determination for 40 CFR 98.236(aa)(4)(i), (iv) and (v). The confidentiality status of these data elements will be evaluated on a case-by-case basis, in accordance with the existing CBI regulations in 40 CFR part 2, subpart B, upon receipt of a public request for these data elements.

Comment: One commenter supported classifying as CBI, information in 40 CFR 98.236(d)(1)(iv) on whether any CO_2 emissions from the AGR unit are recovered and transferred outside the facility. The commenter stated that the data element is directly linked to multiple data elements associated with industrial CO_2 production plants and import/exporter of CO_2 that have been previously determined to be CBI under subpart PP (Suppliers of Carbon Dioxide).

Response: The EPA has reviewed the data element referenced by the commenter. The EPA notes that 40 CFR 98.236(d)(1)(iv) includes two data elements. First, reporters must indicate whether CO_2 emissions are recovered from the AGR units and transferred offsite (as proposed). Second, reporters must supply the quantity of CO_2 emissions that are collected and transferred offsite. The second data element in the proposed rule inadvertently removed text stating that reporters should report this information under subpart PP. It would be redundant to report the quantity of CO_2 emissions that are collected and transferred offsite under both subpart PP and subpart W. In this final rule, we are providing that if any CO_2 emissions from the AGR unit were recovered and transferred outside the facility, then the facility must report the annual quantity of CO_2 that was recovered and transferred outside the facility under subpart PP.

Thus, the proposed rule only included one new data element (''Whether any CO_2 emissions are recovered and transferred outside the facility'') for which a confidentiality determination was proposed. The EPA has determined that the data element is not the same data element as reported under subpart PP. Therefore, we are finalizing as proposed our determination that the data element is ''not CBI.'' The EPA disagrees with the commenters' assertion that the proposed determination for ''whether CO_2 emissions are recovered from the AGR units and transferred offsite'' is inconsistent with the determination made for data elements reported under subpart PP. None of the data elements reported under subpart PP are similar to this data element. The determinations for subpart PP were made with regard to quantities of CO_2 from production wells and to the quantities of CO_2 collected and transferred offsite from industrial production facilities. Furthermore, this data element reveals only that the facility has an AGR unit (currently publicly available in permits) and that CO_2 is collected as a byproduct and transferred offsite. Since the CO_2 is only a by-product of the process, the EPA has determined that disclosure of this information would not cause substantial competitive harm.

Comment: Five commenters requested that the EPA review confidentiality

[2] See the EIA Natural Gas Annual Respondent Query System at *http://www.eia.gov/cfapps/ngqs/ngqs.cfm?f_report=RP7.*

determinations for consistency with data elements that are found in both subpart NN and subpart W. Several of these commenters provided citations in subpart NN for data elements that have been given a determination of CBI which also appear in 40 CFR 98.236(aa)(3)(i) through 40 CFR 98.236(aa)(3)(vii) in the proposed rule with a ''non-CBI'' determination.

Response: The EPA has reviewed the confidentiality determinations for subparts W and NN and has determined that two data elements in subpart NN have confidentiality determinations that are inconsistent with those proposed for subpart W. The first is the quantity of natural gas withdrawn from storage in a calendar year (reported under 40 CFR 98.236(aa)(5)(i)), which was proposed to be ''not CBI'' for all underground storage operators. Under subpart NN, local distribution companies report the volume of natural gas withdrawn from on-system storage and the annual volume of LNG withdrawn from storage and vaporized for delivery on the distribution system (40 CFR 98.406(b)(3)), for which we previously made a determination of CBI. However, review of publicly available data undertaken during the preparation of the proposal for this action found that gas withdrawals from underground storage are reported to the EIA on form EIA–176 (Annual Report of Natural And Supplemental Gas Supply and Disposition). As we noted in the proposal, the EIA considers all information submitted on EIA–176 to be non-proprietary information and publishes the quantity of natural gas withdrawn from storage on their Web site. Since the quantity of natural gas withdrawn from storage is publicly available, this data element is not entitled to confidential treatment under the provisions in 40 CFR 2.208. The EPA notes that this final rule relates to calculation and reporting requirements for subpart W and not subpart NN, and therefore inconsistencies with respect to subpart NN are not addressed by this rule.

The second data element is the quantity of gas received at a gas processing plant (reported by natural gas processing plants under 40 CFR 98.236(aa)(3)(i)), which we proposed as ''not CBI.'' Plants that fractionate natural gas into its constituent NGL are required to report the volume of natural gas received by their plant for processing (see 40 CFR 40 CFR 98.406(a)(3)). In a previous notice, we determined that the data element required by 40 CFR 98.406(a)(3) was entitled to confidential treatment under 40 CFR 2.208 because it provided information regarding raw material consumption that we believed was not already in the public domain and could potentially cause competitive harm if disclosed. During the preparation of the proposal for this action, the EPA found that detailed plant-level information is reported by all natural gas plants to the EIA on Schedule A of form EIA–757 (Natural Gas Processing Plant Survey) once every 3 years. The information reported includes the annual average natural gas flow in million cubic feet per day entering a natural gas plant (including plants that also fractionate natural gas). EIA considers the information on annual average natural gas flows entering a plant to be non-proprietary information that it makes available to the public. However, because the information reported to EIA is on a different frequency than that required under subpart W, we have determined that the quantity of natural gas received at a gas processing plant under 40 CFR 98.236(aa)(3)(i) is entitled to confidential treatment under the provisions of 40 CFR 2.208. These data provide detailed information regarding the quantities of natural gas processed that would be likely to cause competitive harm if disclosed as it provides sensitive information on market share. Thus, in this final action we are changing the determination for 40 CFR 98.236(aa)(3)(i) from ''not CBI'' to ''CBI.''

The other data elements specifically mentioned by commenters are either not the same as those reported under subpart NN or they have determinations that are consistent with those in subpart NN. For example, commenters noted that the quantity of NGL (bulk and fractionated) received (reported under 40 CFR 98.236(aa)(3)(iii) and the quantity of NGL (bulk and fractionated) leaving the plant (reported under 40 CFR 98.236(aa)(3)(iv)) are the same as the data elements reported under 40 CFR 98.406(a)(2) and (a)(1), respectively. However, the commenters are mistaken. Under subpart W, the data elements reported are actually aggregated totals for all NGL products received and all NGL products supplied. Under subpart NN, facilities report the quantities of each individual product. The subpart NN data elements were previously determined to be entitled to confidential treatment because they provide detailed information regarding the quantities of individual products that would be likely to cause competitive harm if disclosed as it provides sensitive information on market share. Since the NGL data reported under subpart W is in an aggregated form, the quantities of individual products is not disclosed and therefore does not pose the same risk of causing competitive harm to the reporters. The only exception is in situations where the plant is known to receive or supply only one NGL product. In these situations, the EPA has decided not to make a confidentiality determination for 40 CFR 98.236(aa)(3)(iii) and (aa)(3)(iv).

Comment: One commenter expressed concern about reporting information on exploratory wells in subpart W, especially when the wells are located in step-out areas where no prior reporting exists for a given sub-basin (including vertical or horizontal wells). The commenter explained that the problem occurs when an exploratory well is the sole well in a sub-basin (including vertical or horizontal wells) and is not reported in combination with other wells, thereby shielding any individual well's contribution. The commenter noted that its concerns are related to the timing of releasing the information to the public, as the commenter stated that the information is most sensitive if it is made available too early during the exploration or initial development stages. The commenter stated that the success of a well in exploratory areas could be inferred if detailed data are provided to the public too soon during the exploration and assessment period. The commenter provided an example of such an occurrence: An exploratory well completed in December of the reporting year, data reported to the EPA by end of March of the following year and then released by the EPA to the public within a few months during the same year. The commenter stated that early release of data regarding operating characteristics of such wells, including post-flowback flaring/venting volumes, could cause competitive harm if made publicly available too early.

The commenter noted that Federal law and State codes allow companies to designate as confidential the data obtained from exploratory wells, especially in new discovery areas or areas that are being explored for development. The commenter further noted that the original intent of State oil and gas commissions to allow withholding of select drilling and production information from early release to the public was to allow competitive exploration by searching for new pockets of oil or gas and experimenting with new tools and techniques. The commenter stated that releasing data on such wells through Part 98—despite the fact that they are held confidential by other regulatory bodies—could cause substantial

competitive harm and lead to a loss of investment value. The commenter explained that competitive harm could occur if the public could obtain detailed high-resolution operational information on a well-by-well basis and on a daily or weekly basis.

The commenter requested that the EPA categorically determine that all information associated with exploratory wells, with the exception of well ID and location, be classified as CBI for a period of at least 24 months from the start of exploration. The commenter recommended either of two suggested approaches under Part 98: (1) Companies would report all data to the EPA as mandated by subpart W, but the EPA would hold the reported data as CBI and not include it in its public data release for at least 24 months (this could be accomplished by a flagging system (or a ''radio button'') in the Electronic Greenhouse Gas Reporting Tool that could also allow for a short informative text on why that particular well information is to be maintained confidential); or (2) the EPA could set up a deferral system where initial data on exploratory wells will be well ID and location information and the remaining data would be backfilled by companies after a period of 24 months. The commenter added that neither option would require case-by-case review of companies' information, and both are consistent with the approach taken by state oil and gas commissions and are protective of companies' commercial investment interests. The commenter identified the following data elements as potentially sensitive when reported for exploratory wells:

- Sub-basin ID. (40 CFR 98.236(g)(1))
- Well type. (40 CFR 98.236(g)(2))
- Cumulative backflow time, in hours, for each sub basin. (40 CFR 98.236(g)(5)(i))
- Vented natural gas volume, in standard cubic feet, for each well in the sub-basin. (40 CFR 98.236(g)(6))
- Annual gas emissions, in standard cubic feet. (40 CFR 98.236(g)(7))
- For each sub-basin with gas well completions without hydraulic fracturing and without flaring, Sub-basin ID. (40 CFR 98.236(h)(1)(i))
- For each sub-basin with gas well completions without hydraulic fracturing and without flaring, average daily gas production rate for all completions without hydraulic fracturing in the sub-basin without flaring, in standard cubic feet per hour. (40 CFR 98.236(h)(1)(iv))
- For each sub-basin with gas well completions without hydraulic fracturing and with flaring, Sub-basin ID. (40 CFR 98.236(h)(2)(i))
- For each sub-basin with gas well completions without hydraulic fracturing and with flaring, average daily gas production rate for all completions without hydraulic fracturing in the sub-basin with flaring, in standard cubic feet per hour. (40 CFR 98.236(h)(2)(iv))
- At the basin level for atmospheric tanks where emissions were calculated using Calculation Method 3, the total annual oil throughput that is sent to atmospheric tanks in the basin, in barrels. (40 CFR 98.236(j)(2)(i)(A))
- If oil well testing is performed where emissions are not vented to a flare, the average flow rate in barrels of oil per day for well(s) tested. (40 CFR 98.236(l)(1)(iv))
- If oil well testing is performed where emissions are vented to a flare, the average flow rate in barrels of oil per day for well(s) tested. (40 CFR 98.236(l)(2)(iv))
- If gas well testing is performed where emissions are not vented to a flare, the average annual production rate in actual cubic feet per day for well(s) tested. (40 CFR 98.236(l)(3)(iii))
- If gas well testing is performed where emissions are vented to a flare, the average annual production rate in actual cubic feet per day for well(s) tested. (40 CFR 98.236(l)(4)(iii))
- If associated gas was vented or flared during the calendar year, Sub-basin ID. (40 CFR 98.236(m)(1))
- For each sub-basin, indicate whether any associated gas was vented without flaring. (40 CFR 98.236(m)(2))
- For each sub-basin, indicate whether any associated gas was flared. (40 CFR 98.236(m)(3))
- Volume of oil produced, in barrels, in the calendar year during the time periods in which associated gas was vented or flared. (40 CFR 98.236(m)(5))
- Total volume of associated gas sent to sales, in standard cubic feet, in the calendar year during time periods in which associated gas was vented or flared. (40 CFR 98.236(m)(6))
- Formation type. (40 CFR 98.236(aa)(1)(ii)(C))
- For each sub-basin category, the number of producing wells at the end of the calendar year. (40 CFR 98.236(aa)(1)(ii)(D))
- For each sub-basin category, the number of wells completed during the calendar year. (40 CFR 98.236(aa)(1)(ii)(G))
- For offshore production, the quantity of gas produced from the offshore platform in the calendar year for sales. (40 CFR 98.236(aa)(2)(i))

Response: The EPA reviewed the data elements identified by the commenter as having disclosure concerns for exploratory wells (delineation wells and wildcat wells). After further investigation in response to the comment received, review of state laws protecting these types of data, and consistent with the EPA's previous decisions related to exploratory wells under Part 98 (79 FR 63750, October 24, 2014), the EPA has determined that, in the following situations which were not specifically considered in the proposed rule, early public disclosure of some of the data elements associated with wildcat wells and/or delineation wells could reveal the well productivity, thereby resulting in the loss of investment value:

- For gas well completions or workovers with hydraulic fracturing, where wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement;
- For gas well completions without hydraulic fracturing, where wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement;
- For onshore production storage tanks, where wildcat wells and/or delineation wells are the only wells in a sub-basin or basin;
- For well testing, where wildcat wells and/or delineation wells are the only wells in a sub-basin that are tested;
- For associated gas venting and flaring, where wildcat wells and/or delineation wells are the only wells in a sub-basin;

The data elements that could reveal well productivity for wildcat and/or delineation wells in the applicable situations listed above are as follows:

- Cumulative flowback time, in hours, for each sub basin. (40 CFR 98.236(g)(5)(i))
- For the measured well(s), the flowback rate, in standard cubic feet per hour, for each sub-basin. (40 CFR 98.236(g)(5)(ii))
- For each sub-basin with gas well completions without hydraulic fracturing and without flaring, average daily gas production rate for all completions without hydraulic fracturing in the sub-basin without flaring, in standard cubic feet per hour. (40 CFR 98.236(h)(1)(iv))
- For each sub-basin with gas well completions without hydraulic fracturing and with flaring, average daily gas production rate for all completions without hydraulic fracturing in the sub-basin with flaring, in standard cubic feet per hour. (40 CFR 98.236(h)(2)(iv))
- At the sub-basin level for atmospheric tanks where emissions were calculated using Calculation Method 1 or 2, the total annual gas-

liquid separator oil volume that is sent to atmospheric storage tanks, in barrels. (40 CFR 98.236(j)(1)(iii))

• At the basin level for atmospheric tanks where emissions were calculated using Calculation Method 3, the total annual oil throughput that is sent to atmospheric tanks in the basin, in barrels. (40 CFR 98.236(j)(2)(i)(A))

• If oil well testing is performed where emissions are not vented to a flare, the average flow rate in barrels of oil per day for well(s) tested. (40 CFR 98.236(l)(1)(iv))

• If oil well testing is performed where emissions are vented to a flare, the average flow rate in barrels of oil per day for well(s) tested. (40 CFR 98.236(l)(2)(iv))

• If gas well testing is performed where emissions are not vented to a flare, the average annual production rate in actual cubic feet per day for well(s) tested. (40 CFR 98.236(l)(3)(iii))

• If gas well testing is performed where emissions are vented to a flare, the average annual production rate in actual cubic feet per day for well(s) tested. (40 CFR 98.236(l)(4)(iii))

• Volume of oil produced, in barrels, in the calendar year during the time periods in which associated gas was vented or flared. (40 CFR 98.236(m)(5))

• Total volume of associated gas sent to sales, in standard cubic feet, in the calendar year during time periods in which associated gas was vented or flared. (40 CFR 98.236(m)(6))

These 12 data elements are themselves a very small subset of data elements collected in subpart W. Further, wildcat and delineation wells represent a relatively small percentage of the wells being reported under Part 98 for these data elements. As a result, in the interim period before these data are reported to the EPA, the EPA will be able to verify the majority of the emissions using data elements that will be reported to the EPA. For the 12 data elements that may be delayed for 2 years, the EPA will verify emissions using other data reported to the EPA, and will conclude verification upon receipt of the data. The EPA agrees with the commenter that a two year delay of reporting is sufficient to prevent early public disclosure of these data and will provide sufficient time for the reporter to thoroughly conduct an assessment of the well. Given the results of this evaluation, the EPA determined that, for these 12 data elements, in those cases where a reporter has delineation wells or wildcat wells in cases where wildcat wells and/or delineation wells in a sub-basin and these wells meet one of the five situations described above, reporters should be provided an option to delay reporting of the given data element for two reporting years starting in 2015. In such cases, if the two-year delay in reporting is used, the reporter must report the following information in the current reporting year: indicate for each delayed reporting element that one of the five situations listed above is true (*e.g.,* for gas well completions or workovers with hydraulic fracturing, wildcat wells and/or delineation wells are the only wells in a sub-basin that can be used for the measurement). In addition, when reporters report the delayed data elements to emission equations after the 2 year delay, they must also report the American Petroleum Institute (API) well ID numbers for the applicable wildcat and/or delineation wells in the sub-basin for which the reporting element was delayed. For example, if a delineation or wildcat well is completed in 2015 in a sub-basin that has only delineation or wildcat wells or these are the only wells for which measurements can be made, then the reporter may (1) elect to report these 12 data elements in their 2015 annual report submitted by March 31, 2016; or (2) elect to delay reporting of these data elements for up to two years. If the reporter elects to delay reporting, then the API well ID numbers for the wildcat and delineation wells in the sub-basin for which reporting has been delayed must be reported by March 31, 2016 and the data elements delayed from reporting must be reported no later than March 31, 2018.

The following data elements meet the definition of emission data in 40 CFR 2.301(a)(2)(i) because they are actual volumes of gas emitted by the facility: volume of natural gas vented (reported under 40 CFR 98.236(g)(6)) and annual gas emissions (reported under 40 CFR 98.236(g)(7)). Under CAA section 114(c), the EPA must make available emission data, whether or not such data are CBI. For these data elements that are assigned to the ''Emissions'' data category, the commenter did not claim or provide any justification for why these data elements do not meet the definition of emission data.

For the remaining data elements identified by the commenter as potentially sensitive with respect to delineation and wildcat wells, the EPA disagrees that public disclosure of these data elements in the time period following annual reporting would reveal well productivity, thereby resulting in the loss of investment value to the reporter. The sub-basin ID (reported under 40 CFR 98.236(g)(1), (h)(1)(i), (h)(2)(i), and (m)(1)) and number of wells can be discerned from the well IDs, which are publicly available for all wells and provide the location of the well and the name of the drilling company. Since the location of the well can be discerned from the well ID, the type of formation (reported under 40 CFR 98.236(aa)(1)(ii)(C)) can be determined through publicly available information such as U.S. Geological Survey reports. The well type (reported under 40 CFR 98.236(g)(2)), including whether hydraulic fracturing is used, can be inferred from the formation type. Similarly, although indicating whether the well vents or flares associated gas emissions (reported under 40 CFR 98.236(m)(2) and (m)(3)) identifies the well as an oil well, this information can also be concluded from the formation type, which, as previously mentioned, may be determined through publicly available information. The number of producing wells at the end of the calendar year (reported under 40 CFR 98.236(aa)(1)(ii)(D)) and the number of wells completed during the calendar year (reported under 40 CFR 98.236(aa)(1)(ii)(G)) are reported for sub-basins with production wells. Information regarding production wells is available from state databases. Since these data elements are either not sensitive or can be easily inferred from information already in the public domain, the EPA has determined that release of this information would not result in competitive harm.

IV. Impacts of the Final Amendments to Subpart W

A. Impacts of the Final Amendments

The final amendments to subpart W include technical corrections and revisions to the calculation, monitoring, and reporting requirements that do not significantly increase the burden of data collection and improve the accuracy of the data reported. In general, these revisions provide greater flexibility for reporters and increase the clarity and congruency of the calculation and reporting requirements. These final amendments do not impart significant additional burden to reporters and in some cases reduce burden to reporters and regulators.

First, the following revisions to the calculation and monitoring requirements of subpart W are anticipated to decrease the burden or have no impact on the burden relative to the burden to comply with the current rule:

• Allowing for the use of either site-specific composition data or a default gas composition for natural gas transmission compression, underground natural gas storage, LNG storage, LNG

import and export, and natural gas distribution facilities.

• For well venting from liquids unloading, allowing the measurement period to differ slightly from the standard calendar year combined with annualizing the resulting venting data for facilities that calculate emissions using a recording flow meter.

• Allowing for the option to use a site-specific compressibility factor for calculation of emissions from blowdown vents and for conversion of volumetric emissions at actual conditions to standard conditions.

• Revising calculation methods for onshore production storage tanks to require quantification of emissions from well pad gas-liquid separator liquid dump valves only if the dump valve is determined to not be closing properly.

• Including a term to account for situations where part of the associated gas from a well goes to a sales line while another part of the gas is flared or vented. The term is already being calculated elsewhere and/or can be estimated.

• Deciding against finalizing the addition of the term ''$ERE_{p,q}$'' for emissions reported under other sources; therefore, reporters will not be required to track these emissions.

• Removing vented compressor emissions routed to a flare from the compressor emissions total and retaining the requirement to report uncontrolled vented emissions from compressors.

• Addressing reporter concerns related to measuring centrifugal and reciprocating compressor emissions that are routed to a common vent manifold or flare header. Reporters were previously required to conduct emissions measurements for each individual compressor routed to the common vent. The final rule requires only a single annual emissions measurement at the common vent for groups of manifolded compressors. We are not finalizing the proposed requirement to conduct measurement of manifolded compressor source emissions before comingling with emissions from other sources.

• Revising requirements to conduct measurements in the not-operating-depressurized mode once every three years or at the next scheduled depressurized shutdown (for centrifugal compressors) or at the next scheduled shutdown when the compressor rod packing is replaced (for reciprocating compressors). We are not finalizing the proposed requirement to conduct testing in the operating-mode once every 3 years.

• Revising calculation methods for the natural gas distribution segment to clarify the calculation methodologies and reporting requirements for above grade metering-regulating stations.

• Removing the existing best available monitoring method (BAMM) provisions in 40 CFR 98.234(f) and providing transitional BAMM for the 2015 calendar year. Removing the existing provisions does not add to previous burden estimates for subpart W reporters; these estimates were prepared based on all reporters complying with the monitoring methods in 40 CFR 98.234 without BAMM. The transitional BAMM included in this final rule would allow facilities to obtain the necessary equipment to conduct measurements as required under the revised calculation methods in this final rule, and would not add to the burden estimates included in the proposed rule. (See further discussion in Section II.D of this preamble.)

• Providing for the use of optical gas imaging as a screening tool to detect emissions from reciprocating and centrifugal compressors; measurement to quantify the emissions is required only if the screening detects emissions.

• Providing clarified, specific missing data procedures that provide guidance for reporters when a measurement is inadvertently missed.

Second, the following revisions to the calculation, monitoring, and reporting requirements of subpart W slightly increase the burden relative to the burden to comply with the current rule:

• Revising the calculation and reporting requirements for completions and workovers to differentiate between completions and workovers with different well type combinations in each sub-basin category.

• Revising the calculation and reporting requirements for onshore natural gas transmission compression, underground natural gas storage, LNG storage, and LNG import and export to include emissions from flare stacks.

Finally, the following revisions to the reporting requirements for subpart W do increase the burden of data collection, but not significantly. As further discussed in Section II of this preamble, the EPA is finalizing the addition of 247 new data elements, while substantially revising 13 data elements and deleting 34 data elements that were required to be reported under Part 98. Although not previously required to be reported, many of these data elements are typically already collected by reporters, related to data that are already being reported, or are readily available to reporters. For example, some of the new reporting elements are required for use in subpart W equations used to calculate emissions and others are collected to differentiate between identical equipment types.

These final additions improve the quality of the data reported by removing ambiguity for the reporter and do not increase burden significantly, since the reporting elements are already available.

The EPA received multiple comments regarding the impacts of the proposed amendments. After evaluating these comments and reviewing other changes from proposal, the EPA revised the impacts assessment. The final amendments to subpart W are not expected to significantly increase burden. See the memorandum, ''Assessment of Impacts of the 2014 Final Revisions to Subpart W'' in Docket Id. No. EPA–HQ–OAR–2011–0512 for additional information.

B. Summary of Comments and Responses

This section summarizes the major comments and responses related to the impacts of the proposed amendments to subpart W of Part 98. See the 2014 response to comment document in Docket Id. No. EPA–HQ–OAR–2011–0512 for a complete listing of all comments and responses.

Comment: Several commenters stated that the EPA significantly over-simplified the impacts and underestimated the burden associated with the proposed rule. Specifically, commenters expressed concern that EPA has significantly underestimated the additional time and cost burden of the expanded reporting requirements. One commenter considered the implementation cost to be underestimated by an order of magnitude or more, providing an estimate of an additional $150,000 per company or more to initially identify, collect, document and report the new data elements with another $100,000 per year. This commenter critiqued the ''Assessment of Impacts of 2014 Proposed Revisions to Subpart W'' and the information collection request (ICR) Supporting Statement and stated that many of the time and cost burdens should be much higher than the numbers included in these documents. The commenter stated that the cost estimates do not include management tasks including review of the proposed rule and final revisions, monitoring plan revisions, internal communications, coordination with technical staff, training, systems updates, or associated budgeting and planning. One concern was the assumption that 3 minutes would be required to find, document, and report each new data element. The

commenter pointed out that the estimate does not consider the level of effort required to determine who collects the data or how and where it is documented. Another commenter reported that their company had invested in a robust system to manage data collection and reporting according to the original rule requirements, and the revised changes would be burdensome and costly.

Response: Although the commenter did not elaborate on the assumptions used to calculate the $150,000 initial cost or the $100,000 annual cost, the EPA disagrees with the magnitude of these costs. Overall, the EPA has determined that the cost estimates provided by the commenters do not take into consideration the completion of one-time activities that occurred in the first year of data collection. In the EPA's cost estimates, we assumed the startup costs would be incurred during the first year of reporting, *i.e.,* the 2011 reporting year. These costs included the labor burden of planning, registration, and installing required equipment to comply with the rule, as well as the initial costs of developing a data tracking system.

The EPA maintains that allowing 3 minutes per data element is accurate. All new reporting elements are related to emission sources for which information is already being gathered and reported under subpart W. The new elements include such information as the name or ID of the emission source, measurement dates, installation dates, maintenance dates, equipment counts, measurement counts, operating hours, etc. Most, if not all, of these elements can be gathered at the same time as required measurements are being taken.

Comment: One commenter stated that the EPA cost analysis incorrectly assumes an incremental time of 10 minutes for a technician to conduct each additional compressor source measurement for manifolded compressors. The commenter stated that this estimate fails to consider the time required to move personnel and equipment from compressor to compressor and the cautious pace of work and work practices (*e.g.,* use of lanyard and/or other fall protection) for safely working at elevated locations. The commenter also pointed out that the measurement estimate appears to assume that the technician is working alone, reiterating that personnel do not work alone at elevated locations. The commenter further asserted that the EPA's burden estimate for compressor testing appears to include costs only for the testing contractor and does not include facility and company costs including scheduling, coordination, and test team support. The commenter stated that the proposed rule fails to account for costs associated with three separate measurements.

Response: The original burden estimate referenced by the commenter was an adjustment to the burden estimate for the subpart W 2010 final rule to reflect the proposed changes for manifolded compressors. For manifolded compressors, the EPA proposed that reporters may measure downstream of the manifold, in lieu of measuring each compressor source individually. Therefore, the measurement burden estimates assumed that the technician would be taking a single measurement at the manifold and that the level of effort associated with manifolded measurements are similar to the level of effort associated with measurements for individual compressors.

Additionally, in this final rule, we are specifying that ''as found'' measurements from manifolded compressors be taken one time per year instead of three separate measurements per year as proposed.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

In addition, the EPA prepared an analysis of the potential costs and benefits associated with the final amendments to subpart W. This analysis is contained in the memorandum ''Assessment of Impacts of the 2014 Final Revisions to Subpart W.'' A copy of the analysis is available in the docket for this action (see Docket Id. No. EPA–HQ–OAR–2011–0512) and the analysis is briefly summarized in Section IV of this preamble.

B. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The ICR document prepared by the EPA has been assigned OMB control number 2060–0629 and EPA ICR tracking number 2300.15.

This action simplifies the existing reporting methods in subpart W, clarifies monitoring methods and data reporting requirements, and finalizes confidentiality determinations for reported data elements. The EPA is restructuring the reporting requirements for clarity and to align them with the calculation requirements by adding 247 new data elements, substantially revising 13 data elements, and deleting 34 data elements.

OMB has previously approved the information collection requirements for 40 CFR part 98 under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0629 and EPA ICR tracking number 2300.12. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The information collection will result in an overall increase in annual burden of approximately 7,700 hours and $600,000. The estimated total projected cost and hour burden associated with reporting for subpart W are approximately $22,024,000 and 244,000 hours, respectively. For the hour burden, the estimated average burden hours per response is 53.7 hours, the frequency of response is once annually, and the estimated number of likely respondents is 2,885. These amendments to subpart W affect the labor costs, not the capital costs and operation and maintenance (O&M) costs. Therefore, the estimated total capital and start-up cost of monitoring equipment and related facility/process modifications annualized over the expected useful life of the equipment remains at $796,000 per year, and the total O&M cost remains at $1,690,000 per year. The total labor cost is $19,538,000 per year for all of subpart W.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This action (1) amends monitoring and calculation methodologies in subpart W; (2) amends reporting requirements; (3) assigns subpart W data reporting elements into CBI data categories; and (4) amends a definition in subpart A. After considering the economic impacts of these final rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this final rule include small businesses in the petroleum and gas industry, small governmental jurisdictions and small non-profits. The EPA has determined that some small businesses would be affected because their production processes emit GHGs exceeding the reporting threshold.

This action includes final amendments that do not result in a significant burden increase on subpart W reporters. In some cases, the EPA is increasing flexibility in the selection of methods used for calculating GHGs, and is also revising certain methods that may result in greater conformance to current industry practices. In addition, the EPA is revising specific provisions to provide clarity on what information is being reported. These revisions would not significantly increase the burden on reporters while maintaining the data quality of the information being reported to the EPA.

Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities. As part of the process of finalizing the subpart W 2010 final rule, the EPA took several steps to evaluate the effect of the rule on small entities. For example, the EPA determined appropriate thresholds that reduced the number of small businesses reporting. In addition, the EPA supports a ''help desk'' for the rule, which is available to answer questions on the provisions in the rule. Finally, the EPA continues to conduct significant outreach on the GHG reporting rule and maintains an ''open door'' policy for stakeholders to help inform the EPA's understanding of key issues for the industries.

D. Unfunded Mandates Reform Act (UMRA)

This rule contains no federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA. This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action (1) amends monitoring and calculation methodologies in subpart W; (2) amends reporting requirements, (3) assigns subpart W data reporting elements into CBI data categories; and (4) amends a definition in subpart A. The rule applies to few, if any, small governments. Therefore, this action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. However, for a more detailed discussion about how Part 98 relates to existing state programs, please see Section II of the preamble to the final Part 98 rule (74 FR 56266, October 30, 2009).

Few, if any, state or local government facilities would be affected by the provisions in this rule. This regulation also does not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000) the EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or the EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

The EPA has concluded that this action may have tribal implications. However, it will neither impose substantial new direct compliance costs on tribal governments, nor preempt Tribal law. This regulation would apply directly to petroleum and natural gas facilities that emit GHGs. Although few facilities that would be subject to the rule are likely to be owned by tribal governments, the EPA has sought opportunities to provide information to tribal governments and representatives during the development of the proposed and final subpart W that was promulgated on November 30, 2010 (75 FR 74458). The EPA consulted with tribal officials early in the process of developing subpart W to permit them to have meaningful and timely input into its development.

For additional information about the EPA's interactions with tribal governments, see Section IV.F of the preamble to the re-proposal of subpart W published on April 12, 2010 (75 FR 18608), and Section IV.F of the preamble to the subpart W 2010 final rule published on November 30, 2010 (75 FR 74458).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical

standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve the use of any new technical standards. No changes are being finalized that affect the test methods currently in use for subpart W. Although the EPA is revising this final rule to allow for the use of additional measurement methods (optical gas imaging instrument) for pre-screening of compressor valve leakage, these revisions rely on existing technical standards in subpart W for similar emission sources. Therefore, the EPA is not considering the use of any new voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Instead, this rule addresses information collection and reporting procedures.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on January 1, 2015.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: November 13, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—GENERAL PROVISIONS

■ 2. Section 98.6 is amended by revising the definition of ''Well completions'' to read as follows:

§ 98.6 Definitions.

* * * * *

Well completions means the process that allows for the flow of petroleum or natural gas from newly drilled wells to expel drilling and reservoir fluids and test the reservoir flow characteristics, steps which may vent produced gas to the atmosphere via an open pit or tank. Well completion also involves connecting the well bore to the reservoir, which may include treating the formation or installing tubing, packer(s), or lifting equipment, steps that do not significantly vent natural gas to the atmosphere. This process may also include high-rate flowback of injected gas, water, oil, and proppant used to fracture and prop open new fractures in existing lower permeability gas reservoirs, steps that may vent large quantities of produced gas to the atmosphere.

* * * * *

Subpart W—PETROLEUM AND NATURAL GAS SYSTEMS

■ 3. Section 98.230 is amended by revising paragraph (a)(2) to read as follows:

§ 98.230 Definition of the source category.

(a) * * *

(2) *Onshore petroleum and natural gas production.* Onshore petroleum and natural gas production means all equipment on a single well-pad or associated with a single well-pad (including but not limited to compressors, generators, dehydrators, storage vessels, engines, boilers, heaters, flares, separation and processing equipment, and portable non-self-propelled equipment, which includes well drilling and completion equipment, workover equipment, and leased, rented or contracted equipment) used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum and/or natural gas (including condensate). This equipment also includes associated storage or measurement vessels, all petroleum and natural gas production equipment located on islands, artificial islands, or structures connected by a causeway to land, an island, or an artificial island. Onshore petroleum and natural gas production also means all equipment on or associated with a single enhanced oil recovery (EOR) well pad using CO_2 or natural gas injection.

* * * * *

■ 4. Section 98.232 is amended by:

■ a. Revising paragraphs (c)(11), (d)(1), and (e)(1);

■ b. Adding paragraph (e)(6);

■ c. Revising paragraph (f)(1) and adding paragraph (f)(4);

■ d. Revising paragraph (g)(1) and adding paragraph (g)(4);

■ e. Revising paragraph (h)(1) and adding paragraph (h)(5); and

■ f. Revising paragraphs (i)(1) through (i)(7).

The revisions and additions read as follows:

§ 98.232 GHGs to report.

* * * * *

(c) * * *

(11) Reciprocating compressor venting.

* * * * *

(d) * * *

(1) Reciprocating compressor venting.

* * * * *

(e) * * *

(1) Reciprocating compressor venting.

* * * * *

(6) Flare stack emissions.

(f) * * *

(1) Reciprocating compressor venting.

* * * * *

(4) Flare stack emissions.

* * * * *

(g) * * *

(1) Reciprocating compressor venting.

* * * * *

(4) Flare stack emissions.

(h) ** * *

(1) Reciprocating compressor venting.

* * * * *

(5) Flare stack emissions.

(i) * * *

(1) Equipment leaks from connectors, block valves, control valves, pressure relief valves, orifice meters, regulators, and open-ended lines at above grade transmission-distribution transfer stations.

(2) Equipment leaks at below grade transmission-distribution transfer stations.

(3) Equipment leaks at above grade metering-regulating stations that are not above grade transmission-distribution transfer stations.

(4) Equipment leaks at below grade metering-regulating stations.

(5) Distribution main equipment leaks.

(6) Distribution services equipment leaks.

(7) Report under subpart W of this part the emissions of CO_2, CH_4, and N_2O emissions from stationary fuel combustion sources following the methods in § 98.233(z).

* * * * *

■ 5. Section 98.233 is amended by:

■ a. Revising the introductory text;

■ b. Revising paragraphs (a) introductory text, (a)(1), and (a)(2) and adding paragraph (a)(4);

■ c. Revising paragraphs (c), (d), (e), (f), (g), (h), and (i);

■ d. Revising paragraphs (j) introductory text, (j)(1) introductory text, (j)(1)(vii) introductory text, and (j)(2);

■ e. Removing paragraphs (j)(3) and (j)(4);

■ f. Redesignating paragraphs (j)(5) through (j)(9) as paragraphs (j)(3) through (j)(7) and revising newly redesignated paragraphs (j)(3) through (j)(7);

■ g. Revising paragraphs (k), (l), (m), (n), (o), (p), (q), and (r);

■ h. Revising paragraphs (s)(2) introductory text, (s)(2)(i), (s)(3), and (s)(4);

■ i. Revising paragraphs (t) introductory text, (t)(1), and (t)(2);

■ j. Revising paragraphs (u) introductory text and (u)(2)(iii) through (vii);

■ k. Revising paragraphs (v), (w) introductory text, (w)(1), and (w)(3) introductory text;

■ l. Revising the parameters ''$Mass_{CO2}$,'' ''N,'' and ''V_v'' to Equation W–37 in paragraph (w)(3);

■ m. Revising the introductory text of paragraph (x) and paragraph (x)(1);

■ n. Revising the parameter ''S_{hl}'' to Equation W–38 in paragraph (x)(2);

■ o. Revising paragraph (z)(1);

■ p. Revising the parameters ''V_a,'' ''Y_{CO2},'' ''Y_j,'' and ''Y_{CH4}'' to Equations W–39A and W–39B in paragraph (z)(2)(iii);

■ q. Revising Equation W–40 in paragraph (z)(2)(vi) and the parameters ''$Mass_{N2O}$,'' ''Fuel,'' and ''HHV'' to Equation W–40 in paragraph (z)(2)(vi);

■ r. Removing the parameter ''GWP'' of Equation W–40 in paragraph (z)(2)(vi).

The revisions and additions read as follows:

§ 98.233 Calculating GHG emissions.

You must calculate and report the annual GHG emissions as prescribed in this section. For calculations that specify measurements in actual conditions, reporters may use a flow or volume measurement system that corrects to standard conditions and determine the flow or volume at standard conditions; otherwise, reporters must use average atmospheric conditions or typical operating conditions as applicable to the respective monitoring methods in this section.

(a) *Natural gas pneumatic device venting.* Calculate CH_4 and CO_2 volumetric emissions from continuous high bleed, continuous low bleed, and intermittent bleed natural gas pneumatic devices using Equation W–1 of this section.

$$E_{s,i} = \sum_{t=1}^{3} Count_t * EF_t * GHG_i * T_t \qquad \text{(Eq. W-1)}$$

Where:

$E_{s,i}$ = Annual total volumetric GHG emissions at standard conditions in standard cubic feet per year from natural gas pneumatic device vents, of types ''t'' (continuous high bleed, continuous low bleed, intermittent bleed), for GHG_i.

$Count_t$ = Total number of natural gas pneumatic devices of type ''t'' (continuous high bleed, continuous low bleed, intermittent bleed) as determined in paragraph (a)(1) or (a)(2) of this section.

EF_t = Population emission factors for natural gas pneumatic device vents (in standard cubic feet per hour per device) of each type ''t'' listed in Tables W–1A, W–3, and W–4 of this subpart for onshore petroleum and natural gas production, onshore natural gas transmission compression, and underground natural gas storage facilities, respectively.

GHG_i = For onshore petroleum and natural gas production facilities, onshore natural gas transmission compression facilities, and underground natural gas storage facilities, concentration of GHG_i, CH_4 or CO_2, in produced natural gas or processed natural gas for each facility as specified in paragraphs (u)(2)(i), (iii), and (iv) of this section.

T_t = Average estimated number of hours in the operating year the devices, of each type ''t'', were operational using engineering estimates based on best available data. Default is 8,760 hours.

(1) For all industry segments, determine ''$Count_t$'' for Equation W–1 of this subpart for each type of natural gas pneumatic device (continuous high bleed, continuous low bleed, and intermittent bleed) by counting the devices, except as specified in paragraph (a)(2) of this section. The reported number of devices must represent the total number of devices for the reporting year.

(2) For the onshore petroleum and natural gas production industry segment, you have the option in the first two consecutive calendar years to determine ''$Count_t$'' for Equation W–1 of this subpart for each type of natural gas pneumatic device (continuous high bleed, continuous low bleed, and intermittent bleed) using engineering estimates based on best available data.

* * * * *

(4) Calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculations in paragraph (v) of this section.

* * * * *

(c) *Natural gas driven pneumatic pump venting.* (1) Calculate CH_4 and CO_2 volumetric emissions from natural gas driven pneumatic pump venting using Equation W–2 of this section. Natural gas driven pneumatic pumps covered in paragraph (e) of this section do not have to report emissions under this paragraph (c).

$$E_{s,i} = Count * EF * GHG_i * T \qquad \text{(Eq. W-2)}$$

Where:

$E_{s,i}$ = Annual total volumetric GHG emissions at standard conditions in standard cubic feet per year from all natural gas driven pneumatic pump venting, for GHG_i.

Count = Total number of natural gas driven pneumatic pumps.

EF = Population emissions factors for natural gas driven pneumatic pumps (in standard cubic feet per hour per pump) listed in Table W–1A of this subpart for onshore petroleum and natural gas production.

GHG_i = Concentration of GHG_i, CH_4, or CO_2, in produced natural gas as defined in paragraph (u)(2)(i) of this section.

T = Average estimated number of hours in the operating year the pumps were operational using engineering estimates based on best available data. Default is 8,760 hours.

(2) Calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculations in paragraph (v) of this section.

(d) *Acid gas removal (AGR) vents.* For AGR vents (including processes such as amine, membrane, molecular sieve or other absorbents and adsorbents), calculate emissions for CO_2 only (not CH_4) vented directly to the atmosphere or emitted through a flare, engine (*e.g.,* permeate from a membrane or de-adsorbed gas from a pressure swing adsorber used as fuel supplement), or sulfur recovery plant, using any of the calculation methods described in this paragraph (d), as applicable.

(1) *Calculation Method 1.* If you operate and maintain a continuous emissions monitoring system (CEMS) that has both a CO_2 concentration monitor and volumetric flow rate monitor, you must calculate CO_2 emissions under this subpart by following the Tier 4 Calculation Method and all associated calculation, quality assurance, reporting, and recordkeeping requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources). Alternatively, you may follow the manufacturer's instructions or industry standard practice. If a CO_2 concentration monitor and volumetric flow rate monitor are not available, you may elect to install a CO_2 concentration monitor and a volumetric flow rate monitor that comply with all of the requirements specified for the Tier 4 Calculation Method in subpart C of this part (General Stationary Fuel Combustion Sources). The calculation and reporting of CH_4 and N_2O emissions is not required as part of the Tier 4 requirements for AGR units.

(2) *Calculation Method 2.* If a CEMS is not available but a vent meter is installed, use the CO_2 composition and annual volume of vent gas to calculate emissions using Equation W–3 of this section.

$$E_{a,CO_2} = V_s * Vol_{CO_2} \qquad \text{(Eq. W-3)}$$

Where:

$E_{a,CO2}$ = Annual volumetric CO_2 emissions at actual conditions, in cubic feet per year.

V_S = Total annual volume of vent gas flowing out of the AGR unit in cubic feet per year at actual conditions as determined by flow meter using methods set forth in § 98.234(b). Alternatively, you may follow the manufacturer's instructions or industry standard practice for calibration of the vent meter.

Vol_{CO2} = Annual average volumetric fraction of CO_2 content in vent gas flowing out of the AGR unit as determined in paragraph (d)(6) of this section.

(3) *Calculation Method 3.* If a CEMS or a vent meter is not installed, you may use the inlet or outlet gas flow rate of the acid gas removal unit to calculate emissions for CO_2 using Equations W–4A or W–4B of this section. If inlet gas flow rate is known, use Equation W–4A. If outlet gas flow rate is known, use Equation W–4B.

$$E_{a,CO2} = V_{in} * \left[\frac{Vol_I - Vol_O}{1 - Vol_O} \right] \qquad \text{(Eq. W-4A)}$$

$$E_{a,CO2} = V_{out} * \left[\frac{Vol_I - Vol_O}{1 - Vol_I} \right] \qquad \text{(Eq. W-4B)}$$

Where:

$E_{a,\ CO2}$ = Annual volumetric CO_2 emissions at actual conditions, in cubic feet per year.

V_{in} = Total annual volume of natural gas flow into the AGR unit in cubic feet per year at actual conditions as determined using methods specified in paragraph (d)(5) of this section.

V_{out} = Total annual volume of natural gas flow out of the AGR unit in cubic feet per year at actual conditions as determined using methods specified in paragraph (d)(5) of this section.

Vol_I = Annual average volumetric fraction of CO_2 content in natural gas flowing into the AGR unit as determined in paragraph (d)(7) of this section.

Vol_o = Annual average volumetric fraction of CO_2 content in natural gas flowing out of the AGR unit as determined in paragraph (d)(8) of this section.

(4) *Calculation Method 4.* If CEMS or a vent meter is not installed, you may calculate emissions using any standard simulation software package, such as AspenTech HYSYS®, or API 4679 AMINECalc, that uses the Peng-Robinson equation of state and speciates CO_2 emissions. A minimum of the following, determined for typical operating conditions over the calendar year by engineering estimate and process knowledge based on best available data, must be used to characterize emissions:

(i) Natural gas feed temperature, pressure, and flow rate.

(ii) Acid gas content of feed natural gas.

(iii) Acid gas content of outlet natural gas.

(iv) Unit operating hours, excluding downtime for maintenance or standby.

(v) Exit temperature of natural gas.

(vi) Solvent pressure, temperature, circulation rate, and weight.

(5) For Calculation Method 3, determine the gas flow rate of the inlet when using Equation W–4A of this section or the gas flow rate of the outlet when using Equation W–4B of this section for the natural gas stream of an AGR unit using a meter according to methods set forth in § 98.234(b). If you do not have a continuous flow meter, either install a continuous flow meter or use an engineering calculation to determine the flow rate.

(6) For Calculation Method 2, if a continuous gas analyzer is not available on the vent stack, either install a

continuous gas analyzer or take quarterly gas samples from the vent gas stream for each quarter that the AGR unit is operating to determine Vol_{CO2} in Equation W–3 of this section, according to the methods set forth in § 98.234(b).

(7) For Calculation Method 3, if a continuous gas analyzer is installed on the inlet gas stream, then the continuous gas analyzer results must be used. If a continuous gas analyzer is not available, either install a continuous gas analyzer or take quarterly gas samples from the inlet gas stream for each quarter that the AGR unit is operating to determine Vol_I in Equation W–4A or W–4B of this section, according to the methods set forth in § 98.234(b).

(8) For Calculation Method 3, determine annual average volumetric fraction of CO_2 content in natural gas flowing out of the AGR unit using one of the methods specified in paragraphs (d)(8)(i) through (d)(8)(iii) of this section.

(i) If a continuous gas analyzer is installed on the outlet gas stream, then the continuous gas analyzer results must be used. If a continuous gas analyzer is not available, you may install a continuous gas analyzer.

(ii) If a continuous gas analyzer is not available or installed, quarterly gas samples may be taken from the outlet gas stream for each quarter that the AGR unit is operating to determine Vol_O in Equation W–4A or W–4B of this section, according to the methods set forth in § 98.234(b).

(iii) If a continuous gas analyzer is not available or installed, you may use sales line quality specification for CO_2 in natural gas.

(9) Calculate annual volumetric CO_2 emissions at standard conditions using calculations in paragraph (t) of this section.

(10) Calculate annual mass CO_2 emissions using calculations in paragraph (v) of this section.

(11) Determine if CO_2 emissions from the AGR unit are recovered and transferred outside the facility. Adjust the CO_2 emissions estimated in paragraphs (d)(1) through (d)(10) of this section downward by the magnitude of CO_2 emissions recovered and transferred outside the facility.

(e) *Dehydrator vents.* For dehydrator vents, calculate annual CH_4 and CO_2 emissions using the applicable calculation methods described in paragraphs (e)(1) through (e)(4) of this section. If emissions from dehydrator vents are routed to a vapor recovery system, you must adjust the emissions downward according to paragraph (e)(5) of this section. If emissions from dehydrator vents are routed to a flare or regenerator fire-box/fire tubes, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (e)(6) of this section.

(1) *Calculation Method 1.* Calculate annual mass emissions from glycol dehydrators that have an annual average of daily natural gas throughput that is greater than or equal to 0.4 million standard cubic feet per day by using a software program, such as AspenTech HYSYS® or GRI–GLYCalc™, that uses the Peng-Robinson equation of state to calculate the equilibrium coefficient, speciates CH_4 and CO_2 emissions from dehydrators, and has provisions to include regenerator control devices, a separator flash tank, stripping gas and a gas injection pump or gas assist pump. The following parameters must be determined by engineering estimate based on best available data and must be used at a minimum to characterize emissions from dehydrators:

(i) Feed natural gas flow rate.

(ii) Feed natural gas water content.

(iii) Outlet natural gas water content.

(iv) Absorbent circulation pump type (*e.g.,* natural gas pneumatic/air pneumatic/electric).

(v) Absorbent circulation rate.

(vi) Absorbent type (*e.g.,* triethylene glycol (TEG), diethylene glycol (DEG) or ethylene glycol (EG)).

(vii) Use of stripping gas.

(viii) Use of flash tank separator (and disposition of recovered gas).

(ix) Hours operated.

(x) Wet natural gas temperature and pressure.

(xi) Wet natural gas composition. Determine this parameter using one of the methods described in paragraphs (e)(1)(xi)(A) through (D) of this section.

(A) Use the GHG mole fraction as defined in paragraph (u)(2)(i) or (ii) of this section.

(B) If the GHG mole fraction cannot be determined using paragraph (u)(2)(i) or (ii) of this section, select a representative analysis.

(C) You may use an appropriate standard method published by a consensus-based standards organization if such a method exists or you may use an industry standard practice as specified in § 98.234(b) to sample and analyze wet natural gas composition.

(D) If only composition data for dry natural gas is available, assume the wet natural gas is saturated.

(2) *Calculation Method 2.* Calculate annual volumetric emissions from glycol dehydrators that have an annual average of daily natural gas throughput that is less than 0.4 million standard cubic feet per day using Equation W–5 of this section:

$$E_{s,i} = EF_i * Count * 1000 \qquad \text{(Eq. W-5)}$$

Where:

$E_{s,i}$ = Annual total volumetric GHG emissions (either CO_2 or CH_4) at standard conditions in cubic feet.

EF_i = Population emission factors for glycol dehydrators in thousand standard cubic feet per dehydrator per year. Use 73.4 for CH_4 and 3.21 for CO_2 at 60 °F and 14.7 psia.

Count = Total number of glycol dehydrators that have an annual average of daily natural gas throughput that is less than 0.4 million standard cubic feet per day.

1000 = Conversion of EF_i in thousand standard cubic feet to standard cubic feet.

(3) *Calculation Method 3.* For dehydrators of any size that use desiccant, you must calculate emissions from the amount of gas vented from the vessel when it is depressurized for the desiccant refilling process using Equation W–6 of this section. Desiccant dehydrator emissions covered in this paragraph do not have to be calculated separately using the method specified in paragraph (i) of this section for blowdown vent stacks.

$$E_{s,n} = \frac{\left(H * D^2 * \pi * P_2 * \%G * N\right)}{(4 * P_1 * 100)} \qquad \text{(Eq. W-6)}$$

Where:

$E_{s,n}$ = Annual natural gas emissions at standard conditions in cubic feet.
H = Height of the dehydrator vessel (ft).
D = Inside diameter of the vessel (ft).
P_1 = Atmospheric pressure (psia).
P_2 = Pressure of the gas (psia).
π = pi (3.14).
%G = Percent of packed vessel volume that is gas.
N = Number of dehydrator openings in the calendar year.
100 = Conversion of %G to fraction.

(4) For glycol dehydrators that use the calculation method in paragraph (e)(2) of this section, calculate both CH_4 and CO_2 mass emissions from volumetric GHG_i emissions using calculations in paragraph (v) of this section. For desiccant dehydrators that use the calculation method in paragraph (e)(3) of this section, calculate both CH_4 and CO_2 volumetric and mass emissions from volumetric natural gas emissions using calculations in paragraphs (u) and (v) of this section.

(5) Determine if the dehydrator unit has vapor recovery. Adjust the emissions estimated in paragraphs (e)(1), (2), and (3) of this section downward by the magnitude of emissions recovered using a vapor recovery system as determined by engineering estimate based on best available data.

(6) Calculate annual emissions from dehydrator vents to flares or regenerator fire-box/fire tubes as follows:

(i) Use the dehydrator vent volume and gas composition as determined in paragraphs (e)(1) through (5) of this section, as applicable.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine dehydrator vent emissions from the flare or regenerator combustion gas vent.

(f) *Well venting for liquids unloadings.* Calculate annual volumetric natural gas emissions from well venting for liquids unloading using one of the calculation methods described in paragraphs (f)(1), (2), or (3) of this section. Calculate annual CH_4 and CO_2 volumetric and mass emissions using the method described in paragraph (f)(4) of this section.

(1) *Calculation Method 1.* Calculate emissions from wells with plunger lifts and wells without plunger lifts separately. For at least one well of each unique well tubing diameter group and pressure group combination in each sub-basin category (see § 98.238 for the definitions of tubing diameter group, pressure group, and sub-basin category), where gas wells are vented to the atmosphere to expel liquids accumulated in the tubing, install a recording flow meter on the vent line used to vent gas from the well (*e.g.,* on the vent line off the wellhead separator or atmospheric storage tank) according to methods set forth in § 98.234(b). Calculate the total emissions from well venting to the atmosphere for liquids unloading using Equation W–7A of this section. For any tubing diameter group and pressure group combination in a sub-basin where liquids unloading occurs both with and without plunger lifts, Equation W–7A will be used twice, once for wells with plunger lifts and once for wells without plunger lifts.

$$E_a = FR \sum_{p=1}^{h} T_p \qquad \text{(Eq. W-7A)}$$

Where:

E_a = Annual natural gas emissions for all wells of the same tubing diameter group and pressure group combination in a sub-basin at actual conditions, a, in cubic feet. Calculate emission from wells with plunger lifts and wells without plunger lifts separately.
h = Total number of wells of the same tubing diameter group and pressure group combination in a sub-basin either with or without plunger lifts.
p = Wells 1 through h of the same tubing diameter group and pressure group combination in a sub-basin.
T_p = Cumulative amount of time in hours of venting for each well, p, of the same tubing diameter group and pressure group combination in a sub-basin during the year. If the available venting data do not contain a record of the date of the venting events and data are not available to provide the venting hours for the specific time period of January 1 to December 31, you may calculate an annualized vent time, T_p, using Equation W–7B of this section.
FR = Average flow rate in cubic feet per hour for all measured wells of the same tubing diameter group and pressure group combination in a sub-basin, over the duration of the liquids unloading, under actual conditions as determined in paragraph (f)(1)(i) of this section.

$$T_p = \frac{HR_p}{MP_p} \text{ x } D_p \qquad \text{(Eq. W-7B)}$$

Where:

HR_p = Cumulative amount of time in hours of venting for each well, p, during the monitoring period.
MP_p = Time period, in days, of the monitoring period for each well, p. A minimum of 300 days in a calendar year are required. The next period of data collection must start immediately following the end of data collection for the previous reporting year.
D_p = Time period, in days during which the well, p, was in production (365 if the well was in production for the entire year).

(i) Determine the well vent average flow rate (''FR'' in Equation W–7A of this section) as specified in paragraphs (f)(1)(i)(A) through (C) of this section for at least one well in a unique well tubing diameter group and pressure group combination in each sub-basin category. Calculate emissions from wells with plunger lifts and wells without plunger lifts separately.

(A) Calculate the average flow rate per hour of venting for each unique tubing diameter group and pressure group combination in each sub-basin category by dividing the recorded total annual flow by the recorded time (in hours) for all measured liquid unloading events with venting to the atmosphere.

(B) Apply the average hourly flow rate calculated under paragraph (f)(1)(i)(A) of this section to all wells in the same pressure group that have the same tubing diameter group, for the number of hours of venting these wells.

(C) Calculate a new average flow rate every other calendar year starting with the first calendar year of data collection. For a new producing sub-basin category, calculate an average flow rate beginning in the first year of production.

(ii) Calculate natural gas volumetric emissions at standard conditions using calculations in paragraph (t) of this section.

(2) *Calculation Method 2.* Calculate the total emissions for each sub-basin from well venting to the atmosphere for liquids unloading without plunger lift assist using Equation W–8 of this section.

$$E_s = \sum_{p=1}^{W} \left[V_p \times \left(\left(0.37 \times 10^{-3}\right) \times CD_p^2 \times WD_p \times SP_p \right) + \sum_{q=1}^{V_p} \left(SFR_p \times \left(HR_{p,q} - 1.0 \right) \times Z_{p,q} \right) \right] \qquad \text{(Eq. W-8)}$$

Where:

E_s = Annual natural gas emissions for each sub-basin at standard conditions, s, in cubic feet per year.

W = Total number of wells with well venting for liquids unloading for each sub-basin.

p = Wells 1 through W with well venting for liquids unloading for each sub-basin.

V_p = Total number of unloading events in the monitoring period per well, p.

0.37×10^{-3} = {3.14 (pi)/4}/{14.7*144} (psia converted to pounds per square feet).

CD_p = Casing internal diameter for each well, p, in inches.

WD_p = Well depth from either the top of the well or the lowest packer to the bottom of the well, for each well, p, in feet.

SP_p = For each well, p, shut-in pressure or surface pressure for wells with tubing production, or casing pressure for each well with no packers, in pounds per square inch absolute (psia). If casing pressure is not available for each well, you may determine the casing pressure by multiplying the tubing pressure of each well with a ratio of casing pressure to tubing pressure from a well in the same sub-basin for which the casing pressure is known. The tubing pressure must be measured during gas flow to a flow-line. The shut-in pressure, surface pressure, or casing pressure must be determined just prior to liquids unloading when the well production is impeded by liquids loading or closed to the flow-line by surface valves.

SFR_p = Average flow-line rate of gas for well, p, at standard conditions in cubic feet per hour. Use Equation W–33 of this section to calculate the average flow-line rate at standard conditions.

$HR_{p,q}$ = Hours that each well, p, was left open to the atmosphere during each unloading event, q.

1.0 = Hours for average well to blowdown casing volume at shut-in pressure.

q = Unloading event.

$Z_{p,q}$ = If $HR_{p,q}$ is less than 1.0 then $Z_{p,q}$ is equal to 0. If $HR_{p,q}$ is greater than or equal to 1.0 then $Z_{p,q}$ is equal to 1.

(3) *Calculation Method 3.* Calculate the total emissions for each sub-basin from well venting to the atmosphere for liquids unloading with plunger lift assist using Equation W–9 of this section.

$$E_s = \sum_{p=1}^{W}\left[V_p \times \left(\left(0.37\times10^{-3}\right)\times TD_p^2 \times WD_p \times SP_p\right) + \sum_{q=1}^{V_p}\left(SFR_p \times \left(HR_{p,q} - 0.5\right)\times Z_{p,q}\right)\right] \quad \text{(Eq. W-9)}$$

Where:

E_s = Annual natural gas emissions for each sub-basin at standard conditions, s, in cubic feet per year.

W = Total number of wells with plunger lift assist and well venting for liquids unloading for each sub-basin.

p = Wells 1 through W with well venting for liquids unloading for each sub-basin.

V_p = Total number of unloading events in the monitoring period for each well, p.

0.37×10^{-3} = {3.14 (pi)/4}/{14.7*144} (psia converted to pounds per square feet).

TD_p = Tubing internal diameter for each well, p, in inches.

WD_p = Tubing depth to plunger bumper for each well, p, in feet.

SP_p = Flow-line pressure for each well, p, in pounds per square inch absolute (psia), using engineering estimate based on best available data.

SFR_p = Average flow-line rate of gas for well, p, at standard conditions in cubic feet per hour. Use Equation W–33 of this section to calculate the average flow-line rate at standard conditions.

$HR_{p,q}$ = Hours that each well, p, was left open to the atmosphere during each unloading event, q.

0.5 = Hours for average well to blowdown tubing volume at flow-line pressure.

q = Unloading event.

$Z_{p,q}$ = If $HR_{p,q}$ is less than 0.5 then $Z_{p,q}$ is equal to 0. If $HR_{p,q}$ is greater than or equal to 0.5 then $Z_{p,q}$ is equal to 1.

(4) Calculate CH_4 and CO_2 volumetric and mass emissions from volumetric natural gas emissions using calculations in paragraphs (u) and (v) of this section.

(g) *Gas well venting during completions and workovers with hydraulic fracturing.* Calculate annual volumetric natural gas emissions from gas well venting during completions and workovers involving hydraulic fracturing using Equation W–10A or Equation W–10B of this section. Equation W–10A applies to well venting when the flowback rate is measured from a specified number of example completions or workovers and Equation W–10B applies when the flowback vent or flare volume is measured for each completion or workover. Completion and workover activities are separated into two periods, an initial period when flowback is routed to open pits or tanks and a subsequent period when gas content is sufficient to route the flowback to a separator or when the gas content is sufficient to allow measurement by the devices specified in paragraph (g)(1) of this section, regardless of whether a separator is actually utilized. If you elect to use Equation W–10A of this section, you must follow the procedures specified in paragraph (g)(1) of this section. Emissions must be calculated separately for completions and workovers, for each sub-basin, and for each well type combination identified in paragraph (g)(2) of this section. You must calculate CH_4 and CO_2 volumetric and mass emissions as specified in paragraph (g)(3) of this section. If emissions from gas well venting during completions and workovers with hydraulic fracturing are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (g)(4) of this section.

$$E_{s,n} = \sum_{p=1}^{W}\left[T_{p,s} \times FRM_s \times PR_{s,p} - EnF_{s,p} + \left[T_{p,i} \times FRM_i \div 2 \times PR_{s,p}\right]\right] \quad \text{(Eq. W-10A)}$$

$$E_{s,n} = \sum_{p=1}^{W}\left[FV_{s,p} - EnF_{s,p} + \left[T_{p,i} \times FR_{p,i} \div 2\right]\right] \quad \text{(Eq. W-10B)}$$

Where:

$E_{s,n}$ = Annual volumetric natural gas emissions in standard cubic feet from gas well venting during completions or workovers following hydraulic fracturing for each sub-basin and well type combination.

W = Total number of wells completed or worked over using hydraulic fracturing in a sub-basin and well type combination.

$T_{p,s}$ = Cumulative amount of time of flowback, after sufficient quantities of gas are present to enable separation, where gas vented or flared for the completion or workover, in hours, for each well, p, in a sub-basin and well type combination during the reporting year. This may include non-contiguous periods of venting or flaring.

$T_{p,i}$ = Cumulative amount of time of flowback to open tanks/pits, from when gas is first detected until sufficient quantities of gas are present to enable separation, for the completion or workover, in hours, for each well, p, in a sub-basin and well type combination during the reporting year. This may include non-contiguous periods of routing to open tanks/pits.

FRM_s = Ratio of average flowback, during the period when sufficient quantities of gas are present to enable separation, of well completions and workovers from hydraulic fracturing to 30-day production rate for the sub-basin and well type combination, calculated using procedures specified in paragraph (g)(1)(iii) of this section, expressed in standard cubic feet per hour.

FRM_i = Ratio of initial flowback rate during well completions and workovers from hydraulic fracturing to 30-day production rate for the sub-basin and well type combination, calculated using procedures specified in paragraph (g)(1)(iv) of this section, expressed in standard cubic feet per hour, for the period of flow to open tanks/pits.

$PR_{s,p}$ = Average production flow rate during the first 30 days of production after completions of newly drilled gas wells or gas well workovers using hydraulic fracturing in standard cubic feet per hour of each well p, that was measured in the sub-basin and well type combination.

$EnF_{s,p}$ = Volume of N_2 injected gas in cubic feet at standard conditions that was injected into the reservoir during an energized fracture job for each well, p, as determined by using an appropriate meter according to methods described in § 98.234(b), or by using receipts of gas purchases that are used for the energized fracture job. Convert to standard conditions using paragraph (t) of this section. If the fracture process did not inject gas into the reservoir or if the injected gas is CO_2 then $EnF_{s,p}$ is 0.

$FV_{s,p}$ = Flow volume vented or flared of each well, p, in standard cubic feet measured using a recording flow meter (digital or analog) on the vent line to measure flowback during the separation period of the completion or workover according to methods set forth in § 98.234(b).

$FR_{p,i}$ = Flow rate vented or flared of each well, p, in standard cubic feet per hour measured using a recording flow meter (digital or analog) on the vent line to measure the flowback, at the beginning of the period of time when sufficient quantities of gas are present to enable separation, of the completion or workover according to methods set forth in § 98.234(b).

(1) If you elect to use Equation W–10A of this section, you must use Calculation Method 1 as specified in paragraph (g)(1)(i) of this section, or Calculation Method 2 as specified in paragraph (g)(1)(ii) of this section, to determine the value of FRM_s and FRM_i. These values must be based on the flow rate for flowback, once sufficient gas is present to enable separation. The number of measurements or calculations required to estimate FRM_s and FRM_i must be determined individually for completions and workovers per sub-basin and well type combination as follows: Complete measurements or calculations for at least one completion or workover for less than or equal to 25 completions or workovers for each well type combination within a sub-basin; complete measurements or calculations for at least two completions or workovers for 26 to 50 completions or workovers for each sub-basin and well type combination; complete measurements or calculations for at least three completions or workovers for 51 to 100 completions or workovers for each sub-basin and well type combination; complete measurements or calculations for at least four completions or workovers for 101 to 250 completions or workovers for each sub-basin and well type combination; and complete measurements or calculations for at least five completions or workovers for greater than 250 completions or workovers for each sub-basin and well type combination.

(i) *Calculation Method 1.* You must use Equation W–12A as specified in paragraph (g)(1)(iii) of this section to determine the value of FRM_s. You must use Equation W–12B as specified in paragraph (g)(1)(iv) of this section to determine the value of FRM_i. The procedures specified in paragraphs (g)(1)(v) and (vi) also apply. When making flowback measurements for use in Equations W–12A and W–12B of this section, you must use a recording flow meter (digital or analog) installed on the vent line, ahead of a flare or vent, to measure the flowback rates in units of standard cubic feet per hour according to methods set forth in § 98.234(b).

(ii) *Calculation Method 2.* You must use Equation W–12A as specified in paragraph (g)(1)(iii) of this section to determine the value of FRM_s. You must use Equation W–12B as specified in paragraph (g)(1)(iv) of this section to determine the value of FRM_i. The procedures specified in paragraphs (g)(1)(v) and (vi) also apply. When calculating the flowback rates for use in Equations W–12A and W–12B of this section based on well parameters, you must record the well flowing pressure immediately upstream (and immediately downstream in subsonic flow) of a well choke according to methods set forth in § 98.234(b) to calculate the well flowback. The upstream pressure must be surface pressure and reservoir pressure cannot be assumed. The downstream pressure must be measured after the choke and atmospheric pressure cannot be assumed. Calculate flowback rate using Equation W–11A of this section for subsonic flow or Equation W–11B of this section for sonic flow. You must use best engineering estimates based on best available data along with Equation W–11C of this section to determine whether the predominant flow is sonic or subsonic. If the value of R in Equation W–11C of this section is greater than or equal to 2, then flow is sonic; otherwise, flow is subsonic. Convert calculated FR_a values from actual conditions upstream of the restriction orifice to standard conditions ($FR_{s,p}$ and $FR_{i,p}$) for use in Equations W–12A and W–12B of this section using Equation W–33 in paragraph (t) of this section.

$$FR_a = 1.27 * 10^5 * A * \sqrt{3430 * T_u * \left[\left(\frac{P_2}{P_1}\right)^{1.515} - \left(\frac{P_2}{P_1}\right)^{1.758}\right]} \qquad \text{(Eq. W-11A)}$$

Where:

FR_a = Flowback rate in actual cubic feet per hour, under actual subsonic flow conditions.

A = Cross sectional open area of the restriction orifice (m^2).

P_1 = Pressure immediately upstream of the choke (psia).

T_u = Temperature immediately upstream of the choke (degrees Kelvin).

P_2 = Pressure immediately downstream of the choke (psia).

3430 = Constant with units of $m^2/(sec^2 * K)$.

$1.27*10^5$ = Conversion from m^3/second to ft^3/hour.

$$FR_a = 1.27*10^5 * A * \sqrt{187.08*T_u} \quad \text{(Eq. W-11B)}$$

Where:

FR_a = Flowback rate in actual cubic feet per hour, under actual sonic flow conditions.

A = Cross sectional open area of the restriction orifice (m^2).

T_u = Temperature immediately upstream of the choke (degrees Kelvin).

187.08 = Constant with units of $m^2/(sec^2 * K)$.

$1.27*10^5$ = Conversion from m^3/second to ft^3/hour.

$$R = P1/P2 \quad \text{(Eq. W-11C)}$$

Where:

R = Pressure ratio.

P_1 = Pressure immediately upstream of the choke (psia).

P_2 = Pressure immediately downstream of the choke (psia).

(iii) For Equation W–10A of this section, calculate FRM_s using Equation W–12A of this section.

$$FRM_s = \frac{\sum_{p=1}^{N} FR_{s,p}}{\sum_{p=1}^{N} PR_{s,p}} \quad \text{(Eq. W-12A)}$$

Where:

FRM_s = Ratio of average flowback rate, during the period of time when sufficient quantities of gas are present to enable separation, of well completions and workovers from hydraulic fracturing to 30-day production rate for each sub-basin and well type combination.

$FR_{s,p}$ = Measured average flowback rate from Calculation Method 1 described in paragraph (g)(1)(i) of this section or calculated average flowback rate from Calculation Method 2 described in paragraph (g)(1)(ii) of this section, during the separation period in standard cubic feet per hour for well(s) p for each sub-basin and well type combination. Convert measured and calculated FR_a values from actual conditions upstream of the restriction orifice (FR_a) to standard conditions ($FR_{s,p}$) for each well p using Equation W–33 in paragraph (t) of this section. You may not use flow volume as used in Equation W–10B converted to a flow rate for this parameter.

$PR_{s,p}$ = Average production flow rate during the first 30 days of production after completions of newly drilled gas wells or gas well workovers using hydraulic fracturing, in standard cubic feet per hour for each well, p, that was measured in the sub-basin and well type combination.

N = Number of measured or calculated well completions or workovers using hydraulic fracturing in a sub-basin and well type combination.

(iv) For Equation W–10A of this section, calculate FRM_i using Equation W–12B of this section.

$$FRMi = \frac{\sum_{p=1}^{N} FR_{i,p}}{\sum_{p=1}^{N} PR_{s,p}} \quad \text{(Eq. W-12B)}$$

Where:

FRM_i = Ratio of flowback gas rate while flowing to open tanks/pits during well completions and workovers from hydraulic fracturing to 30-day production rate.

$FR_{i,p}$ = Initial measured gas flowback rate from Calculation Method 1 described in paragraph (g)(1)(i) of this section or initial calculated flow rate from Calculation Method 2 described in paragraph (g)(1)(ii) of this section in standard cubic feet per hour for well(s), p, for each sub-basin and well type combination. Measured and calculated $FR_{i,p}$ values must be based on flow conditions at the beginning of the separation period and must be expressed at standard conditions.

$PR_{s,p}$ = Average production flow rate during the first 30-days of production after completions of newly drilled gas wells or gas well workovers using hydraulic fracturing, in standard cubic feet per hour of each well, p, that was measured in the sub-basin and well type combination.

N = Number of measured or calculated well completions or workovers using hydraulic fracturing in a sub-basin and well type combination.

(v) For Equation W–10A of this section, the ratio of flowback rate during well completions and workovers from hydraulic fracturing to 30-day production rate for horizontal and vertical wells are applied to all horizontal and vertical well completions in the gas producing sub-basin and well type combination and to all horizontal and vertical well workovers, respectively, in the gas producing sub-basin and well type combination for the total number of hours of flowback and for the first 30 day average production rate for each of these wells.

(vi) For Equation W–12A and W–12B of this section, calculate new flowback rates for horizontal and vertical gas well completions and horizontal and vertical gas well workovers in each sub-basin category once every two years starting in the first calendar year of data collection.

(2) For paragraphs (g) introductory text and (g)(1) of this section, measurements and calculations are completed separately for workovers and completions per sub-basin and well type combination. A well type combination is a unique combination of the parameters listed in paragraphs (g)(2)(i) through (iii) of this section.

(i) Vertical or horizontal (directional drilling).

(ii) With flaring or without flaring.

(iii) Reduced emission completion/workover or not reduced emission completion/workover.

(3) Calculate both CH_4 and CO_2 volumetric and mass emissions from total natural gas volumetric emissions using calculations in paragraphs (u) and (v) of this section.

(4) Calculate annual emissions from gas well venting during well completions and workovers from hydraulic fracturing where all or a portion of the gas is flared as specified in paragraphs (g)(4)(i) and (ii) of this section.

(i) Use the volumetric total natural gas emissions vented to the atmosphere during well completions and workovers as determined in paragraph (g) of this section to calculate volumetric and mass emissions using paragraphs (u) and (v) of this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to adjust emissions for the portion of gas flared during well completions and workovers using hydraulic fracturing. This adjustment to emissions from completions using flaring, versus completions without flaring, accounts for the conversion of CH_4 to CO_2 in the flare and for the formation on N_2O during flaring.

(h) *Gas well venting during completions and workovers without hydraulic fracturing.* Calculate annual volumetric natural gas emissions from each gas well venting during workovers without hydraulic fracturing using Equation W–13A of this section. Calculate annual volumetric natural gas emissions from each gas well venting during completions without hydraulic fracturing using Equation W–13B of this section. You must convert annual volumetric natural gas emissions to CH_4 and CO_2 volumetric and mass emissions as specified in paragraph (h)(1) of this section. If emissions from gas well venting during completions and workovers without hydraulic fracturing are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (h)(2) of this section.

$$E_{s,wo} = N_{wo} * EF_{wo} \quad \text{(Eq. W-13A)}$$

$$E_{s,p} = \sum_{p=1}^{f} V_p * T_p \quad \text{(Eq. W-13B)}$$

Where:

$E_{s,wo}$ = Annual volumetric natural gas emissions in standard cubic feet from gas well venting during well workovers without hydraulic fracturing.

N_{wo} = Number of workovers per sub-basin category that do not involve hydraulic fracturing in the reporting year.

EF_{wo} = Emission factor for non-hydraulic fracture well workover venting in standard cubic feet per workover. Use 3,114 standard cubic feet natural gas per well workover without hydraulic fracturing.

$E_{s,p}$ = Annual volumetric natural gas emissions in standard cubic feet from gas well venting during well completions without hydraulic fracturing.

p = Well completions 1 through f in a sub-basin.

f = Total number of well completions without hydraulic fracturing in a sub-basin category.

V_p = Average daily gas production rate in standard cubic feet per hour for each well, p, undergoing completion without hydraulic fracturing. This is the total annual gas production volume divided by total number of hours the wells produced to the flow-line. For completed wells that have not established a production rate, you may use the average flow rate from the first 30 days of production. In the event that the well is completed less than 30 days from the end of the calendar year, the first 30 days of the production straddling the current and following calendar years shall be used.

T_p = Time that gas is vented to either the atmosphere or a flare for each well, p, undergoing completion without hydraulic fracturing, in hours during the year.

(1) Calculate both CH_4 and CO_2 volumetric emissions from natural gas volumetric emissions using calculations in paragraph (u) of this section. Calculate both CH_4 and CO_2 mass emissions from volumetric emissions vented to atmosphere using calculations in paragraph (v) of this section.

(2) Calculate annual emissions of CH_4, CO_2, and N_2O from gas well venting to flares during well completions and workovers not involving hydraulic fracturing as specified in paragraphs (h)(2)(i) and (ii) of this section.

(i) Use the gas well venting volume and gas composition during well completions and workovers that are flared as determined using the methods specified in paragraphs (h) and (h)(1) of this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine emissions from the flare for gas well venting to a flare during completions and workovers without hydraulic fracturing.

(i) *Blowdown vent stacks.* Calculate CO_2 and CH_4 blowdown vent stack emissions from the depressurization of equipment to reduce system pressure for planned or emergency shutdowns resulting from human intervention or to take equipment out of service for maintenance as specified in either paragraph (i)(2) or (3) of this section. You may use the method in paragraph (i)(2) of this section for some blowdown vent stacks at your facility and the method in paragraph (i)(3) of this section for other blowdown vent stacks at your facility. Equipment with a unique physical volume of less than 50 cubic feet as determined in paragraph (i)(1) of this section are not subject to the requirements in paragraphs (i)(2) through (4) of this section. The requirements in this paragraph (i) do not apply to blowdown vent stack emissions from depressurizing to a flare, over-pressure relief, operating pressure control venting, blowdown of non-GHG gases, and desiccant dehydrator blowdown venting before reloading.

(1) *Method for calculating unique physical volumes.* You must calculate each unique physical volume (including pipelines, compressor case or cylinders, manifolds, suction bottles, discharge bottles, and vessels) between isolation valves, in cubic feet, by using engineering estimates based on best available data.

(2) *Method for determining emissions from blowdown vent stacks according to equipment or event type.* If you elect to determine emissions according to each equipment or event type, using unique physical volumes as calculated in paragraph (i)(1) of this section, you must calculate emissions as specified in paragraph (i)(2)(i) of this section and either paragraph (i)(2)(ii) or, if applicable, paragraph (i)(2)(iii) of this section for each equipment or event type. Equipment or event types must be grouped into the following seven categories: Facility piping (*i.e.,* piping within the facility boundary other than physical volumes associated with distribution pipelines), pipeline venting (*i.e.,* physical volumes associated with distribution pipelines vented within the facility boundary), compressors, scrubbers/strainers, pig launchers and receivers, emergency shutdowns (this category includes emergency shutdown blowdown emissions regardless of equipment type), and all other equipment with a physical volume greater than or equal to 50 cubic feet. If a blowdown event resulted in emissions from multiple equipment types and the emissions cannot be apportioned to the different equipment types, then categorize the blowdown event as the equipment type that represented the largest portion of the emissions for the blowdown event.

(i) Calculate the total annual natural gas emissions from each unique physical volume that is blown down using either Equation W–14A or W–14B of this section.

$$E_{s,n} = N * \left(V \left(\frac{(459.67 + T_s) P_a}{(459.67 + T_a) P_s Z_a} \right) - V * C \right) \quad \text{(Eq. W-14A)}$$

Where:

$E_{s,n}$ = Annual natural gas emissions at standard conditions from each unique physical volume that is blown down, in cubic feet.

N = Number of occurrences of blowdowns for each unique physical volume in the calendar year.

V = Unique physical volume between isolation valves, in cubic feet, as calculated in paragraph (i)(1) of this section.

C = Purge factor is 1 if the unique physical volume is not purged, or 0 if the unique physical volume is purged using non-GHG gases.

T_s = Temperature at standard conditions (60 °F).
T_a = Temperature at actual conditions in the unique physical volume (°F).
P_s = Absolute pressure at standard conditions (14.7 psia).
P_a = Absolute pressure at actual conditions in the unique physical volume (psia).
Z_a = Compressibility factor at actual conditions for natural gas. You may use either a default compressibility factor of 1, or a site-specific compressibility factor based on actual temperature and pressure conditions.

$$E_{s,n} = \sum_{p=1}^{N} \left[V_p \left(\frac{(459.67 + T_s)(P_{a,b,p} - P_{a,e,p})}{(459.67 + T_{a,p}) P_s Z_a} \right) \right] \quad \text{(Eq. W-14B)}$$

Where:
$E_{s,n}$ = Annual natural gas emissions at standard conditions from each unique physical volume that is blown down, in cubic feet.
p = Individual occurrence of blowdown for the same unique physical volume.
N = Number of occurrences of blowdowns for each unique physical volume in the calendar year.
V_p = Unique physical volume between isolation valves, in cubic feet, for each blowdown ''p.''
T_s = Temperature at standard conditions (60 °F).
$T_{a,p}$ = Temperature at actual conditions in the unique physical volume (°F) for each blowdown ''p''.
P_s = Absolute pressure at standard conditions (14.7 psia).
$P_{a,b,p}$ = Absolute pressure at actual conditions in the unique physical volume (psia) at the beginning of the blowdown ''p''.
$P_{a,e,p}$ = Absolute pressure at actual conditions in the unique physical volume (psia) at the end of the blowdown ''p''; 0 if blowdown volume is purged using non-GHG gases.
Z_a = Compressibility factor at actual conditions for natural gas. You may use either a default compressibility factor of 1, or a site-specific compressibility factor based on actual temperature and pressure conditions.

(ii) Except as allowed in paragraph (i)(2)(iii) of this section, calculate annual CH_4 and CO_2 volumetric and mass emissions from each unique physical volume that is blown down by using the annual natural gas emission value as calculated in either Equation W–14A or Equation W–14B of paragraph (i)(2)(i) of this section and the calculation method specified in paragraph (i)(4) of this section. Calculate the total annual CH_4 and CO_2 emissions for each equipment or event type by summing the annual CH_4 and CO_2 mass emissions for all unique physical volumes associated with the equipment or event type.

(iii) For onshore natural gas transmission compression facilities and LNG import and export equipment, as an alternative to using the procedures in paragraph (i)(2)(ii) of this section, you may elect to sum the annual natural gas emissions as calculated using either Equation W–14A or Equation W–14B of paragraph (i)(2)(i) of this section for all unique physical volumes associated with the equipment type or event type. Calculate the total annual CH_4 and CO_2 volumetric and mass emissions for each equipment type or event type using the sums of the total annual natural gas emissions for each equipment type and the calculation method specified in paragraph (i)(4) of this section.

(3) *Method for determining emissions from blowdown vent stacks using a flow meter.* In lieu of determining emissions from blowdown vent stacks as specified in paragraph (i)(2) of this section, you may use a flow meter and measure blowdown vent stack emissions for any unique physical volumes determined according to paragraph (i)(1) of this section to be greater than or equal to 50 cubic feet. If you choose to use this method, you must measure the natural gas emissions from the blowdown(s) through the monitored stack(s) using a flow meter according to methods in § 98.234(b), and calculate annual CH_4 and CO_2 volumetric and mass emissions measured by the meters according to paragraph (i)(4) of this section.

(4) *Method for converting from natural gas emissions to GHG volumetric and mass emissions.* Calculate both CH_4 and CO_2 volumetric and mass emissions using the methods specified in paragraphs (u) and (v) of this section.

(j) *Onshore production storage tanks.* Calculate CH_4, CO_2, and N_2O (when flared) emissions from atmospheric pressure fixed roof storage tanks receiving hydrocarbon produced liquids from onshore petroleum and natural gas production facilities (including stationary liquid storage not owned or operated by the reporter), as specified in this paragraph (j). For wells flowing to gas-liquid separators with annual average daily throughput of oil greater than or equal to 10 barrels per day, calculate annual CH_4 and CO_2 using Calculation Method 1 or 2 as specified in paragraphs (j)(1) and (2) of this section. For wells flowing directly to atmospheric storage tanks without passing through a wellhead separator with throughput greater than or equal to 10 barrels per day, calculate annual CH_4 and CO_2 emissions using Calculation Method 2 as specified in paragraph (j)(2) of this section. For wells flowing to gas-liquid separators or directly to atmospheric storage tanks with throughput less than 10 barrels per day, use Calculation Method 3 as specified in paragraph (j)(3) of this section. If you use Calculation Method 1 or Calculation Method 2, you must also calculate emissions that may have occurred due to dump valves not closing properly using the method specified in paragraph (j)(6) of this section. If emissions from atmospheric pressure fixed roof storage tanks are routed to a vapor recovery system, you must adjust the emissions downward according to paragraph (j)(4) of this section. If emissions from atmospheric pressure fixed roof storage tanks are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (j)(5) of this section.

(1) *Calculation Method 1.* Calculate annual CH_4 and CO_2 emissions from onshore production storage tanks using operating conditions in the last wellhead gas-liquid separator before liquid transfer to storage tanks. Calculate flashing emissions with a software program, such as AspenTech HYSYS® or API 4697 E&P Tank, that uses the Peng-Robinson equation of state, models flashing emissions, and speciates CH_4 and CO_2 emissions that will result when the oil from the separator enters an atmospheric pressure storage tank. The following parameters must be determined for typical operating conditions over the year by engineering estimate and process knowledge based on best available data, and must be used at a minimum to characterize emissions from liquid transferred to tanks:

* * * * *

(vii) Separator oil composition and Reid vapor pressure. If this data is not available, determine these parameters by using one of the methods described

in paragraphs (j)(1)(vii)(A) through (C) of this section.

* * * * *

(2) *Calculation Method 2.* Calculate annual CH_4 and CO_2 emissions using the methods in paragraph (j)(2)(i) of this section for wells flowing to gas-liquid separators with annual average daily throughput of oil greater than or equal to 10 barrels per day. Calculate annual CH_4 and CO_2 emissions using the methods in paragraph (j)(2)(ii) of this section for wells with annual average daily oil production greater than or equal to 10 barrels per day that flow directly to atmospheric storage tanks.

(i) *Flow to storage tank after passing through a separator.* Assume that all of the CH_4 and CO_2 in solution at separator temperature and pressure is emitted from oil sent to storage tanks. You may use an appropriate standard method published by a consensus-based standards organization if such a method exists or you may use an industry standard practice as described in § 98.234(b) to sample and analyze separator oil composition at separator pressure and temperature.

(ii) *Flow to storage tank direct from wells.* Calculate CH_4 and CO_2 emissions using either of the methods in paragraph (j)(2)(ii)(A) or (B) of this section.

(A) If well production oil and gas compositions are available through your previous analysis, select the latest available analysis that is representative of produced oil and gas from the sub-basin category and assume all of the CH_4 and CO_2 in both oil and gas are emitted from the tank.

(B) If well production oil and gas compositions are not available, use default oil and gas compositions in software programs, such as API 4697 E&P Tank, that most closely match your well production gas/oil ratio and API gravity and assume all of the CH_4 and CO_2 in both oil and gas are emitted from the tank.

(3) *Calculation Method 3.* Calculate CH_4 and CO_2 emissions using Equation W–15 of this section:

$$E_{s,i} = EF_i * Count * 1000 \qquad \text{(Eq. W-15)}$$

Where:

$E_{s,i}$ = Annual total volumetric GHG emissions (either CO_2 or CH_4) at standard conditions in cubic feet.

EF_i = Population emission factor for separators or wells in thousand standard cubic feet per separator or well per year, for crude oil use 4.2 for CH_4 and 2.8 for CO_2 at 60 °F and 14.7 psia, and for gas condensate use 17.6 for CH_4 and 2.8 for CO_2 at 60 °F and 14.7 psia.

Count = Total number of separators or wells with annual average daily throughput less than 10 barrels per day. Count only separators or wells that feed oil directly to the storage tank.

1,000 = Conversion from thousand standard cubic feet to standard cubic feet.

(4) Determine if the storage tank receiving your separator oil has a vapor recovery system.

(i) Adjust the emissions estimated in paragraphs (j)(1) through (3) of this section downward by the magnitude of emissions recovered using a vapor recovery system as determined by engineering estimate based on best available data.

(ii) [Reserved]

(5) Determine if the storage tank receiving your separator oil is sent to flare(s).

(i) Use your separator flash gas volume and gas composition as determined in this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine storage tank emissions from the flare.

(6) If you use Calculation Method 1 or Calculation Method 2 in paragraph (j)(1) or (2) of this section, calculate emissions from occurrences of well pad gas-liquid separator liquid dump valves not closing during the calendar year by using Equation W–16 of this section.

$$E_{s,i,o} = \left(CF_n * \frac{E_n}{8760} * T_n \right) \qquad \text{(Eq. W-16)}$$

Where:

$E_{s,i,o}$ = Annual volumetric GHG emissions at standard conditions from each storage tank in cubic feet that resulted from the dump valve on the gas-liquid separator not closing properly.

E_n = Storage tank emissions as determined in paragraphs (j)(1), (j)(2) and, if applicable, (j)(4) of this section in standard cubic feet per year.

T_n = Total time a dump valve is not closing properly in the calendar year in hours. Estimate T_n based on maintenance, operations, or routine well pad inspections that indicate the period of time when the valve was malfunctioning in open or partially open position.

CF_n = Correction factor for tank emissions for time period T_n is 2.87 for crude oil production. Correction factor for tank emissions for time period T_n is 4.37 for gas condensate production.

8,760 = Conversion to hourly emissions.

(7) Calculate both CH_4 and CO_2 mass emissions from natural gas volumetric emissions using calculations in paragraph (v) of this section.

(k) *Transmission storage tanks.* For vent stacks connected to one or more transmission condensate storage tanks, either water or hydrocarbon, without vapor recovery, in onshore natural gas transmission compression, calculate CH_4 and CO_2 annual emissions from compressor scrubber dump valve leakage as specified in paragraphs (k)(1) through (k)(4) of this section. If emissions from compressor scrubber dump valve leakage are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (k)(5) of this section.

(1) Except as specified in paragraph (k)(1)(iv) of this section, you must monitor the tank vapor vent stack annually for emissions using one of the methods specified in paragraphs (k)(1)(i) through (iii) of this section.

(i) Use an optical gas imaging instrument according to methods set forth in § 98.234(a)(1).

(ii) Measure the tank vent directly using a flow meter or high volume sampler according to methods in § 98.234(b) or (d) for a duration of 5 minutes.

(iii) Measure the tank vent using a calibrated bag according to methods in § 98.234(c) for a duration of 5 minutes or until the bag is full, whichever is shorter.

(iv) You may annually monitor leakage through compressor scrubber dump valve(s) into the tank using an acoustic leak detection device according to methods set forth in § 98.234(a)(5).

(2) If the tank vapors from the vent stack are continuous for 5 minutes, or

the optical gas imaging instrument or acoustic leak detection device detects a leak, then you must use one of the methods in either paragraph (k)(2)(i) or (ii) of this section.

(i) Use a flow meter, such as a turbine meter, calibrated bag, or high volume sampler to estimate tank vapor volumes from the vent stack according to methods set forth in § 98.234(b) through (d). If you do not have a continuous flow measurement device, you may install a flow measuring device on the tank vapor vent stack. If the vent is directly measured for five minutes under paragraph (k)(1)(ii) or (iii) of this section to detect continuous leakage, this serves as the measurement.

(ii) Use an acoustic leak detection device on each scrubber dump valve connected to the tank according to the method set forth in § 98.234(a)(5).

(3) If a leaking dump valve is identified, the leak must be counted as having occurred since the beginning of the calendar year, or from the previous test that did not detect leaking in the same calendar year. If the leaking dump valve is fixed following leak detection, the leak duration will end upon being repaired. If a leaking dump valve is identified and not repaired, the leak must be counted as having occurred through the rest of the calendar year.

(4) Use the requirements specified in paragraphs (k)(4)(i) and (ii) of this section to quantify annual emissions.

(i) Use the appropriate gas composition in paragraph (u)(2)(iii) of this section.

(ii) Calculate CH_4 and CO_2 volumetric and mass emissions at standard conditions using calculations in paragraphs (t), (u), and (v) of this section, as applicable to the monitoring equipment used.

(5) Calculate annual emissions from storage tanks to flares as specified in paragraphs (k)(5)(i) and (ii) of this section.

(i) Use the storage tank emissions volume and gas composition as determined in paragraphs (k)(1) through (4) of this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine storage tank emissions sent to a flare.

(l) *Well testing venting and flaring.* Calculate CH_4 and CO_2 annual emissions from well testing venting as specified in paragraphs (l)(1) through (5) of this section. If emissions from well testing venting are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (l)(6) of this section.

(1) Determine the gas to oil ratio (GOR) of the hydrocarbon production from oil well(s) tested. Determine the production rate from gas well(s) tested.

(2) If GOR cannot be determined from your available data, then you must measure quantities reported in this section according to one of the procedures specified in paragraph (l)(2)(i) or (ii) of this section to determine GOR.

(i) You may use an appropriate standard method published by a consensus-based standards organization if such a method exists.

(ii) You may use an industry standard practice as described in § 98.234(b).

(3) Estimate venting emissions using Equation W–17A (for oil wells) or Equation W–17B (for gas wells) of this section.

$$E_{a,n} = GOR * FR * D \qquad \text{(Eq. W-17A)}$$

$$E_{a,n} = PR * D \qquad \text{(Eq. W-17B)}$$

Where:

$E_{a,n}$ = Annual volumetric natural gas emissions from well(s) testing in cubic feet under actual conditions.

GOR = Gas to oil ratio in cubic feet of gas per barrel of oil; oil here refers to hydrocarbon liquids produced of all API gravities.

FR = Average annual flow rate in barrels of oil per day for the oil well(s) being tested.

PR = Average annual production rate in actual cubic feet per day for the gas well(s) being tested.

D = Number of days during the calendar year that the well(s) is tested.

(4) Calculate natural gas volumetric emissions at standard conditions using calculations in paragraph (t) of this section.

(5) Calculate both CH_4 and CO_2 volumetric and mass emissions from natural gas volumetric emissions using calculations in paragraphs (u) and (v) of this section.

(6) Calculate emissions from well testing if emissions are routed to a flare as specified in paragraphs (l)(6)(i) and (ii) of this section.

(i) Use the well testing emissions volume and gas composition as determined in paragraphs (l)(1) through (4) of this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine well testing emissions from the flare.

(m) *Associated gas venting and flaring.* Calculate CH_4 and CO_2 annual emissions from associated gas venting not in conjunction with well testing (refer to paragraph (l): Well testing venting and flaring of this section) as specified in paragraphs (m)(1) through (4) of this section. If emissions from associated gas venting are routed to a flare, you must calculate CH_4, CO_2, and N_2O annual emissions as specified in paragraph (m)(5) of this section.

(1) Determine the GOR of the hydrocarbon production from each well whose associated natural gas is vented or flared. If GOR from each well is not available, use the GOR from a cluster of wells in the same sub-basin category.

(2) If GOR cannot be determined from your available data, then you must use one of the procedures specified in paragraphs (m)(2)(i) or (ii) of this section to determine GOR.

(i) You may use an appropriate standard method published by a consensus-based standards organization if such a method exists.

(ii) You may use an industry standard practice as described in § 98.234(b).

(3) Estimate venting emissions using Equation W–18 of this section.

$$E_{s,n} = \sum_{q=1}^{y} \sum_{p=1}^{x} \left[\left(GOR_{p,q} * V_{p,q} \right) - SG_{p,q} \right] \qquad \text{(Eq. W-18)}$$

Where:

$E_{s,n}$ = Annual volumetric natural gas emissions, at the facility level, from associated gas venting at standard conditions, in cubic feet.

$GOR_{p,q}$ = Gas to oil ratio, for well p in sub-basin q, in standard cubic feet of gas per barrel of oil; oil here refers to hydrocarbon liquids produced of all API gravities.

$V_{p,q}$ = Volume of oil produced, for well p in sub-basin q, in barrels in the calendar year during time periods in which associated gas was vented or flared.

$SG_{p,q}$ = Volume of associated gas sent to sales, for well p in sub-basin q, in standard cubic feet of gas in the calendar year during time periods in which associated gas was vented or flared.

x = Total number of wells in sub-basin that vent or flare associated gas.

y = Total number of sub-basins in a basin that contain wells that vent or flare associated gas.

(4) Calculate both CH_4 and CO_2 volumetric and mass emissions from volumetric natural gas emissions using calculations in paragraphs (u) and (v) of this section.

(5) Calculate emissions from associated natural gas if emissions are routed to a flare as specified in paragraphs (m)(5)(i) and (ii) of this section.

(i) Use the associated natural gas volume and gas composition as determined in paragraph (m)(1) through (4) of this section.

(ii) Use the calculation method of flare stacks in paragraph (n) of this section to determine associated gas emissions from the flare.

(n) *Flare stack emissions.* Calculate CO_2, CH_4, and N_2O emissions from a flare stack as specified in paragraphs (n)(1) through (9) of this section.

(1) If you have a continuous flow measurement device on the flare, you must use the measured flow volumes to calculate the flare gas emissions. If all of the flare gas is not measured by the existing flow measurement device, then the flow not measured can be estimated using engineering calculations based on best available data or company records. If you do not have a continuous flow measurement device on the flare, you can use engineering calculations based on process knowledge, company records, and best available data.

(2) If you have a continuous gas composition analyzer on gas to the flare, you must use these compositions in calculating emissions. If you do not have a continuous gas composition analyzer on gas to the flare, you must use the appropriate gas compositions for each stream of hydrocarbons going to the flare as specified in paragraphs (n)(2)(i) through (iii) of this section.

(i) For onshore natural gas production, determine the GHG mole fraction using paragraph (u)(2)(i) of this section.

(ii) For onshore natural gas processing, when the stream going to flare is natural gas, use the GHG mole fraction in feed natural gas for all streams upstream of the de-methanizer or dew point control, and GHG mole fraction in facility specific residue gas to transmission pipeline systems for all emissions sources downstream of the de-methanizer overhead or dew point control for onshore natural gas processing facilities. For onshore natural gas processing plants that solely fractionate a liquid stream, use the GHG mole fraction in feed natural gas liquid for all streams.

(iii) For any industry segment required to report to flare stack emissions under § 98.232, when the stream going to the flare is a hydrocarbon product stream, such as methane, ethane, propane, butane, pentane-plus and mixed light hydrocarbons, then you may use a representative composition from the source for the stream determined by engineering calculation based on process knowledge and best available data.

(3) Determine flare combustion efficiency from manufacturer. If not available, assume that flare combustion efficiency is 98 percent.

(4) Convert GHG volumetric emissions to standard conditions using calculations in paragraph (t) of this section.

(5) Calculate GHG volumetric emissions from flaring at standard conditions using Equations W–19 and W–20 of this section.

$$E_{s,CH4} = V_s * X_{CH4} * \left[(1-\eta) * Z_L + Z_U \right] \quad \text{(Eq. W-19)}$$

$$E_{s,CO2} = V_s * X_{CO2} + \sum_{j=1}^{5} \left(\eta * V_s * Y_j * R_j * Z_L \right) \quad \text{(Eq. W-20)}$$

Where:

$E_{s,CH4}$ = Annual CH_4 emissions from flare stack in cubic feet, at standard conditions.

$E_{s,CO2}$ = Annual CO_2 emissions from flare stack in cubic feet, at standard conditions.

V_s = Volume of gas sent to flare in standard cubic feet, during the year as determined in paragraph (n)(1) of this section.

η = Flare combustion efficiency, expressed as fraction of gas combusted by a burning flare (default is 0.98).

X_{CH4} = Mole fraction of CH_4 in the feed gas to the flare as determined in paragraph (n)(2) of this section.

X_{CO2} = Mole fraction of CO_2 in the feed gas to the flare as determined in paragraph (n)(2) of this section.

Z_U = Fraction of the feed gas sent to an un-lit flare determined by engineering estimate and process knowledge based on best available data and operating records.

Z_L = Fraction of the feed gas sent to a burning flare (equal to $1 - Z_U$).

Y_j = Mole fraction of hydrocarbon constituents j (such as methane, ethane, propane, butane, and pentanes-plus) in the feed gas to the flare as determined in paragraph (n)(1) of this section.

R_j = Number of carbon atoms in the hydrocarbon constituent j in the feed gas to the flare: 1 for methane, 2 for ethane, 3 for propane, 4 for butane, and 5 for pentanes-plus).

(6) Calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculation in paragraph (v) of this section.

(7) Calculate N_2O emissions from flare stacks using Equation W–40 in paragraph (z) of this section.

(8) If you operate and maintain a CEMS that has both a CO_2 concentration monitor and volumetric flow rate monitor for the combustion gases from the flare, you must calculate only CO_2 emissions for the flare. You must follow the Tier 4 Calculation Method and all associated calculation, quality assurance, reporting, and recordkeeping requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources). If a CEMS is used to calculate flare stack emissions, the requirements specified in paragraphs (n)(1) through (7) of this section are not required.

(9) The flare emissions determined under this paragraph (n) must be corrected for flare emissions calculated and reported under other paragraphs of

this section to avoid double counting of these emissions.

(o) *Centrifugal compressor venting.* If you are required to report emissions from centrifugal compressor venting as specified in § 98.232(d)(2), (e)(2), (f)(2), (g)(2), and (h)(2), you must conduct volumetric emission measurements specified in paragraph (o)(1) of this section using methods specified in paragraphs (o)(2) through (5) of this section; perform calculations specified in paragraphs (o)(6) through (9) of this section; and calculate CH_4 and CO_2 mass emissions as specified in paragraph (o)(11) of this section. If emissions from a compressor source are routed to a flare, paragraphs (o)(1) through (11) of this section do not apply and instead you must calculate CH_4, CO_2, and N_2O emissions as specified in paragraph (o)(12) of this section. If emissions from a compressor source are captured for fuel use or are routed to a thermal oxidizer, paragraphs (o)(1) through (12) of this section do not apply and instead you must calculate and report emissions as specified in subpart C of this part. If emissions from a compressor source are routed to vapor recovery, paragraphs (o)(1) through (12) of this section do not apply. If you are required to report emissions from centrifugal compressor venting at an onshore petroleum and natural gas production facility as specified in § 98.232(c)(19), you must calculate volumetric emissions as specified in paragraph (o)(10) of this section; and calculate CH_4 and CO_2 mass emissions as specified in paragraph (o)(11) of this section.

(1) *General requirements for conducting volumetric emission measurements.* You must conduct volumetric emission measurements on each centrifugal compressor as specified in this paragraph. Compressor sources (as defined in § 98.238) without manifolded vents must use a measurement method specified in paragraph (o)(1)(i) or (ii) of this section. Manifolded compressor sources (as defined in § 98.238) must use a measurement method specified in paragraph (o)(1)(i), (ii), (iii), or (iv) of this section.

(i) Centrifugal compressor source as found measurements. Measure venting from each compressor according to either paragraph (o)(1)(i)(A) or (B) of this section at least once annually, based on the compressor mode (as defined in § 98.238) in which the compressor was found at the time of measurement, except as specified in paragraphs (o)(1)(i)(C) and (D) of this section. If additional measurements beyond the required annual testing are performed (including duplicate measurements or measurement of additional operating modes), then all measurements satisfying the applicable monitoring and QA/QC that is required by this paragraph (o) must be used in the calculations specified in this section.

(A) For a compressor measured in operating-mode, you must measure volumetric emissions from blowdown valve leakage through the blowdown vent as specified in either paragraph (o)(2)(i)(A) or (B) of this section and, if the compressor has wet seal oil degassing vents, measure volumetric emissions from wet seal oil degassing vents as specified in paragraph (o)(2)(ii) of this section.

(B) For a compressor measured in not-operating-depressurized-mode, you must measure volumetric emissions from isolation valve leakage as specified in either paragraph (o)(2)(i)(A), (B), or (C) of this section. If a compressor is not operated and has blind flanges in place throughout the reporting period, measurement is not required in this compressor mode.

(C) You must measure the compressor as specified in paragraph (o)(1)(i)(B) of this section at least once in any three consecutive calendar years, provided the measurement can be taken during a scheduled shutdown. If three consecutive calendar years occur without measuring the compressor in not-operating-depressurized-mode, you must measure the compressor as specified in paragraph (o)(1)(i)(B) of this section at the next scheduled depressurized shutdown. The requirement specified in this paragraph does not apply if the compressor has blind flanges in place throughout the reporting year. For purposes of this paragraph, a scheduled shutdown means a shutdown that requires a compressor to be taken off-line for planned or scheduled maintenance. A scheduled shutdown does not include instances when a compressor is taken offline due to a decrease in demand but must remain available.

(D) An annual as found measurement is not required in the first year of operation for any new compressor that begins operation after as found measurements have been conducted for all existing compressors. For only the first year of operation of new compressors, calculate emissions according to paragraph (o)(6)(ii) of this section.

(ii) Centrifugal compressor source continuous monitoring. Instead of measuring the compressor source according to paragraph (o)(1)(i) of this section for a given compressor, you may elect to continuously measure volumetric emissions from a compressor source as specified in paragraph (o)(3) of this section.

(iii) Manifolded centrifugal compressor source as found measurements. For a compressor source that is part of a manifolded group of compressor sources (as defined in § 98.238), instead of measuring the compressor source according to paragraph (o)(1)(i), (ii), or (iv) of this section, you may elect to measure combined volumetric emissions from the manifolded group of compressor sources by conducting measurements at the common vent stack as specified in paragraph (o)(4) of this section. The measurements must be conducted at the frequency specified in paragraphs (o)(1)(iii)(A) and (B) of this section.

(A) A minimum of one measurement must be taken for each manifolded group of compressor sources in a calendar year.

(B) The measurement may be performed while the compressors are in any compressor mode.

(iv) Manifolded centrifugal compressor source continuous monitoring. For a compressor source that is part of a manifolded group of compressor sources, instead of measuring the compressor source according to paragraph (o)(1)(i), (ii), or (iii) of this section, you may elect to continuously measure combined volumetric emissions from the manifolded group of compressor sources as specified in paragraph (o)(5) of this section.

(2) *Methods for performing as found measurements from individual centrifugal compressor sources.* If conducting measurements for each compressor source, you must determine the volumetric emissions from blowdown valves and isolation valves as specified in paragraph (o)(2)(i) of this section, and the volumetric emissions from wet seal oil degassing vents as specified in paragraph (o)(2)(ii) of this section.

(i) For blowdown valves on compressors in operating-mode and for isolation valves on compressors in not-operating-depressurized-mode, determine the volumetric emissions using one of the methods specified in paragraphs (o)(2)(i)(A) through (D) of this section.

(A) Determine the volumetric flow at standard conditions from the blowdown vent using calibrated bagging or high volume sampler according to methods set forth in § 98.234(c) and § 98.234(d), respectively.

(B) Determine the volumetric flow at standard conditions from the blowdown

vent using a temporary meter such as a vane anemometer according to methods set forth in § 98.234(b).

(C) Use an acoustic leak detection device according to methods set forth in § 98.234(a)(5).

(D) You may choose to use any of the methods set forth in § 98.234(a) to screen for emissions. If emissions are detected using the methods set forth in § 98.234(a), then you must use one of the methods specified in paragraph (o)(2)(i)(A) through (C) of this section. If emissions are not detected using the methods in § 98.234(a), then you may assume that the volumetric emissions are zero. For the purposes of this paragraph, when using any of the methods in § 98.234(a), emissions are detected whenever a leak is detected according to the methods.

(ii) For wet seal oil degassing vents in operating-mode, determine vapor volumes at standard conditions, using a temporary meter such as a vane anemometer or permanent flow meter according to methods set forth in § 98.234(b).

(3) *Methods for continuous measurement from individual centrifugal compressor sources.* If you elect to conduct continuous volumetric emission measurements for an individual compressor source as specified in paragraph (o)(1)(ii) of this section, you must measure volumetric emissions as specified in paragraphs (o)(3)(i) and (ii) of this section.

(i) Continuously measure the volumetric flow for the individual compressor source at standard conditions using a permanent meter according to methods set forth in § 98.234(b).

(ii) If compressor blowdown emissions are included in the metered emissions specified in paragraph (o)(3)(i) of this section, the compressor blowdown emissions may be included with the reported emissions for the compressor source and do not need to be calculated separately using the method specified in paragraph (i) of this section for blowdown vent stacks.

(4) *Methods for performing as found measurements from manifolded groups of centrifugal compressor sources.* If conducting measurements for a manifolded group of compressor sources, you must measure volumetric emissions as specified in paragraphs (o)(4)(i) and (ii) of this section.

(i) Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources.

(ii) Determine the volumetric flow at standard conditions from the common stack using one of the methods specified in paragraphs (o)(4)(ii)(A) through (E) of this section.

(A) A temporary meter such as a vane anemometer according the methods set forth in § 98.234(b).

(B) Calibrated bagging according to methods set forth in § 98.234(c).

(C) A high volume sampler according to methods set forth § 98.234(d).

(D) An acoustic leak detection device according to methods set forth in § 98.234(a)(5).

(E) You may choose to use any of the methods set forth in § 98.234(a) to screen for emissions. If emissions are detected using the methods set forth in § 98.234(a), then you must use one of the methods specified in paragraph (o)(4)(ii)(A) through (o)(4)(ii)(D) of this section. If emissions are not detected using the methods in § 98.234(a), then you may assume that the volumetric emissions are zero. For the purposes of this paragraph, when using any of the methods in § 98.234(a), emissions are detected whenever a leak is detected according to the method.

(5) *Methods for continuous measurement from manifolded groups of centrifugal compressor sources.* If you elect to conduct continuous volumetric emission measurements for a manifolded group of compressor sources as specified in paragraph (o)(1)(iv) of this section, you must measure volumetric emissions as specified in paragraphs (o)(5)(i) through (iii) of this section.

(i) Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources.

(ii) Continuously measure the volumetric flow for the manifolded group of compressor sources at standard conditions using a permanent meter according to methods set forth in § 98.234(b).

(iii) If compressor blowdown emissions are included in the metered emissions specified in paragraph (o)(5)(ii) of this section, the compressor blowdown emissions may be included with the reported emissions for the manifolded group of compressor sources and do not need to be calculated separately using the method specified in paragraph (i) of this section for blowdown vent stacks.

(6) *Method for calculating volumetric GHG emissions from as found measurements for individual centrifugal compressor sources.* For compressor sources measured according to paragraph (o)(1)(i) of this section, you must calculate annual GHG emissions from the compressor sources as specified in paragraphs (o)(6)(i) through (iv) of this section.

(i) Using Equation W–21 of this section, calculate the annual volumetric GHG emissions for each centrifugal compressor mode-source combination specified in paragraphs (o)(1)(i)(A) and (B) of this section that was measured during the reporting year.

$$E_{s,i,m} = MT_{s,m} * T_m * GHG_{i,m} \qquad \text{(Eq. W-21)}$$

Where:

$E_{s,i,m}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for measured compressor mode-source combination m, at standard conditions, in cubic feet.

$MT_{s,m}$ = Volumetric gas emissions for measured compressor mode-source combination m, in standard cubic feet per hour, measured according to paragraph (o)(2) of this section. If multiple measurements are performed for a given mode-source combination m, use the average of all measurements.

T_m = Total time the compressor is in the mode-source combination for which $E_{s,i,m}$ is being calculated in the reporting year, in hours.

$GHG_{i,m}$ = Mole fraction of GHG_i in the vent gas for measured compressor mode-source combination m; use the appropriate gas compositions in paragraph (u)(2) of this section.

m = Compressor mode-source combination specified in paragraph (o)(1)(i)(A) or (o)(1)(i)(B) of this section that was measured for the reporting year.

(ii) Using Equation W–22 of this section, calculate the annual volumetric GHG emissions from each centrifugal compressor mode-source combination specified in paragraph (o)(1)(i)(A) and (B) of this section that was not measured during the reporting year.

$$E_{s,i,m} = EF_{s,m} * T_m * GHG_{i,m} \qquad \text{(Eq. W-22)}$$

Where:

$E_{s,i,m}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for unmeasured compressor mode-source combination m, at standard conditions, in cubic feet.

$EF_{s,m}$ = Reporter emission factor for compressor mode-source combination m, in standard cubic feet per hour, as calculated in paragraph (o)(6)(iii) of this section.

T_m = Total time the compressor was in the unmeasured mode-source combination m, for which $E_{s,i,m}$ is being calculated in the reporting year, in hours.

$GHG_{i,m}$ = Mole fraction of GHG_i in the vent gas for unmeasured compressor mode-source combination m; use the appropriate gas compositions in paragraph (u)(2) of this section.

m = Compressor mode-source combination specified in paragraph (o)(1)(i)(A) or (o)(1)(i)(B) of this section that was not measured in the reporting year.

(iii) Using Equation W–23 of this section, develop an emission factor for each compressor mode-source combination specified in paragraph (o)(1)(i)(A) and (B) of this section. These emission factors must be calculated annually and used in Equation W–22 of this section to determine volumetric emissions from a centrifugal compressor in the mode-source combinations that were not measured in the reporting year.

$$EF_{s,m} = \frac{\sum_{p=1}^{Count_m} MT_{s,m,p}}{Count_m} \qquad \text{(Eq. W-23)}$$

Where:

$EF_{s,m}$ = Reporter emission factor to be used in Equation W–22 of this section for compressor mode-source combination m, in standard cubic feet per hour. The reporter emission factor must be based on all compressors measured in compressor mode-source combination m in the current reporting year and the preceding two reporting years.

$MT_{s,m,p}$ = Average volumetric gas emission measurement for compressor mode-source combination m, for compressor p, in standard cubic feet per hour, calculated using all volumetric gas emission measurements ($MT_{s,m}$ in Equation W–21 of this section) for compressor mode-source combination m for compressor p in the current reporting year and the preceding two reporting years.

$Count_m$ = Total number of compressors measured in compressor mode-source combination m in the current reporting year and the preceding two reporting years.

m = Compressor mode-source combination specified in paragraph (o)(1)(i)(A) or (o)(1)(i)(B) of this section.

(iv) The reporter emission factor in Equation W–23 of this section may be calculated by using all measurements from a single owner or operator instead of only using measurements from a single facility. If you elect to use this option, the reporter emission factor must be applied to all reporting facilities for the owner or operator.

(7) *Method for calculating volumetric GHG emissions from continuous monitoring of individual centrifugal compressor sources.* For compressor sources measured according to paragraph (o)(1)(ii) of this section, you must use the continuous volumetric emission measurements taken as specified in paragraph (o)(3) of this section and calculate annual volumetric GHG emissions associated with the compressor source using Equation W–24A of this section.

$$E_{s,i,v} = Q_{s,v} * GHG_{i,v} \qquad \text{(Eq. W-24A)}$$

Where:

$E_{s,i,v}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from compressor source v, at standard conditions, in cubic feet.

$Q_{s,v}$ = Volumetric gas emissions from compressor source v, for reporting year, in standard cubic feet.

$GHG_{i,v}$ = Mole fraction of GHG_i in the vent gas for compressor source v; use the appropriate gas compositions in paragraph (u)(2) of this section.

(8) *Method for calculating volumetric GHG emissions from as found measurements of manifolded groups of centrifugal compressor sources.* For manifolded groups of compressor sources measured according to paragraph (o)(1)(iii) of this section, you must calculate annual volumetric GHG emissions using Equation W–24B of this section. If the centrifugal compressors included in the manifolded group of compressor sources share the manifold with reciprocating compressors, you must follow the procedures in either this paragraph (o)(8) or paragraph (p)(8) of this section to calculate emissions from the manifolded group of compressor sources.

$$E_{s,i,g} = T_g * MT_{s,g,avg} * GHG_{i,g} \qquad \text{(Eq. W-24B)}$$

Where:

$E_{s,i,g}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for manifolded group of compressor sources g, at standard conditions, in cubic feet.

T_g = Total time the manifolded group of compressor sources g had potential for emissions in the reporting year, in hours. Include all time during which at least one compressor source in the manifolded group of compressor sources g was in a mode-source combination specified in either paragraph (o)(1)(i)(A), (o)(1)(i)(B), (p)(1)(i)(A), (p)(1)(i)(B), or (p)(1)(i)(C) of this section. Default of 8760 hours may be used.

$MT_{s,g,avg}$ = Average volumetric gas emissions of all measurements performed in the reporting year according to paragraph (o)(4) of this section for the manifolded group of compressor sources g, in standard cubic feet per hour.

$GHG_{i,g}$ = Mole fraction of GHG_i in the vent gas for manifolded group of compressor sources g; use the appropriate gas compositions in paragraph (u)(2) of this section.

(9) *Method for calculating volumetric GHG emissions from continuous monitoring of manifolded group of centrifugal compressor sources.* For a manifolded group of compressor sources measured according to paragraph (o)(1)(iv) of this section, you must use the continuous volumetric emission measurements taken as specified in paragraph (o)(5) of this section and calculate annual volumetric GHG emissions associated with each manifolded group of compressor sources using Equation W–24C of this section. If the centrifugal compressors included in the manifolded group of compressor sources share the manifold with reciprocating compressors, you must follow the procedures in either this paragraph (o)(9) or paragraph (p)(9) of this section to calculate emissions from the manifolded group of compressor sources.

$$E_{s,i,g} = Q_{s,g} * GHG_{i,g} \qquad \text{(Eq. W-24C)}$$

Where:

$E_{s,i,g}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from manifolded group of compressor sources g, at standard conditions, in cubic feet.

$Q_{s,g}$ = Volumetric gas emissions from manifolded group of compressor sources g, for reporting year, in standard cubic feet.

$GHG_{i,g}$ = Mole fraction of GHG_i in the vent gas for measured manifolded group of compressor sources g; use the appropriate gas compositions in paragraph (u)(2) of this section.

(10) *Method for calculating volumetric GHG emissions from wet seal oil degassing vents at an onshore petroleum and natural gas production facility.* You must calculate emissions from centrifugal compressor wet seal oil degassing vents at an onshore petroleum and natural gas production facility using Equation W–25 of this section.

$$E_{s,i} = Count * EF_{i,s} \qquad \text{(Eq. W-25)}$$

Where:

$E_{s,i}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from centrifugal compressor wet seals, at standard conditions, in cubic feet.

Count = Total number of centrifugal compressors that have wet seal oil degassing vents.

$EF_{i,s}$ = Emission factor for GHG_i. Use 1.2×10^7 standard cubic feet per year per compressor for CH_4 and 5.30×10^5 standard cubic feet per year per compressor for CO_2 at 60 °F and 14.7 psia.

(11) *Method for converting from volumetric to mass emissions.* You must calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculations in paragraph (v) of this section.

(12) *General requirements for calculating volumetric GHG emissions from centrifugal compressors routed to flares.* You must calculate and report emissions from all centrifugal compressor sources that are routed to a flare as specified in paragraphs (o)(12)(i) through (iii) of this section.

(i) Paragraphs (o)(1) through (11) of this section are not required for compressor sources that are routed to a flare.

(ii) If any compressor sources are routed to a flare, calculate the emissions for the flare stack as specified in paragraph (n) of this section and report emissions from the flare as specified in § 98.236(n), without subtracting emissions attributable to compressor sources from the flare.

(iii) Report all applicable activity data for compressors with compressor sources routed to flares as specified in § 98.236(o).

(p) *Reciprocating compressor venting.* If you are required to report emissions from reciprocating compressor venting as specified in § 98.232(d)(1), (e)(1), (f)(1), (g)(1), and (h)(1), you must conduct volumetric emission measurements specified in paragraph (p)(1) of this section using methods specified in paragraphs (p)(2) through (5) of this section; perform calculations specified in paragraphs (p)(6) through (9) of this section; and calculate CH_4 and CO_2 mass emissions as specified in paragraph (p)(11) of this section. If emissions from a compressor source are routed to a flare, paragraphs (p)(1) through (11) of this section do not apply and instead you must calculate CH_4, CO_2, and N_2O emissions as specified in paragraph (p)(12) of this section. If emissions from a compressor source are captured for fuel use or are routed to a thermal oxidizer, paragraphs (p)(1) through (12) of this section do not apply and instead you must calculate and report emissions as specified in subpart C of this part. If emissions from a compressor source are routed to vapor recovery, paragraphs (p)(1) through (12) of this section do not apply. If you are required to report emissions from reciprocating compressor venting at an onshore petroleum and natural gas production facility as specified in § 98.232(c)(11), you must calculate volumetric emissions as specified in paragraph (p)(10) of this section; and calculate CH_4 and CO_2 mass emissions as specified in paragraph (p)(11) of this section.

(1) *General requirements for conducting volumetric emission measurements.* You must conduct volumetric emission measurements on each reciprocating compressor as specified in this paragraph. Compressor sources (as defined in § 98.238) without manifolded vents must use a measurement method specified in paragraph (p)(1)(i) or (ii) of this section. Manifolded compressor sources (as defined in § 98.238) must use a measurement method specified in paragraph (p)(1)(i), (ii), (iii), or (iv) of this section.

(i) Reciprocating compressor source as found measurements. Measure venting from each compressor according to either paragraph (p)(1)(i)(A), (B), or (C) of this section at least once annually, based on the compressor mode (as defined in § 98.238) in which the compressor was found at the time of measurement, except as specified in paragraphs (p)(1)(i)(D) and (E) of this section. If additional measurements beyond the required annual testing are performed (including duplicate measurements or measurement of additional operating modes), then all measurements satisfying the applicable monitoring and QA/QC that is required by this paragraph (o) must be used in the calculations specified in this section.

(A) For a compressor measured in operating-mode, you must measure volumetric emissions from blowdown valve leakage through the blowdown vent as specified in either paragraph (p)(2)(i)(A) or (B) of this section, and measure volumetric emissions from

reciprocating rod packing as specified in paragraph (p)(2)(ii) of this section.

(B) For a compressor measured in standby-pressurized-mode, you must measure volumetric emissions from blowdown valve leakage through the blowdown vent as specified in either paragraph (p)(2)(i)(A) or (B) of this section.

(C) For a compressor measured in not-operating-depressurized-mode, you must measure volumetric emissions from isolation valve leakage as specified in either paragraph (p)(2)(i)(A), (B), or (C) of this section. If a compressor is not operated and has blind flanges in place throughout the reporting period, measurement is not required in this compressor mode.

(D) You must measure the compressor as specified in paragraph (p)(1)(i)(C) of this section at least once in any three consecutive calendar years, provided the measurement can be taken during a scheduled shutdown. If there is no scheduled shutdown within three consecutive calendar years, you must measure the compressor as specified in paragraph (p)(1)(i)(C) of this section at the next scheduled depressurized shutdown. For purposes of this paragraph, a scheduled shutdown means a shutdown that requires a compressor to be taken off-line for planned or scheduled maintenance. A scheduled shutdown does not include instances when a compressor is taken offline due to a decrease in demand but must remain available.

(E) An annual as found measurement is not required in the first year of operation for any new compressor that begins operation after as found measurements have been conducted for all existing compressors. For only the first year of operation of new compressors, calculate emissions according to paragraph (p)(6)(ii) of this section.

(ii) Reciprocating compressor source continuous monitoring. Instead of measuring the compressor source according to paragraph (p)(1)(i) of this section for a given compressor, you may elect to continuously measure volumetric emissions from a compressor source as specified in paragraph (p)(3) of this section.

(iii) Manifolded reciprocating compressor source as found measurements. For a compressor source that is part of a manifolded group of compressor sources (as defined in § 98.238), instead of measuring the compressor source according to paragraph (p)(1)(i), (ii), or (iv) of this section, you may elect to measure combined volumetric emissions from the manifolded group of compressor sources by conducting measurements at the common vent stack as specified in paragraph (p)(4) of this section. The measurements must be conducted at the frequency specified in paragraphs (p)(1)(iii)(A) and (B) of this section.

(A) A minimum of one measurement must be taken for each manifolded group of compressor sources in a calendar year.

(B) The measurement may be performed while the compressors are in any compressor mode.

(iv) Manifolded reciprocating compressor source continuous monitoring. For a compressor source that is part of a manifolded group of compressor sources, instead of measuring the compressor source according to paragraph (p)(1)(i), (ii), or (iii) of this section, you may elect to continuously measure combined volumetric emissions from the manifolded group of compressors sources as specified in paragraph (p)(5) of this section.

(2) *Methods for performing as found measurements from individual reciprocating compressor sources.* If conducting measurements for each compressor source, you must determine the volumetric emissions from blowdown valves and isolation valves as specified in paragraph (p)(2)(i) of this section. You must determine the volumetric emissions from reciprocating rod packing as specified in paragraph (p)(2)(ii) or (iii) of this section.

(i) For blowdown valves on compressors in operating-mode or standby-pressurized-mode, and for isolation valves on compressors in not-operating-depressurized-mode, determine the volumetric emissions using one of the methods specified in paragraphs (p)(2)(i)(A) through (D) of this section.

(A) Determine the volumetric flow at standard conditions from the blowdown vent using calibrated bagging or high volume sampler according to methods set forth in § 98.234(c) and (d), respectively.

(B) Determine the volumetric flow at standard conditions from the blowdown vent using a temporary meter such as a vane anemometer, according to methods set forth in § 98.234(b).

(C) Use an acoustic leak detection device according to methods set forth in § 98.234(a)(5).

(D) You may choose to use any of the methods set forth in § 98.234(a) to screen for emissions. If emissions are detected using the methods set forth in § 98.234(a), then you must use one of the methods specified in paragraphs (p)(2)(i)(A) through (C) of this section. If emissions are not detected using the methods in § 98.234(a), then you may assume that the volumetric emissions are zero. For the purposes of this paragraph, when using any of the methods in § 98.234(a), emissions are detected whenever a leak is detected according to the method.

(ii) For reciprocating rod packing equipped with an open-ended vent line on compressors in operating-mode, determine the volumetric emissions using one of the methods specified in paragraphs (p)(2)(ii)(A) through (C) of this section.

(A) Determine the volumetric flow at standard conditions from the open-ended vent line using calibrated bagging or high volume sampler according to methods set forth in § 98.234(c) and (d), respectively.

(B) Determine the volumetric flow at standard conditions from the open-ended vent line using a temporary meter such as a vane anemometer, according to methods set forth in § 98.234(b).

(C) You may choose to use any of the methods set forth in § 98.234(a) to screen for emissions. If emissions are detected using the methods set forth in § 98.234(a), then you must use one of the methods specified in paragraph (p)(2)(ii)(A) and (p)(4)(ii)(B) of this section. If emissions are not detected using the methods in § 98.234(a), then you may assume that the volumetric emissions are zero. For the purposes of this paragraph, when using any of the methods in § 98.234(a), emissions are detected whenever a leak is detected according to the method.

(iii) For reciprocating rod packing not equipped with an open-ended vent line on compressors in operating-mode, you must determine the volumetric emissions using the method specified in paragraphs (p)(2)(iii)(A) and (B) of this section.

(A) You must use the methods described in § 98.234(a) to conduct annual leak detection of equipment leaks from the packing case into an open distance piece, or for compressors with a closed distance piece, conduct annual detection of gas emissions from the rod packing vent, distance piece vent, compressor crank case breather cap, or other vent emitting gas from the rod packing.

(B) You must measure emissions found in paragraph (p)(2)(iii)(A) of this section using an appropriate meter, calibrated bag, or high volume sampler according to methods set forth in § 98.234(b), (c), and (d), respectively.

(3) *Methods for continuous measurement from individual reciprocating compressor sources.* If you elect to conduct continuous volumetric emission measurements for an

individual compressor source as specified in paragraph (p)(1)(ii) of this section, you must measure volumetric emissions as specified in paragraphs (p)(3)(i) and (p)(3)(ii) of this section.

(i) Continuously measure the volumetric flow for the individual compressor sources at standard conditions using a permanent meter according to methods set forth in § 98.234(b).

(ii) If compressor blowdown emissions are included in the metered emissions specified in paragraph (p)(3)(i) of this section, the compressor blowdown emissions may be included with the reported emissions for the compressor source and do not need to be calculated separately using the method specified in paragraph (i) of this section for blowdown vent stacks.

(4) *Methods for performing as found measurements from manifolded groups of reciprocating compressor sources.* If conducting measurements for a manifolded group of compressor sources, you must measure volumetric emissions as specified in paragraphs (p)(4)(i) and (ii) of this section.

(i) Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources.

(ii) Determine the volumetric flow at standard conditions from the common stack using one of the methods specified in paragraph (p)(4)(ii)(A) through (E) of this section.

(A) A temporary meter such as a vane anemometer according the methods set forth in § 98.234(b).

(B) Calibrated bagging according to methods set forth in § 98.234(c).

(C) A high volume sampler according to methods set forth § 98.234(d).

(D) An acoustic leak detection device according to methods set forth in § 98.234(a)(5).

(E) You may choose to use any of the methods set forth in § 98.234(a) to screen for emissions. If emissions are detected using the methods set forth in § 98.234(a), then you must use one of the methods specified in paragraph (p)(4)(ii)(A) through (D) of this section. If emissions are not detected using the methods in § 98.234(a), then you may assume that the volumetric emissions are zero. For the purposes of this paragraph, when using any of the methods in § 98.234(a), emissions are detected whenever a leak is detected according to the method.

(5) *Methods for continuous measurement from manifolded groups of reciprocating compressor sources.* If you elect to conduct continuous volumetric emission measurements for a manifolded group of compressor sources as specified in paragraph (p)(1)(iv) of this section, you must measure volumetric emissions as specified in paragraphs (p)(5)(i) through (iii) of this section.

(i) Measure at a single point in the manifold downstream of all compressor inputs and, if practical, prior to comingling with other non-compressor emission sources.

(ii) Continuously measure the volumetric flow for the manifolded group of compressor sources at standard conditions using a permanent meter according to methods set forth in § 98.234(b).

(iii) If compressor blowdown emissions are included in the metered emissions specified in paragraph (p)(5)(ii) of this section, the compressor blowdown emissions may be included with the reported emissions for the manifolded group of compressor sources and do not need to be calculated separately using the method specified in paragraph (i) of this section for blowdown vent stacks.

(6) *Method for calculating volumetric GHG emissions from as found measurements for individual reciprocating compressor sources.* For compressor sources measured according to paragraph (p)(1)(i) of this section, you must calculate GHG emissions from the compressor sources as specified in paragraphs (p)(6)(i) through (iv) of this section.

(i) Using Equation W–26 of this section, calculate the annual volumetric GHG emissions for each reciprocating compressor mode-source combination specified in paragraphs (p)(1)(i)(A) through (C) of this section that was measured during the reporting year.

$$E_{s,i,m} = MT_{s,m} * T_m * GHG_{i,m} \qquad \text{(Eq. W-26)}$$

Where:

$E_{s,i,m}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for measured compressor mode-source combination m, at standard conditions, in cubic feet.

$MT_{s,m}$ = Volumetric gas emissions for measured compressor mode-source combination m, in standard cubic feet per hour, measured according to paragraph (p)(2) of this section. If multiple measurements are performed for a given mode-source combination m, use the average of all measurements.

T_m = Total time the compressor is in the mode-source combination m, for which $E_{s,i,m}$ is being calculated in the reporting year, in hours.

$GHG_{i,m}$ = Mole fraction of GHG_i in the vent gas for measured compressor mode-source combination m; use the appropriate gas compositions in paragraph (u)(2) of this section.

m = Compressor mode-source combination specified in paragraph (p)(1)(i)(A), (B), or (C) of this section that was measured for the reporting year.

(ii) Using Equation W–27 of this section, calculate the annual volumetric GHG emissions from each reciprocating compressor mode-source combination specified in paragraph (p)(1)(i)(A), (B), and (C) of this section that was not measured during the reporting year.

$$E_{s,i,m} = EF_{s,m} * T_m * GHG_{i,m} \qquad \text{(Eq. W-27)}$$

Where:

$E_{s,i,m}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for unmeasured compressor mode-source combination m, at standard conditions, in cubic feet.

$EF_{s,m}$ = Reporter emission factor for compressor mode-source combination m, in standard cubic feet per hour, as calculated in paragraph (p)(6)(iii) of this section.

T_m = Total time the compressor was in the unmeasured mode-source combination m, for which $E_{s,i,m}$ is being calculated in the reporting year, in hours.

$GHG_{i,m}$ = Mole fraction of GHG_i in the vent gas for unmeasured compressor mode-source combination m; use the appropriate gas compositions in paragraph (u)(2) of this section.

m = Compressor mode-source combination specified in paragraph (p)(1)(i)(A), (p)(1)(i)(B), or (p)(1)(i)(C) of this section that was not measured for the reporting year.

(iii) Using Equation W–28 of this section, develop an emission factor for

each compressor mode-source combination specified in paragraph (p)(1)(i)(A), (B), and (C) of this section. These emission factors must be calculated annually and used in Equation W–27 of this section to determine volumetric emissions from a reciprocating compressor in the mode-source combinations that were not measured in the reporting year.

$$EF_{s,m} = \frac{\sum_{p=1}^{Count_m} MT_{s,m,p}}{Count_m} \qquad \text{(Eq. W-28)}$$

Where:

$EF_{s,m}$ = Reporter emission factor to be used in Equation W–27 of this section for compressor mode-source combination m, in standard cubic feet per hour. The reporter emission factor must be based on all compressors measured in compressor mode-source combination m in the current reporting year and the preceding two reporting years.

$MT_{s,m,p}$ = Average volumetric gas emission measurement for compressor mode-source combination m, for compressor p, in standard cubic feet per hour, calculated using all volumetric gas emission measurements ($MT_{s,m}$ in Equation W–26 of this section) for compressor mode-source combination m for compressor p in the current reporting year and the preceding two reporting years.

$Count_m$ = Total number of compressors measured in compressor mode-source combination m in the current reporting year and the preceding two reporting years.

m = Compressor mode-source combination specified in paragraph (p)(1)(i)(A), (B), or (C) of this section.

(iv) The reporter emission factor in Equation W–28 of this section may be calculated by using all measurements from a single owner or operator instead of only using measurements from a single facility. If you elect to use this option, the reporter emission factor must be applied to all reporting facilities for the owner or operator.

(7) *Method for calculating volumetric GHG emissions from continuous monitoring of individual reciprocating compressor sources.* For compressor sources measured according to paragraph (p)(1)(ii) of this section, you must use the continuous volumetric emission measurements taken as specified in paragraph (p)(3) of this section and calculate annual volumetric GHG emissions associated with the compressor source using Equation W–29A of this section.

$$E_{s,i,v} = Q_{s,v} * GHG_{i,v} \qquad \text{(Eq. W-29A)}$$

Where:

$E_{s,i,v}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from compressor source v, at standard conditions, in cubic feet.

$Q_{s,v}$ = Volumetric gas emissions from compressor source v, for reporting year, in standard cubic feet.

$GHG_{i,v}$ = Mole fraction of GHG_i in the vent gas for compressor source v; use the appropriate gas compositions in paragraph (u)(2) of this section.

(8) *Method for calculating volumetric GHG emissions from as found measurements of manifolded groups of reciprocating compressor sources.* For manifolded groups of compressor sources measured according to paragraph (p)(1)(iii) of this section, you must calculate annual GHG emissions using Equation W–29B of this section. If the reciprocating compressors included in the manifolded group of compressor sources share the manifold with centrifugal compressors, you must follow the procedures in either this paragraph (p)(8) or paragraph (o)(8) of this section to calculate emissions from the manifolded group of compressor sources.

$$E_{s,i,g} = T_g * MT_{s,g,avg} * GHG_{i,g} \qquad \text{(Eq. W-29B)}$$

Where:

$E_{s,i,g}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions for manifolded group of compressor sources g, at standard conditions, in cubic feet.

T_g = Total time the manifolded group of compressor sources g had potential for emissions in the reporting year, in hours. Include all time during which at least one compressor source in the manifolded group of compressor sources g was in a mode-source combination specified in either paragraph (o)(1)(i)(A), (o)(1)(i)(B), (p)(1)(i)(A), (p)(1)(i)(B), or (p)(1)(i)(C) of this section. Default of 8760 hours may be used.

$MT_{s,g,avg}$ = Average volumetric gas emissions of all measurements performed in the reporting year according to paragraph (p)(4) of this section for the manifolded group of compressor sources g, in standard cubic feet per hour.

$GHG_{i,g}$ = Mole fraction of GHG_i in the vent gas for manifolded group of compressor sources g; use the appropriate gas compositions in paragraph (u)(2) of this section.

(9) *Method for calculating volumetric GHG emissions from continuous monitoring of manifolded group of reciprocating compressor sources.* For a manifolded group of compressor sources measured according to paragraph (p)(1)(iv) of this section, you must use the continuous volumetric emission measurements taken as specified in paragraph (p)(5) of this section and calculate annual volumetric GHG emissions associated with each manifolded group of compressor sources using Equation W–29C of this section. If the reciprocating compressors included in the manifolded group of compressor sources share the manifold with centrifugal compressors, you must follow the procedures in either this paragraph (p)(9) or paragraph (o)(9) of this section to calculate emissions from the manifolded group of compressor sources.

$$E_{s,i,g} = Q_{s,g} * GHG_{i,g} \quad \text{(Eq. W-29C)}$$

Where:

$E_{s,i,g}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from manifolded group of compressor sources g, at standard conditions, in cubic feet.

$Q_{s,g}$ = Volumetric gas emissions from manifolded group of compressor sources g, for reporting year, in standard cubic feet.

$GHG_{i,g}$ = Mole fraction of GHG_i in the vent gas for measured manifolded group of compressor sources g; use the appropriate gas compositions in paragraph (u)(2) of this section.

(10) *Method for calculating volumetric GHG emissions from reciprocating compressor venting at an onshore petroleum and natural gas production facility.* You must calculate emissions from reciprocating compressor venting at an onshore petroleum and natural gas production facility using Equation W–29D of this section.

$$E_{s,i} = Count * EF_{i,s} \quad \text{(Eq. W-29D)}$$

Where:

$E_{s,i}$ = Annual volumetric GHG_i (either CH_4 or CO_2) emissions from reciprocating compressors, at standard conditions, in cubic feet.

Count = Total number of reciprocating compressors.

$EF_{i,s}$ = Emission factor for GHG_i. Use 9.48×10^3 standard cubic feet per year per compressor for CH_4 and 5.27×10^2 standard cubic feet per year per compressor for CO_2 at 60 °F and 14.7 psia.

(11) *Method for converting from volumetric to mass emissions.* You must calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculations in paragraph (v) of this section.

(12) *General requirements for calculating volumetric GHG emissions from reciprocating compressors routed to flares.* You must calculate and report emissions from all reciprocating compressor sources that are routed to a flare as specified in paragraphs (p)(12)(i) through (iii) of this section.

(i) Paragraphs (p)(1) through (11) of this section are not required for compressor sources that are routed to a flare.

(ii) If any compressor sources are routed to a flare, calculate the emissions for the flare stack as specified in paragraph (n) of this section and report emissions from the flare as specified in § 98.236(n), without subtracting emissions attributable to compressor sources from the flare.

(iii) Report all applicable activity data for compressors with compressor sources routed to flares as specified in § 98.236(p).

(q) *Equipment leak surveys.* You must use the methods described in § 98.234(a) to conduct leak detection(s) of equipment leaks from all component types listed in § 98.232(d)(7), (e)(7), (f)(5), (g)(3), (h)(4), and (i)(1). This paragraph (q) applies to component types in streams with gas content greater than 10 percent CH_4 plus CO_2 by weight. Component types in streams with gas content less than or equal to 10 percent CH_4 plus CO_2 by weight are exempt from the requirements of this paragraph (q) and do not need to be reported. Tubing systems equal to or less than one half inch diameter are exempt from the requirements of this paragraph (q) and do not need to be reported. For industry segments listed in § 98.230(a)(3) through (8), if equipment leaks are detected for component types listed in this paragraph (q), then you must calculate equipment leak emissions per component type per reporting facility using Equation W–30 of this section. For the industry segment listed in § 98.230(a)(8), the results from Equation W–30 are used to calculate population emission factors on a meter/regulator run basis using Equation W–31 of this section. If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(8)(i) of this section, then you must calculate the emissions from all above grade transmission-distribution transfer stations as specified in paragraph (q)(9) of this section.

$$E_{s,p,i} = GHG_i * EF_{s,p} * \sum_{z=1}^{x_p} T_{p,z} \quad \text{(Eq. W-30)}$$

Where:

$E_{s,p,i}$ = Annual total volumetric emissions of GHG_i from specific component type ''p'' (listed in § 98.232(d)(7), (e)(7), (f)(5), (g)(3), (h)(4), and (i)(1)) in standard (''s'') cubic feet, as specified in paragraphs (q)(1) through (q)(8) of this section.

x_p = Total number of specific component type ''p'' detected as leaking during annual leak surveys.

$EF_{s,p}$ = Leaker emission factor for specific component types listed in Table W–2 through Table W–7 of this subpart.

GHG_i = For onshore natural gas processing facilities, concentration of GHG_i, CH_4 or CO_2, in the total hydrocarbon of the feed natural gas; for onshore natural gas transmission compression and underground natural gas storage, GHG_i equals 0.975 for CH_4 and 1.1×10^{-2} for CO_2 ; for LNG storage and LNG import and export equipment, GHG_i equals 1 for CH_4 and 0 for CO_2 ; and for natural gas distribution, GHG_i equals 1 for CH_4 and 1.1×10^{-2} CO_2.

$T_{p,z}$ = The total time the surveyed component ''z'', component type ''p'', was assumed to be leaking and operational, in hours. If one leak detection survey is conducted in the calendar year, assume the component was leaking for the entire calendar year, accounting for time the component was not operational (*i.e.,* not operating under pressure) using engineering estimate based on best available data. If multiple leak detection surveys are conducted in the calendar year, assume that the component found to be leaking has been leaking since the previous survey (if not found leaking in the previous survey) or the beginning of the calendar year (if it was found leaking in the previous survey), accounting for time the component was not operational using engineering estimate based on best available data. For the last leak detection survey in the calendar year, assume that all leaking components continue to leak until the end of the calendar year, accounting for time the component was not operational using engineering estimate based on best available data.

(1) You must conduct either one leak detection survey in a calendar year or multiple complete leak detection

surveys in a calendar year. The leak detection surveys selected must be conducted during the calendar year.

(2) Calculate both CO_2 and CH_4 mass emissions using calculations in paragraph (v) of this section.

(3) Onshore natural gas processing facilities must use the appropriate default total hydrocarbon leaker emission factors for compressor components in gas service and non-compressor components in gas service listed in Table W–2 of this subpart.

(4) Onshore natural gas transmission compression facilities must use the appropriate default total hydrocarbon leaker emission factors for compressor components in gas service and non-compressor components in gas service listed in Table W–3 of this subpart.

(5) Underground natural gas storage facilities must use the appropriate default total hydrocarbon leaker emission factors for storage stations in gas service listed in Table W–4 of this subpart.

(6) LNG storage facilities must use the appropriate default methane leaker emission factors for LNG storage components in gas service listed in Table W–5 of this subpart.

(7) LNG import and export facilities must use the appropriate default methane leaker emission factors for LNG terminals components in LNG service listed in Table W–6 of this subpart.

(8) Natural gas distribution facilities must use Equation W–30 of this section and the default methane leaker emission factors for transmission-distribution transfer station components in gas service listed in Table W–7 of this subpart to calculate component emissions from annual equipment leak surveys conducted at above grade transmission-distribution transfer stations. Natural gas distribution facilities are required to perform equipment leak surveys only at above grade stations that qualify as transmission-distribution transfer stations. Below grade transmission-distribution transfer stations and all metering-regulating stations that do not meet the definition of transmission-distribution transfer stations are not required to perform equipment leak surveys under this section.

(i) Natural gas distribution facilities may choose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years ''n'', not exceeding a five year period to cover all above grade transmission-distribution transfer stations. If the facility chooses to use the multiple year option, then the number of transmission-distribution transfer stations that are monitored in each year should be approximately equal across all years in the cycle.

(ii) Use Equation W–31 of this section to determine the meter/regulator run population emission factors for each GHG_i. As additional survey data become available, you must recalculate the meter/regulator run population emission factors for each GHG_i annually according to paragraph (q)(8)(iii) of this section.

$$EF_{s,MR,i} = \frac{\sum_{y=1}^{n}\sum_{p=1}^{7} E_{s,p,i,y}}{\sum_{y=1}^{n}\sum_{w=1}^{Count_{MR,y}} T_{w,y}} \qquad \text{(Eq. W-31)}$$

Where:

$EF_{s,MR,i}$ = Meter/regulator run population emission factor for GHG_i based on all surveyed above grade transmission-distribution transfer stations over ''n'' years, in standard cubic feet of GHG_i per operational hour of all meter/regulator runs.

$E_{s,p,i,y}$ = Annual total volumetric emissions at standard conditions of GHG_i from component type ''p'' during year ''y'' in standard (''s'') cubic feet, as calculated using Equation W–30 of this section.

p = Seven component types listed in Table W–7 of this subpart for transmission-distribution transfer stations.

$T_{w,y}$ = The total time the surveyed meter/regulator run ''w'' was operational, in hours during survey year ''y'' using engineering estimate based on best available data.

$Count_{MR,y}$ = Count of meter/regulator runs surveyed at above grade transmission-distribution transfer stations in year ''y''.

y = Year of data included in emission factor ''$EF_{s,MR,i}$'' according to paragraph (q)(8)(iii) of this section.

n = Number of years of data, according to paragraph (q)(8)(i) of this section, whose results are used to calculate emission factor ''$EF_{s,MR,i}$'' according to paragraph (q)(8)(iii) of this section.

(iii) The emission factor ''$EF_{s,MR,i}$'', based on annual equipment leak surveys at above grade transmission-distribution transfer stations, must be calculated annually. If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(8)(i) of this section and you have submitted a smaller number of annual reports than the duration of the selected cycle period of 5 years or less, then all available data from the current year and previous years must be used in the calculation of the emission factor ''$EF_{s,MR,i}$'' from Equation W–31 of this section. After the first survey cycle of ''n'' years is completed and beginning in calendar year (n+1), the survey will continue on a rolling basis by including the survey results from the current calendar year ''y'' and survey results from all previous (n–1) calendar years, such that each annual calculation of the emission factor ''$EF_{s,MR,i}$'' from Equation W–31 of this section is based on survey results from ''n'' years. Upon completion of a cycle, you may elect to change the number of years in the next cycle period (to be 5 years or less). If the number of years in the new cycle is greater than the number of years in the previous cycle, calculate ''$EF_{s,MR,i}$'' from Equation W–31 of this section in each year of the new cycle using the survey results from the current calendar year and the survey results from the preceding number years that is equal to the number of years in the previous cycle period. If the number of years, ''n_{new}'', in the new cycle is smaller than the number of years in the previous cycle, ''n'', calculate ''$EF_{s,MR,i}$'' from Equation W–31 of this section in each year of the new cycle using the survey results from the current calendar year and survey results from all previous ($n_{new} - 1$) calendar years.

(9) If you chose to conduct equipment leak surveys at all above grade transmission-distribution transfer stations over multiple years, ''n,'' according to paragraph (q)(8)(i) of this section, you must use the meter/regulator run population emission factors calculated using Equation W–31 of this section and the total count of all meter/regulator runs at above grade transmission-distribution transfer stations to calculate emissions from all above grade transmission-distribution transfer stations using Equation W–32B in paragraph (r) of this section.

(r) *Equipment leaks by population count.* This paragraph applies to emissions sources listed in § 98.232 (c)(21), (f)(5), (g)(3), (h)(4), (i)(2), (i)(3), (i)(4), (i)(5), and (i)(6) on streams with gas content greater than 10 percent CH_4 plus CO_2 by weight. Emissions sources in streams with gas content less than or equal to 10 percent CH_4 plus CO_2 by weight are exempt from the requirements of this paragraph (r) and do not need to be reported. Tubing systems equal to or less than one half inch diameter are exempt from the requirements of paragraph (r) of this section and do not need to be reported. You must calculate emissions from all emission sources listed in this paragraph using Equation W–32A of this section, except for natural gas distribution facility emission sources listed in § 98.232(i)(3). Natural gas distribution facility emission sources listed in § 98.232(i)(3) must calculate emissions using Equation W–32B and according to paragraph (r)(6)(ii) of this section.

$$E_{s,e,i} = Count_e * EF_{s,e} * GHG_i * T_e \quad \text{(Eq. W-32A)}$$

$$E_{s,MR,i} = Count_{MR} * EF_{s,MR,i} * T_{w,avg} \quad \text{(Eq. W-32B)}$$

Where:

$E_{s,e,i}$ = Annual volumetric emissions of GHG_i from the emission source type in standard cubic feet. The emission source type may be a component (*e.g.* connector, open-ended line, etc.), below grade metering-regulating station, below grade transmission-distribution transfer station, distribution main, or distribution service.

$E_{s,MR,i}$ = Annual volumetric emissions of GHG_i from all meter/regulator runs at above grade metering regulating stations that are not above grade transmission-distribution transfer stations or, when used to calculate emissions according to paragraph (q)(9) of this section, the annual volumetric emissions of GHG_i from all meter/regulator runs at above grade transmission-distribution transfer stations, in standard cubic feet.

$Count_e$ = Total number of the emission source type at the facility. For onshore petroleum and natural gas production facilities, average component counts are provided by major equipment piece in Tables W–1B and Table W–1C of this subpart. Use average component counts as appropriate for operations in Eastern and Western U.S., according to Table W–1D of this subpart. Underground natural gas storage facilities must count each component listed in Table W–4 of this subpart. LNG storage facilities must count the number of vapor recovery compressors. LNG import and export facilities must count the number of vapor recovery compressors. Natural gas distribution facilities must count: (1) The number of distribution services by material type; (2) miles of distribution mains by material type; and (3) number of below grade metering-regulating stations, by pressure type; as listed in Table W–7 of this subpart.

$Count_{MR}$ = Total number of meter/regulator runs at above grade metering-regulating stations that are not above grade transmission-distribution transfer stations or, when used to calculate emissions according to paragraph (q)(9) of this section, the total number of meter/regulator runs at above grade transmission-distribution transfer stations.

$EF_{s,e}$ = Population emission factor for the specific emission source type, as listed in Tables W–1A and W–4 through W–7 of this subpart. Use appropriate population emission factor for operations in Eastern and Western U.S., according to Table W–1D of this subpart.

$EF_{s,MR,i}$ = Meter/regulator run population emission factor for GHG_i based on all surveyed above grade transmission-distribution transfer stations over ''n'' years, in standard cubic feet of GHG_i per operational hour of all meter/regulator runs, as determined in Equation W–31.

GHG_i = For onshore petroleum and natural gas production facilities, concentration of GHG_i, CH_4, or CO_2, in produced natural gas as defined in paragraph (u)(2) of this section; for onshore natural gas transmission compression and underground natural gas storage, GHG_i equals 0.975 for CH_4 and 1.1×10^{-2} for CO_2; for LNG storage and LNG import and export equipment, GHG_i equals 1 for CH_4 and 0 for CO_2; and for natural gas distribution, GHG_i equals 1 for CH_4 and $1.1 \times 10^{-2} CO_2$.

T_e = Average estimated time that each emission source type associated with the equipment leak emission was operational in the calendar year, in hours, using engineering estimate based on best available data.

$T_{w,avg}$ = Average estimated time that each meter/regulator run was operational in the calendar year, in hours per meter/regulator run, using engineering estimate based on best available data.

(1) Calculate both CH_4 and CO_2 mass emissions from volumetric emissions using calculations in paragraph (v) of this section.

(2) Onshore petroleum and natural gas production facilities must use the appropriate default whole gas population emission factors listed in Table W–1A of this subpart. Major equipment and components associated with gas wells are considered gas service components in reference to Table W–1A of this subpart and major natural gas equipment in reference to Table W–1B of this subpart. Major equipment and components associated with crude oil wells are considered crude service components in reference to Table W–1A of this subpart and major crude oil equipment in reference to Table W–1C of this subpart. Where facilities conduct EOR operations the emissions factor listed in Table W–1A of this subpart shall be used to estimate all streams of gases, including recycle CO_2 stream. The component count can be determined using either of the calculation methods described in this paragraph (r)(2). The same calculation method must be used for the entire calendar year.

(i) *Component Count Method 1.* For all onshore petroleum and natural gas production operations in the facility perform the following activities:

(A) Count all major equipment listed in Table W–1B and Table W–1C of this subpart. For meters/piping, use one meters/piping per well-pad.

(B) Multiply major equipment counts by the average component counts listed in Table W–1B and W–1C of this subpart for onshore natural gas production and onshore oil production, respectively. Use the appropriate factor in Table W–1A of this subpart for operations in Eastern and Western U.S. according to the mapping in Table W–1D of this subpart.

(ii) *Component Count Method 2.* Count each component individually for the facility. Use the appropriate factor in Table W–1A of this subpart for operations in Eastern and Western U.S. according to the mapping in Table W–1D of this subpart.

(3) Underground natural gas storage facilities must use the appropriate default total hydrocarbon population emission factors for storage wellheads in gas service listed in Table W–4 of this subpart.

(4) LNG storage facilities must use the appropriate default methane population emission factor for LNG storage compressors in gas service listed in Table W–5 of this subpart.

(5) LNG import and export facilities must use the appropriate default methane population emission factor for LNG terminal compressors in gas

service listed in Table W–6 of this subpart.

(6) Natural gas distribution facilities must use the appropriate methane emission factors as described in paragraphs (r)(6)(i) and (ii) of this section.

(i) Below grade metering-regulating stations, distribution mains, and distribution services must use the appropriate default methane population emission factors listed in Table W–7 of this subpart. Below grade transmission-distribution transfer stations must use the emission factor for below grade metering-regulating stations.

(ii) Above grade metering-regulating stations that are not above grade transmission-distribution transfer stations must use the meter/regulator run population emission factor calculated in Equation W–31. Natural gas distribution facilities that do not have above grade transmission-distribution transfer stations are not required to calculate emissions for above grade metering-regulating stations and are not required to report GHG emissions in § 98.236(r)(2)(v).

(s) * * *

(2) Offshore production facilities that are not under BOEMRE jurisdiction must use the most recent monitoring methods and calculation methods published by BOEMRE referenced in 30 CFR 250.302 through 250.304 to calculate and report annual emissions (GOADS).

(i) For any calendar year that does not overlap with the most recent BOEMRE emissions study publication, you may report the most recently reported emissions data submitted to demonstrate compliance with this subpart of part 98, with emissions adjusted based on the operating time for the facility relative to operating time in the previous reporting period.

* * * * *

(3) If BOEMRE discontinues or delays their data collection effort by more than 4 years, then offshore reporters shall once in every 4 years use the most recent BOEMRE data collection and emissions estimation methods to estimate emissions. These emission estimates would be used to report emissions from the facility sources as required in paragraph (s)(1)(i) of this section.

(4) For either first or subsequent year reporting, offshore facilities either within or outside of BOEMRE jurisdiction that were not covered in the previous BOEMRE data collection cycle must use the most recent BOEMRE data collection and emissions estimation methods published by BOEMRE referenced in 30 CFR 250.302 through 250.304 to calculate and report emissions.

(t) *GHG volumetric emissions using actual conditions.* If equation parameters in § 98.233 are already determined at standard conditions as provided in the introductory text in § 98.233, which results in volumetric emissions at standard conditions, then this paragraph does not apply. Calculate volumetric emissions at standard conditions as specified in paragraphs (t)(1) or (2) of this section, with actual pressure and temperature determined by engineering estimates based on best available data unless otherwise specified.

(1) Calculate natural gas volumetric emissions at standard conditions using actual natural gas emission temperature and pressure, and Equation W–33 of this section for conversions of $E_{a,n}$ or conversions of FR_a (whether sub-sonic or sonic).

$$E_{s,n} = \frac{E_{a,n} * (459.67 + T_s) * P_a}{(459.67 + T_a) * P_s * Z_a} \qquad \text{(Eq. W-33)}$$

Where:

$E_{s,n}$ = Natural gas volumetric emissions at standard temperature and pressure (STP) conditions in cubic feet, except $E_{s,n}$ equals $FR_{s,p}$ for each well p when calculating either subsonic or sonic flowrates under § 98.233(g).

$E_{a,n}$ = Natural gas volumetric emissions at actual conditions in cubic feet, except $E_{a,n}$ equals $FR_{a,p}$ for each well p when calculating either subsonic or sonic flowrates under § 98.233(g).

T_s = Temperature at standard conditions (60 °F).

T_a = Temperature at actual emission conditions (°F).

P_s = Absolute pressure at standard conditions (14.7 psia).

P_a = Absolute pressure at actual conditions (psia).

Z_a = Compressibility factor at actual conditions for natural gas. You may use either a default compressibility factor of 1, or a site-specific compressibility factor based on actual temperature and pressure conditions.

(2) Calculate GHG volumetric emissions at standard conditions using actual GHG emissions temperature and pressure, and Equation W–34 of this section.

$$E_{s,i} = \frac{E_{a,i} * (459.67 + T_s) * P_a}{(459.67 + T_a) * P_s * Z_a} \qquad \text{(Eq. W-34)}$$

Where:

$E_{s,i}$ = GHG i volumetric emissions at standard temperature and pressure (STP) conditions in cubic feet.

$E_{a,i}$ = GHG i volumetric emissions at actual conditions in cubic feet.

T_s = Temperature at standard conditions (60 °F).

T_a = Temperature at actual emission conditions (°F).

P_s = Absolute pressure at standard conditions (14.7 psia).

P_a = Absolute pressure at actual conditions (psia).

Z_a = Compressibility factor at actual conditions for GHG i.

You may use either a default compressibility factor of 1, or a site-specific compressibility factor based on actual temperature and pressure conditions.

* * * * *

(u) *GHG volumetric emissions at standard conditions.* Calculate GHG volumetric emissions at standard conditions as specified in paragraphs (u)(1) and (2) of this section.

* * * * *

(2) * * *

(iii) *GHG mole fraction in transmission pipeline natural gas that passes through the facility for the onshore natural gas transmission compression industry segment.* You may use either a default 95 percent methane and 1 percent carbon dioxide fraction for GHG mole fraction in natural gas or

site specific engineering estimates based on best available data.

(iv) *GHG mole fraction in natural gas stored in the underground natural gas storage industry segment.* You may use either a default 95 percent methane and 1 percent carbon dioxide fraction for GHG mole fraction in natural gas or site specific engineering estimates based on best available data.

(v) *GHG mole fraction in natural gas stored in the LNG storage industry segment.* You may use either a default 95 percent methane and 1 percent carbon dioxide fraction for GHG mole fraction in natural gas or site specific engineering estimates based on best available data.

(vi) *GHG mole fraction in natural gas stored in the LNG import and export industry segment.* For export facilities that receive gas from transmission pipelines, you may use either a default 95 percent methane and 1 percent carbon dioxide fraction for GHG mole fraction in natural gas or site specific engineering estimates based on best available data.

(vii) *GHG mole fraction in local distribution pipeline natural gas that passes through the facility for natural gas distribution facilities.* You may use either a default 95 percent methane and 1 percent carbon dioxide fraction for GHG mole fraction in natural gas or site specific engineering estimates based on best available data.

(v) *GHG mass emissions.* Calculate GHG mass emissions in metric tons by converting the GHG volumetric emissions at standard conditions into mass emissions using Equation W–36 of this section.

$$Mass_i = E_{s,i} * \rho_i * 10^{-3} \qquad \text{(Eq. W-36)}$$

Where:

$Mass_i$ = GHG_i (either CH_4, CO_2, or N_2O) mass emissions in metric tons.

$E_{s,i}$ = GHG_i (either CH_4, CO_2, or N_2O) volumetric emissions at standard conditions, in cubic feet.

ρ_i = Density of GHG_i. Use 0.0526 kg/ft³ for CO_2 and N_2O, and 0.0192 kg/ft³ for CH_4 at 60 °F and 14.7 psia.

(w) *EOR injection pump blowdown.* Calculate CO_2 pump blowdown emissions from each EOR injection pump system as follows:

(1) Calculate the total injection pump system volume in cubic feet (including pipelines, manifolds and vessels) between isolation valves.

* * * * *

(3) Calculate the total annual CO_2 emissions from each EOR injection pump system using Equation W–37 of this section:

* * * * *

$Mass_{CO2}$ = Annual EOR injection pump system emissions in metric tons from blowdowns.

N = Number of blowdowns for the EOR injection pump system in the calendar year.

V_v = Total volume in cubic feet of EOR injection pump system chambers (including pipelines, manifolds and vessels) between isolation valves.

* * * * *

(x) *EOR hydrocarbon liquids dissolved CO_2.* Calculate CO_2 emissions downstream of the storage tank from dissolved CO_2 in hydrocarbon liquids produced through EOR operations as follows:

(1) Determine the amount of CO_2 retained in hydrocarbon liquids after flashing in tankage at STP conditions. Annual samples of hydrocarbon liquids downstream of the storage tank must be taken according to methods set forth in § 98.234(b) to determine retention of CO_2 in hydrocarbon liquids immediately downstream of the storage tank. Use the annual analysis for the calendar year.

(2) * * *

* * * * *

S_{hl} = Amount of CO_2 retained in hydrocarbon liquids downstream of the storage tank, in metric tons per barrel, under standard conditions.

* * * * *

(z) * * *

(1) If a fuel combusted in the stationary or portable equipment is listed in Table C–1 of subpart C of this part, or is a blend containing one or more fuels listed in Table C–1, calculate emissions according to paragraph (z)(1)(i) of this section. If the fuel combusted is natural gas and is of pipeline quality specification and has a minimum high heat value of 950 Btu per standard cubic foot, use the calculation method described in paragraph (z)(1)(i) of this section and you may use the emission factor provided for natural gas as listed in Table C–1. If the fuel is natural gas, and is not pipeline quality or has a high heat value of less than 950 Btu per standard cubic feet, calculate emissions according to paragraph (z)(2) of this section. If the fuel is field gas, process vent gas, or a blend containing field gas or process vent gas, calculate emissions according to paragraph (z)(2) of this section.

(i) For fuels listed in Table C–1 or a blend containing one or more fuels listed in Table C–1, calculate CO_2, CH_4, and N_2O emissions according to any Tier listed in subpart C of this part. You must follow all applicable calculation requirements for that tier listed in § 98.33, any monitoring or QA/QC requirements listed for that tier in § 98.34, any missing data procedures specified in § 98.35, and any recordkeeping requirements specified in § 98.37.

(ii) Emissions from fuel combusted in stationary or portable equipment at onshore natural gas and petroleum production facilities and at natural gas distribution facilities will be reported according to the requirements specified in § 98.236(z) and not according to the reporting requirements specified in subpart C of this part.

(2) * * *

(iii) * * *

* * * * *

V_a = Volume of gas sent to combustion unit in actual cubic feet, during the year.

Y_{CO2} = Mole fraction of CO_2 constituent in gas sent to combustion unit.

* * * * *

Y_j = Mole fraction of gas hydrocarbon constituents j (such as methane, ethane, propane, butane, and pentanes plus) in gas sent to combustion unit.

* * * * *

Y_{CH4} = Mole fraction of methane constituent in gas sent to combustion unit.

* * * * *

(vi) * * *

$$Mass_{N2O} = \left(1 \times 10^{-3}\right) \times Fuel \times HHV \times EF \qquad \text{(Eq. W-40)}$$

* * * * *

$Mass_{N2O}$ = Annual N_2O emissions from the combustion of a particular type of fuel (metric tons).

Fuel = Annual mass or volume of the fuel combusted (mass or volume per year, choose appropriately to be consistent with the units of HHV).

HHV = Higher heating value of fuel, mmBtu/unit of fuel (in units consistent with the fuel quantity combusted). For field gas or process vent gas, you may use either a default higher heating value of 1.235×10^{-3} mmBtu/scf or a site-specific higher heating value. For natural gas that is not of pipeline quality or that has a high heat value less than 950 Btu per standard cubic foot, use a site-specific higher heating value.

* * * * *

■ 6. Section 98.234 is amended by:

■ a. Revising paragraphs (a) introductory text, (d)(1), and (f);

■ b. Removing and reserving paragraph (g); and

■ c. Adding paragraph (h).

The revisions and additions read as follows:

§ 98.234 Monitoring and QA/QC requirements.

* * * * *

(a) You must use any of the methods described as follows in this paragraph to conduct leak detection(s) of equipment leaks and through-valve leakage from all source types listed in § 98.233(k), (o), (p) and (q) that occur during a calendar year.

* * * * *

(d) * * *

(1) A technician following manufacturer instructions shall conduct measurements, including equipment manufacturer operating procedures and measurement methods relevant to using a high volume sampler, including positioning the instrument for complete capture of the equipment leak without creating backpressure on the source.

* * * * *

(f) *Special reporting provisions for best available monitoring methods in reporting year 2015*—(1) *Best available monitoring methods.* From January 1, 2015 to March 31, 2015, for a facility subject to this subpart, you must use the calculation methodologies and equations in § 98.233 ''Calculating GHG Emissions'', but you may use the best available monitoring method for any parameter for which it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by January 1, 2015 as specified in paragraphs (f)(2) and (3) of this section. Starting no later than April 1, 2015, you must discontinue using best available methods and begin following all applicable monitoring and QA/QC requirements of this part, except as provided in paragraph (f)(4) of this section. Best available monitoring methods means any of the following methods:

(i) Monitoring methods currently used by the facility that do not meet the specifications of this subpart.

(ii) Supplier data.

(iii) Engineering calculations.

(iv) Other company records.

(2) *Best available monitoring methods for well-related measurement data.* You may use best available monitoring methods for well-related measurement data identified in paragraphs (f)(2)(i) and (ii) of this section that cannot reasonably be measured according to the monitoring and QA/QC requirements of this subpart.

(i) If Calculation Method 1 for liquids unloading in § 98.233(f)(1) was used in calendar year 2014 and will be used again in calendar year 2015, the vented natural gas flow rate for any well in a unique tubing diameter group and pressure group combination that has not been previously measured.

(ii) If using Equation W–10A of this subpart to determine natural gas emissions from completions and workovers for representative wells, the initial and average flowback rates (when using Calculation Method 1 in § 98.233(g)(1)(i)) or pressures upstream and downstream of the choke (when using Calculation Method 2 in § 98.233(g)(1)(ii)) for any well in a well type combination that has not been previously measured.

(3) *Best available monitoring methods for emissions measurement.* You may use best available monitoring methods for sources listed in paragraphs (f)(3)(i) and (ii) of this section if the required measurement data cannot reasonably be obtained according to the monitoring and QA/QC requirements of this part.

(i) Centrifugal compressor as found measurements of manifolded emissions from groups of centrifugal compressor sources according to § 98.233(o)(4) and (5), in onshore natural gas processing, onshore natural gas transmission compression, underground natural gas storage, LNG storage, and LNG import and export equipment as specified in § 98.232(d)(2), (e)(2), (f)(2), (g)(2), and (h)(2).

(ii) Reciprocating compressor as found measurements of manifolded emissions from groups of reciprocating compressor sources according to § 98.233(p)(4) and (5), in onshore natural gas processing, onshore natural gas transmission compression, underground natural gas storage, LNG storage, and LNG import and export equipment as specified in § 98.232(d)(1), (e)(1), (f)(1), (g)(1), and (h)(1).

(4) *Requests for extension of the use of best available monitoring methods beyond March 31, 2015.* You may submit a request to the Administrator to use one or more best available monitoring methods for sources listed in paragraphs (f)(2) and (3) of this section beyond March 31, 2015.

(i) *Timing of request.* The extension request must be submitted to EPA no later than January 31, 2015.

(ii) *Content of request.* Requests must contain the following information:

(A) A list of specific source types and parameters for which you are seeking use of best available monitoring methods.

(B) For each specific source type for which you are requesting use of best available monitoring methods, a description of the reasons that the needed equipment could not be obtained and installed before April 1, 2015.

(C) A description of the specific actions you will take to obtain and install the equipment as soon as reasonably feasible and the expected date by which the equipment will be installed and operating.

(iii) *Approval criteria.* To obtain approval to use best available monitoring methods after March 31, 2015, you must submit a request demonstrating to the Administrator's satisfaction that it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by April 1, 2015. The use of best available methods under paragraph (f) of this section will not be approved beyond December 31, 2015.

* * * * *

(h) For well venting for liquids unloading, if a monitoring period other than the full calendar year is used to determine the cumulative amount of time in hours of venting for each well (the term ''T_p'' in Equation W–7A and W–7B of § 98.233) or the number of unloading events per well (the term ''V_p'' in Equations W–8 and W–9 of § 98.233), then the monitoring period must begin before February 1 of the reporting year and must not end before December 1 of the reporting year. The end of one monitoring period must immediately precede the start of the next monitoring period for the next reporting year. All production days must be monitored and all venting accounted for.

■ 7. Section 98.235 is revised to read as follows:

§ 98.235 Procedures for estimating missing data.

Except as specified in § 98.233, whenever a value of a parameter is unavailable for a GHG emission calculation required by this subpart (including, but not limited to, if a measuring device malfunctions during unit operation or activity data are not collected), you must follow the procedures specified in paragraphs (a) through (i) of this section, as applicable.

(a) For stationary and portable combustion sources that use the calculation methods of subpart C of this part, you must use the missing data procedures in subpart C of this part.

(b) For each missing value of a parameter that should have been measured quarterly or more frequently using equipment including, but not limited to, a continuous flow meter, composition analyzer, thermocouple, or pressure gauge, you must substitute the arithmetic average of the quality-assured values of that parameter immediately preceding and immediately following the missing data incident. If the ''after'' value is not obtained by the end of the reporting year, you may use the ''before'' value for the missing data substitution. If, for a particular parameter, no quality-assured data are available prior to the missing data incident, you must use the first quality-assured value obtained after the missing data period as the substitute data value. A value is quality-assured according to the procedures specified in § 98.234.

(c) For each missing value of a parameter that should have been measured annually, you must repeat the estimation or measurement activity for those sources as soon as possible, including in the subsequent calendar year if missing data are not discovered until after December 31 of the year in which data are collected, until valid data for reporting are obtained. Data developed and/or collected in a subsequent calendar year to substitute for missing data cannot be used for that subsequent year's emissions estimation. Where missing data procedures are used for the previous year, at least 30 days must separate emissions estimation or measurements for the previous year and emissions estimation or measurements for the current year of data collection.

(d) For each missing value of a parameter that should have been measured biannually (every two years), you must conduct the estimation or measurement activity for those sources as soon as possible in the subsequent calendar year if the estimation or measurement was not made in the appropriate year (first year of data collection and every two years thereafter), until valid data for reporting are obtained. Data developed and/or collected in a subsequent calendar year to substitute for missing data cannot be used to alternate or postpone subsequent biannual emissions estimations or measurements.

(e) For the first 6 months of required data collection, facilities that become newly subject to this subpart W may use best engineering estimates for any data that cannot reasonably be measured or obtained according to the requirements of this subpart.

(f) For the first 6 months of required data collection, facilities that are currently subject to this subpart W and that acquire new sources from another facility that were not previously subject to this subpart W may use best engineering estimates for any data related to those newly acquired sources that cannot reasonably be measured or obtained according to the requirements of this subpart.

(g) Unless addressed in another paragraph of this section, for each missing value of any activity data, you must substitute data value(s) using the best available estimate(s) of the parameter(s), based on all applicable and available process or other data (including, but not limited to, processing rates, operating hours).

(h) You must report information for all measured and substitute values of a parameter, and the procedures used to substitute an unavailable value of a parameter per the requirements in § 98.236(bb).

(i) You must follow recordkeeping requirements listed in § 98.237(f).

■ 8. Section 98.236 is revised to read as follows:

§ 98.236 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain reported emissions and related information as specified in this section. Reporters that use a flow or volume measurement system that corrects to standard conditions as provided in the introductory text in § 98.233 for data elements that are otherwise required to be determined at actual conditions, report gas volumes at standard conditions rather the gas volumes at actual conditions and report the standard temperature and pressure used by the measurement system rather than the actual temperature and pressure.

(a) The annual report must include the information specified in paragraphs (a)(1) through (8) of this section for each applicable industry segment. The annual report must also include annual emissions totals, in metric tons of each GHG, for each applicable industry segment listed in paragraphs (a)(1) through (8) of this section, and each applicable emission source listed in paragraphs (b) through (z) of this section.

(1) *Onshore petroleum and natural gas production.* For the equipment/activities specified in paragraphs (a)(1)(i) through (xvii) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Natural gas pneumatic devices.* Report the information specified in paragraph (b) of this section.

(ii) *Natural gas driven pneumatic pumps.* Report the information specified in paragraph (c) of this section.

(iii) *Acid gas removal units.* Report the information specified in paragraph (d) of this section.

(iv) *Dehydrators.* Report the information specified in paragraph (e) of this section.

(v) *Liquids unloading.* Report the information specified in paragraph (f) of this section.

(vi) *Completions and workovers with hydraulic fracturing.* Report the information specified in paragraph (g) of this section.

(vii) *Completions and workovers without hydraulic fracturing.* Report the information specified in paragraph (h) of this section.

(viii) *Onshore production storage tanks.* Report the information specified in paragraph (j) of this section.

(ix) *Well testing.* Report the information specified in paragraph (l) of this section.

(x) *Associated natural gas.* Report the information specified in paragraph (m) of this section.

(xi) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(xii) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(xiii) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(xiv) *Equipment leaks by population count.* Report the information specified in paragraph (r) of this section.

(xv) *EOR injection pumps.* Report the information specified in paragraph (w) of this section.

(xvi) *EOR hydrocarbon liquids.* Report the information specified in paragraph (x) of this section.

(xvii) *Combustion equipment.* Report the information specified in paragraph (z) of this section.

(2) *Offshore petroleum and natural gas production.* Report the information specified in paragraph (s) of this section.

(3) *Onshore natural gas processing.* For the equipment/activities specified

in paragraphs (a)(3)(i) through (vii) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Acid gas removal units.* Report the information specified in paragraph (d) of this section.

(ii) *Dehydrators.* Report the information specified in paragraph (e) of this section.

(iii) *Blowdown vent stacks.* Report the information specified in paragraph (i) of this section.

(iv) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(v) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(vi) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(vii) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(4) *Onshore natural gas transmission compression.* For the equipment/activities specified in paragraphs (a)(4)(i) through (vii) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Natural gas pneumatic devices.* Report the information specified in paragraph (b) of this section.

(ii) *Blowdown vent stacks.* Report the information specified in paragraph (i) of this section.

(iii) *Transmission storage tanks.* Report the information specified in paragraph (k) of this section.

(iv) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(v) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(vi) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(vii) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(5) *Underground natural gas storage.* For the equipment/activities specified in paragraphs (a)(5)(i) through (vi) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Natural gas pneumatic devices.* Report the information specified in paragraph (b) of this section.

(ii) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(iii) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(iv) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(v) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(vi) *Equipment leaks by population count.* Report the information specified in paragraph (r) of this section.

(6) *LNG storage.* For the equipment/activities specified in paragraphs (a)(6)(i) through (v) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(ii) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(iii) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(iv) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(v) *Equipment leaks by population count.* Report the information specified in paragraph (r) of this section.

(7) *LNG import and export equipment.* For the equipment/activities specified in paragraphs (a)(7)(i) through (vi) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Blowdown vent stacks.* Report the information specified in paragraph (i) of this section.

(ii) *Flare stacks.* Report the information specified in paragraph (n) of this section.

(iii) *Centrifugal compressors.* Report the information specified in paragraph (o) of this section.

(iv) *Reciprocating compressors.* Report the information specified in paragraph (p) of this section.

(v) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(vi) *Equipment leaks by population count.* Report the information specified in paragraph (r) of this section.

(8) *Natural gas distribution.* For the equipment/activities specified in paragraphs (a)(8)(i) through (iii) of this section, report the information specified in the applicable paragraphs of this section.

(i) *Combustion equipment.* Report the information specified in paragraph (z) of this section.

(ii) *Equipment leak surveys.* Report the information specified in paragraph (q) of this section.

(iii) *Equipment leaks by population count.* Report the information specified in paragraph (r) of this section.

(b) *Natural gas pneumatic devices.* You must indicate whether the facility contains the following types of equipment: Continuous high bleed natural gas pneumatic devices, continuous low bleed natural gas pneumatic devices, and intermittent bleed natural gas pneumatic devices. If the facility contains any continuous high bleed natural gas pneumatic devices, continuous low bleed natural gas pneumatic devices, or intermittent bleed natural gas pneumatic devices, then you must report the information specified in paragraphs (b)(1) through (b)(4) of this section.

(1) The number of natural gas pneumatic devices as specified in paragraphs (b)(1)(i) and (ii) of this section.

(i) The total number of devices of each type, determined according to § 98.233(a)(1) and (2).

(ii) If the reported value in paragraph (b)(1)(i) of this section is an estimated value determined according to § 98.233(a)(2), then you must report the information specified in paragraphs (b)(1)(ii)(A) through (C) of this section.

(A) The number of devices of each type reported in paragraph (b)(1)(i) of this section that are counted.

(B) The number of devices of each type reported in paragraph (b)(1)(i) of this section that are estimated (not counted).

(C) Whether the calendar year is the first calendar year of reporting or the second calendar year of reporting.

(2) For each type of pneumatic device, the estimated average number of hours in the calendar year that the natural gas pneumatic devices reported in paragraph (b)(1)(i) of this section were operating in the calendar year (''T_t'' in Equation W–1 of this subpart).

(3) Annual CO_2 emissions, in metric tons CO_2, for the natural gas pneumatic devices combined, calculated using Equation W–1 of this subpart and § 98.233(a)(4), and reported in paragraph (b)(1)(i) of this section.

(4) Annual CH_4 emissions, in metric tons CH_4, for the natural gas pneumatic devices combined, calculated using Equation W–1 of this subpart and § 98.233(a)(4), and reported in paragraph (b)(1)(i) of this section.

(c) *Natural gas driven pneumatic pumps.* You must indicate whether the facility has any natural gas driven pneumatic pumps. If the facility contains any natural gas driven pneumatic pumps, then you must report the information specified in paragraphs (c)(1) through (4) of this section.

(1) Count of natural gas driven pneumatic pumps.

(2) Average estimated number of hours in the calendar year the pumps were operational (''T'' in Equation W–2 of this subpart).

(3) Annual CO_2 emissions, in metric tons CO_2, for all natural gas driven pneumatic pumps combined, calculated according to § 98.233(c)(1) and (2).

(4) Annual CH_4 emissions, in metric tons CH_4, for all natural gas driven pneumatic pumps combined, calculated according to § 98.233(c)(1) and (2).

(d) *Acid gas removal units.* You must indicate whether your facility has any acid gas removal units that vent directly to the atmosphere, to a flare or engine, or to a sulfur recovery plant. If your facility contains any acid gas removal units that vent directly to the atmosphere, to a flare or engine, or to a sulfur recovery plant, then you must report the information specified in paragraphs (d)(1) and (2) of this section.

(1) You must report the information specified in paragraphs (d)(1)(i) through (vi) of this section for each acid gas removal unit.

(i) A unique name or ID number for the acid gas removal unit. For the onshore petroleum and natural gas production industry segment, a different name or ID may be used for a single acid gas removal unit for each location it operates at in a given year.

(ii) Total feed rate entering the acid gas removal unit, using a meter or engineering estimate based on process knowledge or best available data, in million cubic feet per year.

(iii) The calculation method used to calculate CO_2 emissions from the acid gas removal unit, as specified in § 98.233(d).

(iv) Whether any CO_2 emissions from the acid gas removal unit are recovered and transferred outside the facility, as specified in § 98.233(d)(11). If any CO_2 emissions from the acid gas removal unit were recovered and transferred outside the facility, then you must report the annual quantity of CO_2, in metric tons CO_2, that was recovered and transferred outside the facility under subpart PP of this part.

(v) Annual CO_2 emissions, in metric tons CO_2, from the acid gas removal unit, calculated using any one of the calculation methods specified in § 98.233(d) and as specified in § 98.233(d)(10) and (11).

(vi) Sub-basin ID that best represents the wells supplying gas to the unit (for the onshore petroleum and natural gas production industry segment only).

(2) You must report information specified in paragraphs (d)(2)(i) through (iii) of this section, applicable to the calculation method reported in paragraph (d)(1)(iii) of this section, for each acid gas removal unit.

(i) If you used Calculation Method 1 or Calculation Method 2 as specified in § 98.233(d) to calculate CO_2 emissions from the acid gas removal unit, then you must report the information specified in paragraphs (d)(2)(i)(A) and (B) of this section.

(A) Annual average volumetric fraction of CO_2 in the vent gas exiting the acid gas removal unit.

(B) Annual volume of gas vented from the acid gas removal unit, in cubic feet.

(ii) If you used Calculation Method 3 as specified in § 98.233(d) to calculate CO_2 emissions from the acid gas removal unit, then you must report the information specified in paragraphs (d)(2)(ii)(A) through (D) of this section.

(A) Indicate which equation was used (Equation W–4A or W–4B).

(B) Annual average volumetric fraction of CO_2 in the natural gas flowing out of the acid gas removal unit, as specified in Equation W–4A or Equation W–4B of this subpart.

(C) Annual average volumetric fraction of CO_2 content in natural gas flowing into the acid gas removal unit, as specified in Equation W–4A or Equation W–4B of this subpart.

(D) The natural gas flow rate used, as specified in Equation W–4A of this subpart, reported as either total annual volume of natural gas flow into the acid gas removal unit in cubic feet at actual conditions; or total annual volume of natural gas flow out of the acid gas removal unit, as specified in Equation W–4B of this subpart, in cubic feet at actual conditions.

(iii) If you used Calculation Method 4 as specified in § 98.233(d) to calculate CO_2 emissions from the acid gas removal unit, then you must report the information specified in paragraphs (d)(2)(iii)(A) through (L) of this section, as applicable to the simulation software package used.

(A) The name of the simulation software package used.

(B) Natural gas feed temperature, in degrees Fahrenheit.

(C) Natural gas feed pressure, in pounds per square inch.

(D) Natural gas flow rate, in standard cubic feet per minute.

(E) Acid gas content of the feed natural gas, in mole percent.

(F) Acid gas content of the outlet natural gas, in mole percent.

(G) Unit operating hours, excluding downtime for maintenance or standby, in hours per year.

(H) Exit temperature of the natural gas, in degrees Fahrenheit.

(I) Solvent pressure, in pounds per square inch.

(J) Solvent temperature, in degrees Fahrenheit.

(K) Solvent circulation rate, in gallons per minute.

(L) Solvent weight, in pounds per gallon.

(e) *Dehydrators.* You must indicate whether your facility contains any of the following equipment: Glycol dehydrators with an annual average daily natural gas throughput greater than or equal to 0.4 million standard cubic feet per day, glycol dehydrators with an annual average daily natural gas throughput less than 0.4 million standard cubic feet per day, and dehydrators that use desiccant. If your facility contains any of the equipment listed in this paragraph (e), then you must report the applicable information in paragraphs (e)(1) through (3).

(1) For each glycol dehydrator that has an annual average daily natural gas throughput greater than or equal to 0.4 million standard cubic feet per day (as specified in § 98.233(e)(1)), you must report the information specified in paragraphs (e)(1)(i) through (xviii) of this section for the dehydrator.

(i) A unique name or ID number for the dehydrator. For the onshore petroleum and natural gas production industry segment, a different name or ID may be used for a single dehydrator for each location it operates at in a given year.

(ii) Dehydrator feed natural gas flow rate, in million standard cubic feet per day, determined by engineering estimate based on best available data.

(iii) Dehydrator feed natural gas water content, in pounds per million standard cubic feet.

(iv) Dehydrator outlet natural gas water content, in pounds per million standard cubic feet.

(v) Dehydrator absorbent circulation pump type (*e.g.,* natural gas pneumatic, air pneumatic, or electric).

(vi) Dehydrator absorbent circulation rate, in gallons per minute.

(vii) Type of absorbent (*e.g.,* triethylene glycol (TEG), diethylene glycol (DEG), or ethylene glycol (EG)).

(viii) Whether stripper gas is used in dehydrator.

(ix) Whether a flash tank separator is used in dehydrator.

(x) Total time the dehydrator is operating, in hours.

(xi) Temperature of the wet natural gas, in degrees Fahrenheit.

(xii) Pressure of the wet natural gas, in pounds per square inch gauge.

(xiii) Mole fraction of CH_4 in wet natural gas.

(xiv) Mole fraction of CO_2 in wet natural gas.

(xv) Whether any dehydrator emissions are vented to a vapor recovery device.

(xvi) Whether any dehydrator emissions are vented to a flare or regenerator firebox/fire tubes. If any emissions are vented to a flare or

regenerator firebox/fire tubes, report the information specified in paragraphs (e)(1)(xvi)(A) through (C) of this section for these emissions from the dehydrator.

(A) Annual CO_2 emissions, in metric tons CO_2, for the dehydrator, calculated according to § 98.233(e)(6).

(B) Annual CH_4 emissions, in metric tons CH_4, for the dehydrator, calculated according to § 98.233(e)(6).

(C) Annual N_2O emissions, in metric tons N_2O, for the dehydrator, calculated according to § 98.233(e)(6).

(xvii) Whether any dehydrator emissions are vented to the atmosphere without being routed to a flare or regenerator firebox/fire tubes. If any emissions are not routed to a flare or regenerator firebox/fire tubes, then you must report the information specified in paragraphs (e)(1)(xvii)(A) and (B) of this section for those emissions from the dehydrator.

(A) Annual CO_2 emissions, in metric tons CO_2, for the dehydrator when not venting to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(1), and, if applicable, (e)(5).

(B) Annual CH_4 emissions, in metric tons CH_4, for the dehydrator when not venting to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(1) and, if applicable, (e)(5).

(xviii) Sub-basin ID that best represents the wells supplying gas to the dehydrator (for the onshore petroleum and natural gas production industry segment only).

(2) For glycol dehydrators with an annual average daily natural gas throughput less than 0.4 million standard cubic feet per day (as specified in § 98.233(e)(2)), you must report the information specified in paragraphs (e)(2)(i) through (v) of this section for the entire facility.

(i) The total number of dehydrators at the facility.

(ii) Whether any dehydrator emissions were vented to a vapor recovery device. If any dehydrator emissions were vented to a vapor recovery device, then you must report the total number of dehydrators at the facility that vented to a vapor recovery device.

(iii) Whether any dehydrator emissions were vented to a control device other than a vapor recovery device or a flare or regenerator firebox/fire tubes. If any dehydrator emissions were vented to a control device(s) other than a vapor recovery device or a flare or regenerator firebox/fire tubes, then you must specify the type of control device(s) and the total number of dehydrators at the facility that were vented to each type of control device.

(iv) Whether any dehydrator emissions were vented to a flare or regenerator firebox/fire tubes. If any dehydrator emissions were vented to a flare or regenerator firebox/fire tubes, then you must report the information specified in paragraphs (e)(2)(iv)(A) through (D) of this section.

(A) The total number of dehydrators venting to a flare or regenerator firebox/fire tubes.

(B) Annual CO_2 emissions, in metric tons CO_2, for the dehydrators reported in paragraph (e)(2)(iv)(A) of this section, calculated according to § 98.233(e)(6).

(C) Annual CH_4 emissions, in metric tons CH_4, for the dehydrators reported in paragraph (e)(2)(iv)(A) of this section, calculated according to § 98.233(e)(6).

(D) Annual N_2O emissions, in metric tons N_2O, for the dehydrators reported in paragraph (e)(2)(iv)(A) of this section, calculated according to § 98.233(e)(6).

(v) For dehydrator emissions that were not vented to a flare or regenerator firebox/fire tubes, report the information specified in paragraphs (e)(2)(v)(A) and (B) of this section.

(A) Annual CO_2 emissions, in metric tons CO_2, for emissions from all dehydrators reported in paragraph (e)(2)(i) of this section that were not vented to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(2), (e)(4), and, if applicable, (e)(5), where emissions are added together for all such dehydrators.

(B) Annual CH_4 emissions, in metric tons CH_4, for emissions from all dehydrators reported in paragraph (e)(2)(i) of this section that were not vented to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(2), (e)(4), and, if applicable, (e)(5), where emissions are added together for all such dehydrators.

(3) For dehydrators that use desiccant (as specified in § 98.233(e)(3)), you must report the information specified in paragraphs (e)(3)(i) through (iii) of this section for the entire facility.

(i) The same information specified in paragraphs (e)(2)(i) through (iv) of this section for glycol dehydrators, and report the information under this paragraph for dehydrators that use desiccant.

(ii) Annual CO_2 emissions, in metric tons CO_2, for emissions from all desiccant dehydrators reported under paragraph (e)(3)(i) of this section that are not venting to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(3), (e)(4), and, if applicable, (e)(5), and summing for all such dehydrators.

(iii) Annual CH_4 emissions, in metric tons CH_4, for emissions from all desiccant dehydrators reported in paragraph (e)(3)(i) of this section that are not venting to a flare or regenerator firebox/fire tubes, calculated according to § 98.233(e)(3), (e)(4), and, if applicable, (e)(5), and summing for all such dehydrators.

(f) *Liquids unloading.* You must indicate whether well venting for liquids unloading occurs at your facility, and if so, which methods (as specified in § 98.233(f)) were used to calculate emissions. If your facility performs well venting for liquids unloading and uses Calculation Method 1, then you must report the information specified in paragraph (f)(1) of this section. If the facility performs liquids unloading and uses Calculation Method 2 or 3, then you must report the information specified in paragraph (f)(2) of this section.

(1) For each sub-basin and well tubing diameter and pressure group for which you used Calculation Method 1 to calculate natural gas emissions from well venting for liquids unloading, report the information specified in paragraphs (f)(1)(i) through (xii) of this section. Report information separately for wells with plunger lifts and wells without plunger lifts.

(i) Sub-basin ID.

(ii) Well tubing diameter and pressure group ID.

(iii) Plunger lift indicator.

(iv) Count of wells vented to the atmosphere for the sub-basin/well tubing diameter and pressure group.

(v) Percentage of wells for which the monitoring period used to determine the cumulative amount of time venting was not the full calendar year.

(vi) Cumulative amount of time wells were vented (sum of ''T_p'' from Equation W–7A or W–7B of this subpart), in hours.

(vii) Cumulative number of unloadings vented to the atmosphere for each well, aggregated across all wells in the sub-basin/well tubing diameter and pressure group.

(viii) Annual natural gas emissions, in standard cubic feet, from well venting for liquids unloading, calculated according to § 98.233(f)(1).

(ix) Annual CO_2 emissions, in metric tons CO_2, from well venting for liquids unloading, calculated according to § 98.233(f)(1) and (4).

(x) Annual CH_4 emissions, in metric tons CH_4, from well venting for liquids unloading, calculated according to § 98.233(f)(1) and (4).

(xi) For each well tubing diameter group and pressure group combination, you must report the information specified in paragraphs (f)(1)(xi)(A) through (E) of this section for each individual well not using a plunger lift that was tested during the year.

(A) API Well Number of tested well.

(B) Casing pressure, in pounds per square inch absolute.

(C) Internal casing diameter, in inches.

(D) Measured depth of the well, in feet.

(E) Average flow rate of the well venting over the duration of the liquids unloading, in standard cubic feet per hour.

(xii) For each well tubing diameter group and pressure group combination, you must report the information specified in paragraphs (f)(1)(xii)(A) through (E) of this section for each individual well using a plunger lift that was tested during the year.

(A) API Well Number.

(B) The tubing pressure, in pounds per square inch absolute.

(C) The internal tubing diameter, in inches.

(D) Measured depth of the well, in feet.

(E) Average flow rate of the well venting over the duration of the liquids unloading, in standard cubic feet per hour.

(2) For each sub-basin for which you used Calculation Method 2 or 3 (as specified in § 93.233(f)) to calculate natural gas emissions from well venting for liquids unloading, you must report the information in (f)(2)(i) through (x) of this section. Report information separately for each calculation method.

(i) Sub-basin ID.

(ii) Calculation method.

(iii) Plunger lift indicator.

(iv) Number of wells vented to the atmosphere.

(v) Cumulative number of unloadings vented to the atmosphere for each well, aggregated across all wells.

(vi) Annual natural gas emissions, in standard cubic feet, from well venting for liquids unloading, calculated according to § 98.233(f)(2) or (3), as applicable.

(vii) Annual CO_2 emissions, in metric tons CO_2, from well venting for liquids unloading, calculated according to § 98.233(f)(2) or (3), as applicable, and § 98.233(f)(4).

(viii) Annual CH_4 emissions, in metric tons CH_4, from well venting for liquids unloading, calculated according to § 98.233(f)(2) or (3), as applicable, and § 98.233(f)(4).

(ix) For wells without plunger lifts, the average internal casing diameter, in inches.

(x) For wells with plunger lifts, the average internal tubing diameter, in inches.

(g) *Completions and workovers with hydraulic fracturing.* You must indicate whether your facility had any gas well completions or workovers with hydraulic fracturing during the calendar year. If your facility had gas well completions or workovers with hydraulic fracturing during the calendar year, then you must report information specified in paragraphs (g)(1) through (10) of this section, for each sub-basin and well type combination. Report information separately for completions and workovers.

(1) Sub-basin ID.

(2) Well type combination.

(3) Number of completions or workovers in the sub-basin and well type combination category.

(4) Calculation method used.

(5) If you used Equation W–10A to calculate annual volumetric total gas emissions, then you must report the information specified in paragraphs (g)(5)(i) and (ii) of this section.

(i) Cumulative gas flowback time, in hours, from when gas is first detected until sufficient quantities are present to enable separation, and the cumulative flowback time, in hours, after sufficient quantities of gas are present to enable separation (sum of ''$T_{p,i}$'' and sum of ''$T_{p,s}$'' values used in Equation W–10A). You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells included in this number. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the total number of hours of flowback from all wells during completions or workovers and the API Well Number(s) for the well(s) included in the number.

(ii) For the measured well(s), the flowback rate, in standard cubic feet per hour (average of ''$FR_{s,p}$'' values used in Equation W–12A). You may delay the reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that can be used for the measurement. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured flowback rate during well completion or workover and the API Well Number(s) for the well(s) included in the measurement.

(6) If you used Equation W–10B to calculate annual volumetric total gas emissions, then you must report the information specified in paragraphs (g)(6)(i) and (ii) of this section.

(i) Vented natural gas volume, in standard cubic feet, for each well in the sub-basin (''$FV_{s,p}$'' in Equation W–10B).

(ii) Flow rate at the beginning of the period of time when sufficient quantities of gas are present to enable separation, in standard cubic feet per hour, for each well in the sub-basin (''$FR_{p,i}$'' in Equation W–10B).

(7) Annual gas emissions, in standard cubic feet (''$E_{s,n}$'' in Equation W–10A or W–10B).

(8) Annual CO_2 emissions, in metric tons CO_2.

(9) Annual CH_4 emissions, in metric tons CH_4.

(10) If the well emissions were vented to a flare, then you must report the total N_2O emissions, in metric tons N_2O.

(h) *Completions and workovers without hydraulic fracturing.* You must indicate whether the facility had any gas well completions without hydraulic fracturing or any gas well workovers without hydraulic fracturing, and if the activities occurred with or without flaring. If the facility had gas well completions or workovers without hydraulic fracturing, then you must report the information specified in paragraphs (h)(1) through (4) of this section, as applicable.

(1) For each sub-basin with gas well completions without hydraulic fracturing and without flaring, report the information specified in paragraphs (h)(1)(i) through (vi) of this section.

(i) Sub-basin ID.

(ii) Number of well completions that vented gas directly to the atmosphere without flaring.

(iii) Total number of hours that gas vented directly to the atmosphere during venting for all completions in the sub-basin category (the sum of all ''T_p'' for completions that vented to the atmosphere as used in Equation W–13B).

(iv) Average daily gas production rate for all completions without hydraulic fracturing in the sub-basin without flaring, in standard cubic feet per hour (average of all ''V_p'' used in Equation W–13B). You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that can be used for the measurement. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average daily gas production rate for all wells during completions and the API Well Number(s) for the well(s) included in the measurement.

(v) Annual CO_2 emissions, in metric tons CO_2, that resulted from completions venting gas directly to the atmosphere (''$E_{s,p}$'' from Equation W–13B for completions that vented directly to the atmosphere, converted to mass emissions according to § 98.233(h)(1)).

(vi) Annual CH_4 emissions, in metric tons CH_4, that resulted from completions venting gas directly to the atmosphere (''$E_{s,p}$'' from Equation W–

13B for completions that vented directly to the atmosphere, converted to mass emissions according to § 98.233(h)(1)).

(2) For each sub-basin with gas well completions without hydraulic fracturing and with flaring, report the information specified in paragraphs (h)(2)(i) through (vii) of this section.

(i) Sub-basin ID.

(ii) Number of well completions that flared gas.

(iii) Total number of hours that gas vented to a flare during venting for all completions in the sub-basin category (the sum of all ''T_p'' for completions that vented to a flare from Equation W–13B).

(iv) Average daily gas production rate for all completions without hydraulic fracturing in the sub-basin with flaring, in standard cubic feet per hour (the average of all ''V_p'' from Equation W–13B). You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that can be used for the measurement. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average daily gas production rate for all wells during completions and the API Well Number(s) for the well(s) included in the measurement.

(v) Annual CO_2 emissions, in metric tons CO_2, that resulted from completions that flared gas calculated according to § 98.233(h)(2).

(vi) Annual CH_4 emissions, in metric tons CH_4, that resulted from completions that flared gas calculated according to § 98.233(h)(2).

(vii) Annual N_2O emissions, in metric tons N_2O, that resulted from completions that flared gas calculated according to § 98.233(h)(2).

(3) For each sub-basin with gas well workovers without hydraulic fracturing and without flaring, report the information specified in paragraphs (h)(3)(i) through (iv) of this section.

(i) Sub-basin ID.

(ii) Number of workovers that vented gas to the atmosphere without flaring.

(iii) Annual CO_2 emissions, in metric tons CO_2 per year, that resulted from workovers venting gas directly to the atmosphere (''$E_{s,wo}$'' in Equation W–13A for workovers that vented directly to the atmosphere, converted to mass emissions as specified in § 98.233(h)(1)).

(iv) Annual CH_4 emissions, in metric tons CH_4 per year, that resulted from workovers venting gas directly to the atmosphere (''$E_{s,wo}$'' in Equation W–13A for workovers that vented directly to the atmosphere, converted to mass emissions as specified in § 98.233(h)(1)).

(4) For each sub-basin with gas well workovers without hydraulic fracturing and with flaring, report the information specified in paragraphs (h)(4)(i) through (v) of this section.

(i) Sub-basin ID.

(ii) Number of workovers that flared gas.

(iii) Annual CO_2 emissions, in metric tons CO_2 per year, that resulted from workovers that flared gas calculated as specified in § 98.233(h)(2).

(iv) Annual CH_4 emissions, in metric tons CH_4 per year, that resulted from workovers that flared gas, calculated as specified in § 98.233(h)(2).

(v) Annual N_2O emissions, in metric tons N_2O per year, that resulted from workovers that flared gas calculated as specified in § 98.233(h)(2).

(i) *Blowdown vent stacks.* You must indicate whether your facility has blowdown vent stacks. If your facility has blowdown vent stacks, then you must report whether emissions were calculated by equipment or event type or by using flow meters or a combination of both. If you calculated emissions by equipment or event type for any blowdown vent stacks, then you must report the information specified in paragraph (i)(1) of this section considering, in aggregate, all blowdown vent stacks for which emissions were calculated by equipment or event type. If you calculated emissions using flow meters for any blowdown vent stacks, then you must report the information specified in paragraph (i)(2) of this section considering, in aggregate, all blowdown vent stacks for which emissions were calculated using flow meters.

(1) *Report by equipment or event type.* If you calculated emissions from blowdown vent stacks by the seven categories listed in § 98.233(i)(2), then you must report the equipment or event types and the information specified in paragraphs (i)(1)(i) through (iii) of this section for each equipment or event type. If a blowdown event resulted in emissions from multiple equipment types, and the emissions cannot be apportioned to the different equipment types, then you may report the information in paragraphs (i)(1)(i) through (iii) of this section for the equipment type that represented the largest portion of the emissions for the blowdown event.

(i) Total number of blowdowns in the calendar year for the equipment or event type (the sum of equation variable ''N'' from Equation W–14A or Equation W–14B of this subpart, for all unique physical volumes for the equipment or event type).

(ii) Annual CO_2 emissions for the equipment or event type, in metric tons CO_2, calculated according to § 98.233(i)(2)(iii).

(iii) Annual CH_4 emissions for the equipment or event type, in metric tons CH_4, calculated according to § 98.233(i)(2)(iii).

(2) *Report by flow meter.* If you elect to calculate emissions from blowdown vent stacks by using a flow meter according to § 98.233(i)(3), then you must report the information specified in paragraphs (i)(2)(i) and (ii) of this section for the facility.

(i) Annual CO_2 emissions from all blowdown vent stacks at the facility for which emissions were calculated using flow meters, in metric tons CO_2 (the sum of all CO_2 mass emission values calculated according to § 98.233(i)(3), for all flow meters).

(ii) Annual CH_4 emissions from all blowdown vent stacks at the facility for which emissions were calculated using flow meters, in metric tons CH_4, (the sum of all CH_4 mass emission values calculated according to § 98.233(i)(3), for all flow meters).

(j) *Onshore production storage tanks.* You must indicate whether your facility sends produced oil to atmospheric tanks. If your facility sends produced oil to atmospheric tanks, then you must indicate which Calculation Method(s) you used to calculate GHG emissions, and you must report the information specified in paragraphs (j)(1) and (2) of this section as applicable. If you used Calculation Method 1 or Calculation Method 2, and any atmospheric tanks were observed to have malfunctioning dump valves during the calendar year, then you must indicate that dump valves were malfunctioning and you must report the information specified in paragraph (j)(3) of this section.

(1) If you used Calculation Method 1 or Calculation Method 2 to calculate GHG emissions, then you must report the information specified in paragraphs (j)(1)(i) through (xiv) of this section for each sub-basin and by calculation method.

(i) Sub-basin ID.

(ii) Calculation method used, and name of the software package used if using Calculation Method 1.

(iii) The total annual oil volume from gas-liquid separators and direct from wells that is sent to applicable onshore production storage tanks, in barrels. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and delineation wells are the only wells in the sub-basin with oil production greater than or equal to 10 barrels per day and flowing to gas-liquid separators or direct to storage tanks. If you elect to delay reporting of this data element, you must report by the date

specified in § 98.236(cc) the total volume of oil from all wells and the API Well Number(s) for the well(s) included in this volume.

(iv) The average gas-liquid separator temperature, in degrees Fahrenheit.

(v) The average gas-liquid separator pressure, in pounds per square inch gauge.

(vi) The average sales oil or stabilized oil API gravity, in degrees.

(vii) The minimum and maximum concentration (mole fraction) of CO_2 in flash gas from onshore production storage tanks.

(viii) The minimum and maximum concentration (mole fraction) of CH_4 in flash gas from onshore production storage tanks.

(ix) The number of wells sending oil to gas-liquid separators or directly to atmospheric tanks.

(x) The number of atmospheric tanks.

(xi) An estimate of the number of atmospheric tanks, not on well-pads, receiving your oil.

(xii) If any emissions from the atmospheric tanks at your facility were controlled with vapor recovery systems, then you must report the information specified in paragraphs (j)(1)(xii)(A) through (E) of this section.

(A) The number of atmospheric tanks that control emissions with vapor recovery systems.

(B) Total CO_2 mass, in metric tons CO_2, that was recovered during the calendar year using a vapor recovery system.

(C) Total CH_4 mass, in metric tons CH_4, that was recovered during the calendar year using a vapor recovery system.

(D) Annual CO_2 emissions, in metric tons CO_2, from atmospheric tanks equipped with vapor recovery systems.

(E) Annual CH_4 emissions, in metric tons CH_4, from atmospheric tanks equipped with vapor recovery systems.

(xiii) If any atmospheric tanks at your facility vented gas directly to the atmosphere without using a vapor recovery system or without flaring, then you must report the information specified in paragraphs (j)(1)(xiii)(A) through (C) of this section.

(A) The number of atmospheric tanks that vented gas directly to the atmosphere without using a vapor recovery system or without flaring.

(B) Annual CO_2 emissions, in metric tons CO_2, that resulted from venting gas directly to the atmosphere.

(C) Annual CH_4 emissions, in metric tons CH_4, that resulted from venting gas directly to the atmosphere.

(xiv) If you controlled emissions from any atmospheric tanks at your facility with one or more flares, then you must report the information specified in paragraphs (j)(1)(xiv)(A) through (D) of this section.

(A) The number of atmospheric tanks that controlled emissions with flares.

(B) Annual CO_2 emissions, in metric tons CO_2, from atmospheric tanks that controlled emissions with one or more flares.

(C) Annual CH_4 emissions, in metric tons CH_4, from atmospheric tanks that controlled emissions with one or more flares.

(D) Annual N_2O emissions, in metric tons N_2O, from atmospheric tanks that controlled emissions with one or more flares.

(2) If you used Calculation Method 3 to calculate GHG emissions, then you must report the information specified in paragraphs (j)(2)(i) through (iii) of this section.

(i) Report the information specified in paragraphs (j)(2)(i)(A) through (F) of this section, at the basin level, for atmospheric tanks where emissions were calculated using Calculation Method 3.

(A) The total annual oil throughput that is sent to all atmospheric tanks in the basin, in barrels. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and delineation wells are the only wells in the sub-basin with oil production less than 10 barrels per day and that send oil to atmospheric tanks. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the total annual oil throughput from all wells and the API Well Number(s) for the well(s) included in this volume.

(B) An estimate of the fraction of oil throughput reported in paragraph (j)(2)(i)(A) of this section sent to atmospheric tanks in the basin that controlled emissions with flares.

(C) An estimate of the fraction of oil throughput reported in paragraph (j)(2)(i)(A) of this section sent to atmospheric tanks in the basin that controlled emissions with vapor recovery systems.

(D) The number of atmospheric tanks in the basin.

(E) The number of wells with gas-liquid separators (''Count'' from Equation W–15 of this subpart) in the basin.

(F) The number of wells without gas-liquid separators (''Count'' from Equation W–15 of this subpart) in the basin.

(ii) Report the information specified in paragraphs (j)(2)(ii)(A) through (D) of this section for each sub-basin with atmospheric tanks whose emissions were calculated using Calculation Method 3 and that did not control emissions with flares.

(A) Sub-basin ID.

(B) The number of atmospheric tanks in the sub-basin that did not control emissions with flares.

(C) Annual CO_2 emissions, in metric tons CO_2, from atmospheric tanks in the sub-basin that did not control emissions with flares, calculated using Equation W–15 of this subpart and adjusted for vapor recovery, if applicable.

(D) Annual CH_4 emissions, in metric tons CH_4, from atmospheric tanks in the sub-basin that did not control emissions with flares, calculated using Equation W–15 of this subpart and adjusted for vapor recovery, if applicable.

(iii) Report the information specified in paragraphs (j)(2)(iii)(A) through (E) of this section for each sub-basin with atmospheric tanks whose emissions were calculated using Calculation Method 3 and that controlled emissions with flares.

(A) Sub-basin ID.

(B) The number of atmospheric tanks in the sub-basin that controlled emissions with flares.

(C) Annual CO_2 emissions, in metric tons CO_2, from atmospheric tanks that controlled emissions with flares.

(D) Annual CH_4 emissions, in metric tons CH_4, from atmospheric tanks that controlled emissions with flares.

(E) Annual N_2O emissions, in metric tons N_2O, from atmospheric tanks that controlled emissions with flares.

(3) If you used Calculation Method 1 or Calculation Method 2, and any gas-liquid separator liquid dump values did not close properly during the calendar year, then you must report the information specified in paragraphs (j)(3)(i) through (iv) of this section for each sub-basin.

(i) The total number of gas-liquid separators whose liquid dump valves did not close properly during the calendar year.

(ii) The total time the dump valves on gas-liquid separators did not close properly in the calendar year, in hours (sum of the ''T_n'' values used in Equation W–16 of this subpart).

(iii) Annual CO_2 emissions, in metric tons CO_2, that resulted from dump valves on gas-liquid separators not closing properly during the calendar year, calculated using Equation W–16 of this subpart.

(iv) Annual CH_4 emissions, in metric tons CH_4, that resulted from the dump valves on gas-liquid separators not closing properly during the calendar year, calculated using Equation W–16 of this subpart.

(k) *Transmission storage tanks.* You must indicate whether your facility

contains any transmission storage tanks. If your facility contains at least one transmission storage tank, then you must report the information specified in paragraphs (k)(1) through (3) of this section for each transmission storage tank vent stack.

(1) For each transmission storage tank vent stack, report the information specified in (k)(1)(i) through (iv) of this section.

(i) The unique name or ID number for the transmission storage tank vent stack.

(ii) Method used to determine if dump valve leakage occurred.

(iii) Indicate whether scrubber dump valve leakage occurred for the transmission storage tank vent according to § 98.233(k)(2).

(iv) Indicate if there is a flare attached to the transmission storage tank vent stack.

(2) If scrubber dump valve leakage occurred for a transmission storage tank vent stack, as reported in paragraph (k)(1)(iii) of this section, and the vent stack vented directly to the atmosphere during the calendar year, then you must report the information specified in paragraphs (k)(2)(i) through (v) of this section for each transmission storage vent stack where scrubber dump valve leakage occurred.

(i) Method used to measure the leak rate.

(ii) Measured leak rate (average leak rate from a continuous flow measurement device), in standard cubic feet per hour.

(iii) Duration of time that the leak is counted as having occurred, in hours, as determined in § 98.233(k)(3) (may use best available data if a continuous flow measurement device was used).

(iv) Annual CO_2 emissions, in metric tons CO_2, that resulted from venting gas directly to the atmosphere, calculated according to § 98.233(k)(1) through (4).

(v) Annual CH_4 emissions, in metric tons CH_4, that resulted from venting gas directly to the atmosphere, calculated according to § 98.233(k)(1) through (4).

(3) If scrubber dump valve leakage occurred for a transmission storage tank vent stack, as reported in paragraph (k)(1)(iii), and the vent stack vented to a flare during the calendar year, then you must report the information specified in paragraphs (k)(3)(i) through (vi) of this section.

(i) Method used to measure the leak rate.

(ii) Measured leakage rate (average leak rate from a continuous flow measurement device) in standard cubic feet per hour.

(iii) Duration of time that flaring occurred in hours, as defined in § 98.233(k)(3) (may use best available data if a continuous flow measurement device was used).

(iv) Annual CO_2 emissions, in metric tons CO_2, that resulted from flaring gas, calculated according to § 98.233(k)(5).

(v) Annual CH_4 emissions, in metric tons CH_4, that resulted from flaring gas, calculated according to § 98.233(k)(5).

(vi) Annual N_2O emissions, in metric tons N_2O, that resulted from flaring gas, calculated according to § 98.233(k)(5).

(l) *Well testing.* You must indicate whether you performed gas well or oil well testing, and if the testing of gas wells or oil wells resulted in vented or flared emissions during the calendar year. If you performed well testing that resulted in vented or flared emissions during the calendar year, then you must report the information specified in paragraphs (l)(1) through (4) of this section, as applicable.

(1) If you used Equation W–17A to calculate annual volumetric natural gas emissions at actual conditions from oil wells and the emissions are not vented to a flare, then you must report the information specified in paragraphs (l)(1)(i) through (vi) of this section.

(i) Number of wells tested in the calendar year.

(ii) Average number of well testing days per well for well(s) tested in the calendar year.

(iii) Average gas to oil ratio for well(s) tested, in cubic feet of gas per barrel of oil.

(iv) Average flow rate for well(s) tested, in barrels of oil per day. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that are tested. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average flow rate for well(s) tested and the API Well Number(s) for the well(s) included in the measurement.

(v) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(l).

(vi) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(l).

(2) If you used Equation W–17A to calculate annual volumetric natural gas emissions at actual conditions from oil wells and the emissions are vented to a flare, then you must report the information specified in paragraphs (l)(2)(i) through (vii) of this section.

(i) Number of wells tested in the calendar year.

(ii) Average number of well testing days per well for well(s) tested in the calendar year.

(iii) Average gas to oil ratio for well(s) tested, in cubic feet of gas per barrel of oil.

(iv) Average flow rate for well(s) tested, in barrels of oil per day. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that are tested. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average flow rate for well(s) tested and the API Well Number(s) for the well(s) included in the measurement.

(v) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(l).

(vi) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(l).

(vii) Annual N_2O emissions, in metric tons N_2O, calculated according to § 98.233(l).

(3) If you used Equation W–17B to calculate annual volumetric natural gas emissions at actual conditions from gas wells and the emissions were not vented to a flare, then you must report the information specified in paragraphs (l)(3)(i) through (v) of this section.

(i) Number of wells tested in the calendar year.

(ii) Average number of well testing days per well for well(s) tested in the calendar year.

(iii) Average annual production rate for well(s) tested, in actual cubic feet per day. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that are tested. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average annual production rate for well(s) tested and the API Well Number(s) for the well(s) included in the measurement.

(iv) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(l).

(v) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(l).

(4) If you used Equation W–17B to calculate annual volumetric natural gas emissions at actual conditions from gas wells and the emissions were vented to a flare, then you must report the information specified in paragraphs (l)(4)(i) through (vi) of this section.

(i) Number of wells tested in calendar year.

(ii) Average number of well testing days per well for well(s) tested in the calendar year.

(iii) Average annual production rate for well(s) tested, in actual cubic feet

per day. You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells that are tested. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured average annual production rate for well(s) tested and the API Well Number(s) for the well(s) included in the measurement.

(iv) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(l).

(v) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(l).

(vi) Annual N_2O emissions, in metric tons N_2O, calculated according to § 98.233(l).

(m) *Associated natural gas.* You must indicate whether any associated gas was vented or flared during the calendar year. If associated gas was vented or flared during the calendar year, then you must report the information specified in paragraphs (m)(1) through (8) of this section for each sub-basin.

(1) Sub-basin ID.

(2) Indicate whether any associated gas was vented directly to the atmosphere without flaring.

(3) Indicate whether any associated gas was flared.

(4) Average gas to oil ratio, in standard cubic feet of gas per barrel of oil (average of the ''GOR'' values used in Equation W–18 of this subpart).

(5) Volume of oil produced, in barrels, in the calendar year during the time periods in which associated gas was vented or flared (the sum of ''$V_{p,q}$'' used in Equation W–18 of this subpart). You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells are the only wells from which associated gas was vented or flared. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the volume of oil produced for well(s) with associated gas venting and flaring and the API Well Number(s) for the well(s) included in the measurement.

(6) Total volume of associated gas sent to sales, in standard cubic feet, in the calendar year during time periods in which associated gas was vented or flared (the sum of ''SG'' values used in Equation W–18 of § 98.233(m)). You may delay reporting of this data element if you indicate in the annual report that wildcat wells and/or delineation wells from which associated gas was vented or flared. If you elect to delay reporting of this data element, you must report by the date specified in § 98.236(cc) the measured total volume of associated gas sent to sales for well(s) with associated gas venting and flaring and the API Well Number(s) for the well(s) included in the measurement.

(7) If you had associated gas emissions vented directly to the atmosphere without flaring, then you must report the information specified in paragraphs (m)(7)(i) through (iii) of this section for each sub-basin.

(i) Total number of wells for which associated gas was vented directly to the atmosphere without flaring.

(ii) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(m)(3) and (4).

(iii) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(m)(3) and (4).

(8) If you had associated gas emissions that were flared, then you must report the information specified in paragraphs (m)(8)(i) through (iv) of this section for each sub-basin.

(i) Total number of wells for which associated gas was flared.

(ii) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(m)(5).

(iii) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(m)(5).

(iv) Annual N_2O emissions, in metric tons N_2O, calculated according to § 98.233(m)(5).

(n) *Flare stacks.* You must indicate if your facility contains any flare stacks. You must report the information specified in paragraphs (n)(1) through (12) of this section for each flare stack at your facility, and for each industry segment applicable to your facility.

(1) Unique name or ID for the flare stack. For the onshore petroleum and natural gas production industry segment, a different name or ID may be used for a single flare stack for each location where it operates at in a given calendar year.

(2) Indicate whether the flare stack has a continuous flow measurement device.

(3) Indicate whether the flare stack has a continuous gas composition analyzer on feed gas to the flare.

(4) Volume of gas sent to the flare, in standard cubic feet (''V_s'' in Equations W–19 and W–20 of this subpart).

(5) Fraction of the feed gas sent to an un-lit flare (''Z_u'' in Equation W–19 of this subpart).

(6) Flare combustion efficiency, expressed as the fraction of gas combusted by a burning flare.

(7) Mole fraction of CH_4 in the feed gas to the flare (''X_{CH4}'' in Equation W–19 of this subpart).

(8) Mole fraction of CO_2 in the feed gas to the flare (''X_{CO2}'' in Equation W–20 of this subpart).

(9) Annual CO_2 emissions, in metric tons CO_2 (refer to Equation W–20 of this subpart).

(10) Annual CH_4 emissions, in metric tons CH_4 (refer to Equation W–19 of this subpart).

(11) Annual N_2O emissions, in metric tons N_2O (refer to Equation W–40 of this subpart).

(12) Indicate whether a CEMS was used to measure emissions from the flare. If a CEMS was used to measure emissions from the flare, then you are not required to report N_2O and CH_4 emissions for the flare stack.

(o) *Centrifugal compressors.* You must indicate whether your facility has centrifugal compressors. You must report the information specified in paragraphs (o)(1) and (2) of this section for all centrifugal compressors at your facility. For each compressor source or manifolded group of compressor sources that you conduct as found leak measurements as specified in § 98.233(o)(2) or (4), you must report the information specified in paragraph (o)(3) of this section. For each compressor source or manifolded group of compressor sources that you conduct continuous monitoring as specified in § 98.233(o)(3) or (5), you must report the information specified in paragraph (o)(4) of this section. Centrifugal compressors in onshore petroleum and natural gas production are not required to report information in paragraphs (o)(1) through (4) of this section and instead must report the information specified in paragraph (o)(5) of this section.

(1) *Compressor activity data.* Report the information specified in paragraphs (o)(1)(i) through (xiv) of this section for each centrifugal compressor located at your facility.

(i) Unique name or ID for the centrifugal compressor.

(ii) Hours in operating-mode.

(iii) Hours in not-operating-depressurized-mode.

(iv) Indicate whether the compressor was measured in operating-mode.

(v) Indicate whether the compressor was measured in not-operating-depressurized-mode.

(vi) Indicate which, if any, compressor sources are part of a manifolded group of compressor sources.

(vii) Indicate which, if any, compressor sources are routed to a flare.

(viii) Indicate which, if any, compressor sources have vapor recovery.

(ix) Indicate which, if any, compressor source emissions are captured for fuel use or are routed to a thermal oxidizer.

(x) Indicate whether the compressor has blind flanges installed and associated dates.

(xi) Indicate whether the compressor has wet or dry seals.

(xii) If the compressor has wet seals, the number of wet seals.

(xiii) Power output of the compressor driver (hp).

(xiv) Indicate whether the compressor had a scheduled depressurized shutdown during the reporting year.

(2) *Compressor source.* (i) For each compressor source at each compressor, report the information specified in paragraphs (o)(2)(i)(A) through (C) of this section.

(A) Centrifugal compressor name or ID. Use the same ID as in paragraph (o)(1)(i) of this section.

(B) Centrifugal compressor source (wet seal, isolation valve, or blowdown valve).

(C) Unique name or ID for the leak or vent. If the leak or vent is connected to a manifolded group of compressor sources, use the same leak or vent ID for each compressor source in the manifolded group. If multiple compressor sources are released through a single vent for which continuous measurements are used, use the same leak or vent ID for each compressor source released via the measured vent. For a single compressor using as found measurements, you must provide a different leak or vent ID for each compressor source.

(ii) For each leak or vent, report the information specified in paragraphs (o)(2)(ii)(A) through (E) of this section.

(A) Indicate whether the leak or vent is for a single compressor source or manifolded group of compressor sources and whether the emissions from the leak or vent are released to the atmosphere, routed to a flare, combustion (fuel or thermal oxidizer), or vapor recovery.

(B) Indicate whether an as found measurement(s) as identified in § 98.233(o)(2) or (4) was conducted on the leak or vent.

(C) Indicate whether continuous measurements as identified in § 98.233(o)(3) or (5) were conducted on the leak or vent.

(D) Report emissions as specified in paragraphs (o)(2)(ii)(D)(*1*) and (*2*) of this section for the leak or vent. If the leak or vent is routed to a flare, combustion, or vapor recovery, you are not required to report emissions under this paragraph.

(*1*) Annual CO_2 emissions, in metric tons CO_2.

(*2*) Annual CH_4 emissions, in metric tons CH_4.

(E) If the leak or vent is routed to flare, combustion, or vapor recovery, report the percentage of time that the respective device was operational when the compressor source emissions were routed to the device.

(3) *As found measurement sample data.* If the measurement methods specified in § 98.233(o)(2) or (4) are conducted, report the information specified in paragraph (o)(3)(i) of this section. If the calculation specified in § 98.233(o)(6)(ii) is performed, report the information specified in paragraph (o)(3)(ii) of this section.

(i) For each as found measurement performed on a leak or vent, report the information specified in paragraphs (o)(3)(i)(A) through (F) of this section.

(A) Name or ID of leak or vent. Use same leak or vent ID as in paragraph (o)(2)(i)(C) of this section.

(B) Measurement date.

(C) Measurement method. If emissions were not detected when using a screening method, report the screening method. If emissions were detected using a screening method, report only the method subsequently used to measure the volumetric emissions.

(D) Measured flow rate, in standard cubic feet per hour.

(E) For each compressor attached to the leak or vent, report the compressor mode during which the measurement was taken.

(F) If the measurement is for a manifolded group of compressor sources, indicate whether the measurement location is prior to or after comingling with non-compressor emission sources.

(ii) For each compressor mode-source combination where a reporter emission factor as calculated in Equation W–23 was used to calculate emissions in Equation W–22, report the information specified in paragraphs (o)(3)(ii)(A) through (D) of this section.

(A) The compressor mode-source combination.

(B) The compressor mode-source combination reporter emission factor, in standard cubic feet per hour ($EF_{s,m}$ in Equation W–23).

(C) The total number of compressors measured in the compressor mode-source combination in the current reporting year and the preceding two reporting years ($Count_m$ in Equation W–23).

(D) Indicate whether the compressor mode-source combination reporter emission factor is facility-specific or based on all of the reporter's applicable facilities.

(4) *Continuous measurement data.* If the measurement methods specified in § 98.233(o)(3) or (5) are conducted, report the information specified in paragraphs (o)(4)(i) through (iv) of this section for each continuous measurement conducted on each leak or vent associated with each compressor source or manifolded group of compressor sources.

(i) Name or ID of leak or vent. Use same leak or vent ID as in paragraph (o)(2)(i)(C) of this section.

(ii) Measured volume of flow during the reporting year, in million standard cubic feet.

(iii) Indicate whether the measured volume of flow during the reporting year includes compressor blowdown emissions as allowed for in § 98.233(o)(3)(ii) and (o)(5)(iii).

(iv) If the measurement is for a manifolded group of compressor sources, indicate whether the measurement location is prior to or after comingling with non-compressor emission sources.

(5) *Onshore petroleum and natural gas production.* Centrifugal compressors with wet seal degassing vents in onshore petroleum and natural gas production must report the information specified in paragraphs (o)(5)(i) through (iii) of this section.

(i) Number of centrifugal compressors that have wet seal oil degassing vents.

(ii) Annual CO_2 emissions, in metric tons CO_2, from centrifugal compressors with wet seal oil degassing vents.

(iii) Annual CH_4 emissions, in metric tons CH_4, from centrifugal compressors with wet seal oil degassing vents.

(p) *Reciprocating compressors.* You must indicate whether your facility has reciprocating compressors. You must report the information specified in paragraphs (p)(1) and (2) of this section for all reciprocating compressors at your facility. For each compressor source or manifolded group of compressor sources that you conduct as found leak measurements as specified in § 98.233(p)(2) or (4), you must report the information specified in paragraph (p)(3) of this section. For each compressor source or manifolded group of compressor sources that you conduct continuous monitoring as specified in § 98.233(p)(3) or (5), you must report the information specified in paragraph (p)(4) of this section. Reciprocating compressors in onshore petroleum and natural gas production are not required to report information in paragraphs (p)(1) through (4) of this section and instead must report the information specified in paragraph (p)(5) of this section.

(1) *Compressor activity data.* Report the information specified in paragraphs (p)(1)(i) through (xiv) of this section for each reciprocating compressor located at your facility.

(i) Unique name or ID for the reciprocating compressor.

(ii) Hours in operating-mode.

(iii) Hours in standby-pressurized-mode.

(iv) Hours in not-operating-depressurized-mode.

(v) Indicate whether the compressor was measured in operating-mode.

(vi) Indicate whether the compressor was measured in standby-pressurized-mode.

(vii) Indicate whether the compressor was measured in not-operating-depressurized-mode.

(viii) Indicate which, if any, compressor sources are part of a manifolded group of compressor sources.

(ix) Indicate which, if any, compressor sources are routed to a flare.

(x) Indicate which, if any, compressor sources have vapor recovery.

(xi) Indicate which, if any, compressor source emissions are captured for fuel use or are routed to a thermal oxidizer.

(xii) Indicate whether the compressor has blind flanges installed and associated dates.

(xiii) Power output of the compressor driver (hp).

(xiv) Indicate whether the compressor had a scheduled depressurized shutdown during the reporting year.

(2) *Compressor source.* (i) For each compressor source at each compressor, report the information specified in paragraphs (p)(2)(i)(A) through (C) of this section.

(A) Reciprocating compressor name or ID. Use the same ID as in paragraph (p)(1)(i) of this section.

(B) Reciprocating compressor source (isolation valve, blowdown valve, or rod packing).

(C) Unique name or ID for the leak or vent. If the leak or vent is connected to a manifolded group of compressor sources, use the same leak or vent ID for each compressor source in the manifolded group. If multiple compressor sources are released through a single vent for which continuous measurements are used, use the same leak or vent ID for each compressor source released via the measured vent. For a single compressor using as found measurements, you must provide a different leak or vent ID for each compressor source.

(ii) For each leak or vent, report the information specified in paragraphs (p)(2)(ii)(A) through (E) of this section.

(A) Indicate whether the leak or vent is for a single compressor source or manifolded group of compressor sources and whether the emissions from the leak or vent are released to the atmosphere, routed to a flare, combustion (fuel or thermal oxidizer), or vapor recovery.

(B) Indicate whether an as found measurement(s) as identified in § 98.233(p)(2) or (4) was conducted on the leak or vent.

(C) Indicate whether continuous measurements as identified in § 98.233(p)(3) or (5) were conducted on the leak or vent.

(D) Report emissions as specified in paragraphs (p)(2)(ii)(D)(*1*) and (*2*) of this section for the leak or vent. If the leak or vent is routed to flare, combustion, or vapor recovery, you are not required to report emissions under this paragraph.

(*1*) Annual CO_2 emissions, in metric tons CO_2.

(*2*) Annual CH_4 emissions, in metric tons CH_4.

(E) If the leak or vent is routed to flare, combustion, or vapor recovery, report the percentage of time that the respective device was operational when the compressor source emissions were routed to the device.

(3) *As found measurement sample data.* If the measurement methods specified in § 98.233(p)(2) or (4) are conducted, report the information specified in paragraph (p)(3)(i) of this section. If the calculation specified in § 98.233(p)(6)(ii) is performed, report the information specified in paragraph (p)(3)(ii) of this section.

(i) For each as found measurement performed on a leak or vent, report the information specified in paragraphs (p)(3)(i)(A) through (F) of this section.

(A) Name or ID of leak or vent. Use same leak or vent ID as in paragraph (p)(2)(i)(C) of this section.

(B) Measurement date.

(C) Measurement method. If emissions were not detected when using a screening method, report the screening method. If emissions were detected using a screening method, report only the method subsequently used to measure the volumetric emissions.

(D) Measured flow rate, in standard cubic feet per hour.

(E) For each compressor attached to the leak or vent, report the compressor mode during which the measurement was taken.

(F) If the measurement is for a manifolded group of compressor sources, indicate whether the measurement location is prior to or after comingling with non-compressor emission sources.

(ii) For each compressor mode-source combination where a reporter emission factor as calculated in Equation W–28 was used to calculate emissions in Equation W–27, report the information specified in paragraphs (p)(3)(ii)(A) through (D) of this section

(A) The compressor mode-source combination.

(B) The compressor mode-source combination reporter emission factor, in standard cubic feet per hour ($EF_{s,m}$ in Equation W–28).

(C) The total number of compressors measured in the compressor mode-source combination in the current reporting year and the preceding two reporting years ($Count_m$ in Equation W–28).

(D) Indicate whether the compressor mode-source combination reporter emission factor is facility-specific or based on all of the reporter's applicable facilities.

(4) *Continuous measurement data.* If the measurement methods specified in § 98.233(p)(3) or (5) are conducted, report the information specified in paragraphs (p)(4)(i) through (iv) of this section for each continuous measurement conducted on each leak or vent associated with each compressor source or manifolded group of compressor sources.

(i) Name or ID of leak or vent. Use same leak or vent ID as in paragraph (p)(2)(i)(C) of this section.

(ii) Measured volume of flow during the reporting year, in million standard cubic feet.

(iii) Indicate whether the measured volume of flow during the reporting year includes compressor blowdown emissions as allowed for in § 98.233(p)(3)(ii) and (p)(5)(iii).

(iv) If the measurement is for a manifolded group of compressor sources, indicate whether the measurement location is prior to or after comingling with non-compressor emission sources.

(5) *Onshore petroleum and natural gas production.* Reciprocating compressors in onshore petroleum and natural gas production must report the information specified in paragraphs (p)(5)(i) through (iii) of this section.

(i) Number of reciprocating compressors.

(ii) Annual CO_2 emissions, in metric tons CO_2, from reciprocating compressors.

(iii) Annual CH_4 emissions, in metric tons CH_4, from reciprocating compressors.

(q) *Equipment leak surveys.* If your facility is subject to the requirements of § 98.233(q), then you must report the information specified in paragraphs (q)(1) and (2) of this section. Natural gas distribution facilities with emission sources listed in § 98.232(i)(1) must also report the information specified in paragraph (q)(3) of this section.

(1) You must report the information specified in paragraphs (q)(1)(i) and (ii) of this section.

(i) Except as specified in paragraph (q)(1)(ii) of this section, the number of complete equipment leak surveys performed during the calendar year.

(ii) Natural gas distribution facilities performing equipment leak surveys across a multiple year leak survey cycle must report the number of years in the leak survey cycle.

(2) You must indicate whether your facility contains any of the component types listed in § 98.232(d)(7), (e)(7), (f)(5), (g)(3), (h)(4), or (i)(1), for your facility's industry segment. For each component type that is located at your facility, you must report the information specified in paragraphs (q)(2)(i) through (v) of this section. If a component type is located at your facility and no leaks were identified from that component, then you must report the information in paragraphs (q)(2)(i) through (v) of this section but report a zero (''0'') for the information required according to paragraphs (q)(2)(iii), (iv), and (v) of this section.

(i) Component type.

(ii) Total number of the surveyed component type that were identified as leaking in the calendar year (''x_p'' in Equation W–30 of this subpart for the component type).

(iii) Average time the surveyed components are assumed to be leaking and operational, in hours (average of ''$T_{p,z}$'' from Equation W–30 of this subpart for the component type).

(iv) Annual CO_2 emissions, in metric tons CO_2, for the component type as calculated using Equation W–30 (for surveyed components only).

(v) Annual CH_4 emissions, in metric tons CH_4, for the component type as calculated using Equation W–30 (for surveyed components only).

(3) Natural gas distribution facilities with emission sources listed in § 98.232(i)(1) must also report the information specified in paragraphs (q)(3)(i) through (viii) and, if applicable, (q)(3)(ix) of this section.

(i) Number of above grade transmission-distribution transfer stations surveyed in the calendar year.

(ii) Number of meter/regulator runs at above grade transmission-distribution transfer stations surveyed in the calendar year (''$Count_{MR,y}$'' from Equation W–31 of this subpart, for the current calendar year).

(iii) Average time that meter/regulator runs surveyed in the calendar year were operational, in hours (average of ''$T_{w,y}$'' from Equation W–31 of this subpart, for the current calendar year).

(iv) Number of above grade transmission-distribution transfer stations surveyed in the current leak survey cycle.

(v) Number of meter/regulator runs at above grade transmission-distribution transfer stations surveyed in current leak survey cycle (sum of ''$Count_{MR,y}$'' from Equation W–31 of this subpart, for all calendar years in the current leak survey cycle).

(vi) Average time that meter/regulator runs surveyed in the current leak survey cycle were operational, in hours (average of ''$T_{w,y}$'' from Equation W–31 of this subpart, for all years included in the leak survey cycle).

(vii) Meter/regulator run CO_2 emission factor based on all surveyed transmission-distribution transfer stations in the current leak survey cycle, in standard cubic feet of CO_2 per operational hour of all meter/regulator runs (''$EF_{s,MR,i}$'' for CO_2 calculated using Equation W–31 of this subpart).

(viii) Meter/regulator run CH_4 emission factor based on all surveyed transmission-distribution transfer stations in the current leak survey cycle, in standard cubic feet of CH_4 per operational hour of all meter/regulator runs (''$EF_{s,MR,i}$'' for CH_4 calculated using Equation W–31 of this subpart).

(ix) If your natural gas distribution facility performs equipment leak surveys across a multiple year leak survey cycle, you must also report:

(A) The total number of meter/regulator runs at above grade transmission-distribution transfer stations at your facility (''$Count_{MR}$'' in Equation W–32B of this subpart).

(B) Average estimated time that each meter/regulator run at above grade transmission-distribution transfer stations was operational in the calendar year, in hours per meter/regulator run (''$T_{w,avg}$'' in Equation W–32B of this subpart).

(C) Annual CO_2 emissions, in metric tons CO_2, for all above grade transmission-distribution transfer stations at your facility.

(D) Annual CH_4 emissions, in metric tons CH_4, for all above grade transmission-distribution transfer stations at your facility.

(r) *Equipment leaks by population count.* If your facility is subject to the requirements of § 98.233(r), then you must report the information specified in paragraphs (r)(1) through (3) of this section, as applicable.

(1) You must indicate whether your facility contains any of the emission source types required to use Equation W–32A of this subpart. You must report the information specified in paragraphs (r)(1)(i) through (v) of this section separately for each emission source type required to use Equation W–32A of this subpart that is located at your facility. Onshore petroleum and natural gas production facilities must report the information specified in paragraphs (r)(1)(i) through (v) of this section separately by component type, service type, and geographic location (*i.e.,* Eastern U.S. or Western U.S.).

(i) Emission source type. Onshore petroleum and natural gas production facilities must report the component type, service type and geographic location.

(ii) Total number of the emission source type at the facility (''$Count_e$'' in Equation W–32A of this subpart).

(iii) Average estimated time that the emission source type was operational in the calendar year, in hours (''T_e'' in Equation W–32A of this subpart).

(iv) Annual CO_2 emissions, in metric tons CO_2, for the emission source type.

(v) Annual CH_4 emissions, in metric tons CH_4, for the emission source type.

(2) Natural gas distribution facilities must also report the information specified in paragraphs (r)(2)(i) through (v) of this section.

(i) Number of above grade transmission-distribution transfer stations at the facility.

(ii) Number of above grade metering-regulating stations that are not transmission-distribution transfer stations at the facility.

(iii) Total number of meter/regulator runs at above grade metering-regulating stations that are not above grade transmission-distribution transfer stations (''$Count_{MR}$'' in Equation W–32B of this subpart).

(iv) Average estimated time that each meter/regulator run at above grade metering-regulating stations that are not above grade transmission-distribution transfer stations was operational in the calendar year, in hours per meter/regulator run (''$T_{w,avg}$'' in Equation W–32B of this subpart).

(v) If your facility has above grade metering-regulating stations that are not above grade transmission-distribution transfer stations and your facility also has above grade transmission-distribution transfer stations, you must also report:

(A) Annual CO_2 emissions, in metric tons CO_2, from above grade metering-regulating stations that are not above grade transmission-distribution transfer stations.

(B) Annual CH_4 emissions, in metric tons CH_4, from above grade metering regulating stations that are not above grade transmission-distribution transfer stations.

(3) Onshore petroleum and natural gas production facilities must also report the information specified in paragraphs (r)(3)(i) and (ii) of this section.

(i) Calculation method used.

(ii) Onshore petroleum and natural gas production facilities must report the information specified in paragraphs (r)(3)(ii)(A) and (B) of this section, for each major equipment type, production type (*i.e.,* natural gas or crude oil), and geographic location combination in Tables W–1B and W–1C of this subpart.

(A) An indication of whether the facility contains the major equipment type.

(B) If the facility does contain the equipment type, the count of the major equipment type.

(s) *Offshore petroleum and natural gas production.* You must report the information specified in paragraphs (s)(1) through (3) of this section for each emission source type listed in the most recent BOEMRE study.

(1) Annual CO_2 emissions, in metric tons CO_2.

(2) Annual CH_4 emissions, in metric tons CH_4.

(3) Annual N_2O emissions, in metric tons N_2O.

(t) [Reserved]

(u) [Reserved]

(v) [Reserved]

(w) *EOR injection pumps.* You must indicate whether CO_2 EOR injection was used at your facility during the calendar year and if any EOR injection pump blowdowns occurred during the year. If any EOR injection pump blowdowns occurred during the calendar year, then you must report the information specified in paragraphs (w)(1) through (8) of this section for each EOR injection pump system.

(1) Sub-basin ID.

(2) EOR injection pump system identifier.

(3) Pump capacity, in barrels per day.

(4) Total volume of EOR injection pump system equipment chambers, in cubic feet (''V_v'' in Equation W–37 of this subpart).

(5) Number of blowdowns for the EOR injection pump system in the calendar year.

(6) Density of critical phase EOR injection gas, in kilograms per cubic foot (''R_c'' in Equation W–37 of this subpart).

(7) Mass fraction of CO_2 in critical phase EOR injection gas (''GHG_{CO2}'' in Equation W–37 of this subpart).

(8) Annual CO_2 emissions, in metric tons CO_2, from EOR injection pump system blowdowns.

(x) *EOR hydrocarbon liquids.* You must indicate whether hydrocarbon liquids were produced through EOR operations. If hydrocarbon liquids were produced through EOR operations, you must report the information specified in paragraphs (x)(1) through (4) of this section for each sub-basin category with EOR operations.

(1) Sub-basin ID.

(2) Total volume of hydrocarbon liquids produced through EOR operations in the calendar year, in barrels (''V_{hl}'' in Equation W–38 of this subpart).

(3) Average CO_2 retained in hydrocarbon liquids downstream of the storage tank, in metric tons per barrel under standard conditions (''S_{hl}'' in Equation W–38 of this subpart).

(4) Annual CO_2 emissions, in metric tons CO_2, from CO_2 retained in hydrocarbon liquids produced through EOR operations downstream of the storage tank (''$Mass_{CO2}$'' in Equation W–38 of this subpart).

(y) [Reserved]

(z) *Combustion equipment at onshore petroleum and natural gas production facilities and natural gas distribution facilities.* If your facility is required by § 98.232(c)(22) or (i)(7) to report emissions from combustion equipment, then you must indicate whether your facility has any combustion units subject to reporting according to paragraphs (a)(1)(xvii) or (a)(8)(i) of this section. If your facility contains any combustion units subject to reporting according to paragraphs (a)(1)(xvii) or (a)(8)(i) of this section, then you must report the information specified in paragraphs (z)(1) and (2) of this section, as applicable.

(1) Indicate whether the combustion units include: External fuel combustion units with a rated heat capacity less than or equal to 5 million Btu per hour; or, internal fuel combustion units that are not compressor-drivers, with a rated heat capacity less than or equal to 1 mmBtu/hr (or the equivalent of 130 horsepower). If the facility contains external fuel combustion units with a rated heat capacity less than or equal to 5 million Btu per hour or internal fuel combustion units that are not compressor-drivers, with a rated heat capacity less than or equal to 1 million Btu per hour (or the equivalent of 130 horsepower), then you must report the information specified in paragraphs (z)(1)(i) and (ii) of this section for each unit type.

(i) The type of combustion unit.

(ii) The total number of combustion units.

(2) Indicate whether the combustion units include: External fuel combustion units with a rated heat capacity greater than 5 million Btu per hour; internal fuel combustion units that are not compressor-drivers, with a rated heat capacity greater than 1 million Btu per hour (or the equivalent of 130 horsepower); or, internal fuel combustion units of any heat capacity that are compressor-drivers. If your facility contains: External fuel combustion units with a rated heat capacity greater than 5 mmBtu/hr; internal fuel combustion units that are not compressor-drivers, with a rated heat capacity greater than 1 million Btu per hour (or the equivalent of 130 horsepower); or internal fuel combustion units of any heat capacity that are compressor-drivers, then you must report the information specified in paragraphs (z)(2)(i) through (vi) of this section for each combustion unit type and fuel type combination.

(i) The type of combustion unit.

(ii) The type of fuel combusted.

(iii) The quantity of fuel combusted in the calendar year, in thousand standard cubic feet, gallons, or tons.

(iv) Annual CO_2 emissions, in metric tons CO_2, calculated according to § 98.233(z)(1) and (2).

(v) Annual CH_4 emissions, in metric tons CH_4, calculated according to § 98.233(z)(1) and (2).

(vi) Annual N_2O emissions, in metric tons N_2O, calculated according to § 98.233(z)(1) and (2).

(aa) Each facility must report the information specified in paragraphs (aa)(1) through (9) of this section, for each applicable industry segment, by using best available data. If a quantity required to be reported is zero, you must report zero as the value.

(1) For onshore petroleum and natural gas production, report the data specified in paragraphs (aa)(1)(i) and (ii) of this section.

(i) Report the information specified in paragraphs (aa)(1)(i)(A) through (C) of this section for the basin as a whole.

(A) The quantity of gas produced in the calendar year from wells, in thousand standard cubic feet. This includes gas that is routed to a pipeline, vented or flared, or used in field operations. This does not include gas injected back into reservoirs or shrinkage resulting from lease condensate production.

(B) The quantity of gas produced in the calendar year for sales, in thousand standard cubic feet.

(C) The quantity of crude oil and condensate produced in the calendar year for sales, in barrels.

(ii) Report the information specified in paragraphs (aa)(1)(ii)(A) through (M) of this section for each unique sub-basin category.

(A) State.

(B) County.

(C) Formation type.

(D) The number of producing wells at the end of the calendar year (exclude only those wells permanently taken out of production, *i.e.,* plugged and abandoned) .

(E) The number of producing wells acquired during the calendar year.

(F) The number of producing wells divested during the calendar year.

(G) The number of wells completed during the calendar year.

(H) The number of wells permanently taken out of production (*i.e.,* plugged and abandoned) during the calendar year.

(I) Average mole fraction of CH_4 in produced gas.

(J) Average mole fraction of CO_2 in produced gas.

(K) If an oil sub-basin, report the average GOR of all wells, in thousand standard cubic feet per barrel.

(L) If an oil sub-basin, report the average API gravity of all wells.

(M) If an oil sub-basin, report average low pressure separator pressure, in pounds per square inch gauge.

(2) For offshore production, report the quantities specified in paragraphs (aa)(2)(i) and (ii) of this section.

(i) The total quantity of gas handled at the offshore platform in the calendar year, in thousand standard cubic feet, including production volumes and volumes transferred via pipeline from another location.

(ii) The total quantity of oil and condensate handled at the offshore platform in the calendar year, in barrels, including production volumes and volumes transferred via pipeline from another location.

(3) For natural gas processing, report the information specified in paragraphs (aa)(3)(i) through (vii) of this section.

(i) The quantity of natural gas received at the gas processing plant in the calendar year, in thousand standard cubic feet.

(ii) The quantity of processed (residue) gas leaving the gas processing plant in the calendar year, in thousand standard cubic feet.

(iii) The cumulative quantity of all NGLs (bulk and fractionated) received at the gas processing plant in the calendar year, in barrels.

(iv) The cumulative quantity of all NGLs (bulk and fractionated) leaving the gas processing plant in the calendar year, in barrels.

(v) Average mole fraction of CH_4 in natural gas received.

(vi) Average mole fraction of CO_2 in natural gas received.

(vii) Indicate whether the facility fractionates NGLs.

(4) For natural gas transmission compression, report the quantity specified in paragraphs (aa)(4)(i) through (v) of this section.

(i) The quantity of gas transported through the compressor station in the calendar year, in thousand standard cubic feet.

(ii) Number of compressors.

(iii) Total compressor power rating of all compressors combined, in horsepower.

(iv) Average upstream pipeline pressure, in pounds per square inch gauge.

(v) Average downstream pipeline pressure, in pounds per square inch gauge.

(5) For underground natural gas storage, report the quantities specified in paragraphs (aa)(5)(i) through (iii) of this section.

(i) The quantity of gas injected into storage in the calendar year, in thousand standard cubic feet.

(ii) The quantity of gas withdrawn from storage in the calendar year, in thousand standard cubic feet.

(iii) Total storage capacity, in thousand standard cubic feet.

(6) For LNG import equipment, report the quantity of LNG imported in the calendar year, in thousand standard cubic feet.

(7) For LNG export equipment, report the quantity of LNG exported in the calendar year, in thousand standard cubic feet.

(8) For LNG storage, report the quantities specified in paragraphs (aa)(8)(i) through (iii) of this section.

(i) The quantity of LNG added into storage in the calendar year, in thousand standard cubic feet.

(ii) The quantity of LNG withdrawn from storage in the calendar year, in thousand standard cubic feet.

(iii) Total storage capacity, in thousand standard cubic feet.

(9) For natural gas distribution, report the quantities specified in paragraphs (aa)(9)(i) through (vii) of this section.

(i) The quantity of natural gas received at all custody transfer stations in the calendar year, in thousand standard cubic feet. This value may include meter corrections, but only for the calendar year covered by the annual report.

(ii) The quantity of natural gas withdrawn from in-system storage in the calendar year, in thousand standard cubic feet.

(iii) The quantity of natural gas added to in-system storage in the calendar year, in thousand standard cubic feet.

(iv) The quantity of natural gas delivered to end users, in thousand standard cubic feet. This value does not include stolen gas, or gas that is otherwise unaccounted for.

(v) The quantity of natural gas transferred to third parties such as other LDCs or pipelines, in thousand standard cubic feet. This value does not include stolen gas, or gas that is otherwise unaccounted for.

(vi) The quantity of natural gas consumed by the LDC for operational purposes, in thousand standard cubic feet.

(vii) The estimated quantity of gas stolen in the calendar year, in thousand standard cubic feet.

(bb) For any missing data procedures used, report the information in § 98.3(c)(8) except as provided in paragraphs (bb)(1) and (2) of this section.

(1) For quarterly measurements, report the total number of quarters that a missing data procedure was used for each data element rather than the total number of hours.

(2) For annual or biannual (once every two years) measurements, you do not need to report the number of hours that a missing data procedure was used for each data element.

(cc) If you elect to delay reporting the information in paragraph (g)(5)(i), (g)(5)(ii), (h)(1)(iv), (h)(2)(iv), (j)(1)(iii), (j)(2)(i)(A), (l)(1)(iv), (l)(2)(iv), (l)(3)(iii), (l)(4)(iii), (m)(5), or (m)(6) of this section, you must report the information required in that paragraph no later than the date 2 years following the date specified in § 98.3(b) introductory text.

■ 9. Section 98.237 is amended by adding paragraph (f) to read as follows:

§ 98.237 Records that must be retained.

* * * * *

(f) For each time a missing data procedure was used, keep a record listing the emission source type, a description of the circumstance that resulted in the need to use missing data procedures, the missing data provisions in § 98.235 that apply, the calculation or analysis used to develop the substitute value, and the substitute value.

■ 10. Section 98.238 is amended by:

■ a. Adding a definition for ''Associated gas venting or flaring'' in alphabetical order;

■ b. Removing the definition for ''Component'';

■ c. Adding definitions for ''Compressor mode'' and ''Compressor source'' in alphabetical order;

■ d. Removing the definitions for ''Equipment leak'' and ''Equipment leak detection'';

■ e. Adding definitions for ''Manifolded compressor source'' and ''Manifolded group of compressor sources'' in alphabetical order;

■ f. Revising the definition for ''Meter/regulator run'';

■ g. Adding definitions for ''Reduced emissions completion'' and ''Reduced emissions workover'' in alphabetical order; and

■ h. Revising the definition for ''Sub-basin category, for onshore natural gas production''.

The revisions and additions read as follows:

§ 98.238 Definitions.

* * * * *

Associated gas venting or flaring means the venting or flaring of natural gas which originates at wellheads that also produce hydrocarbon liquids and occurs either in a discrete gaseous phase at the wellhead or is released from the liquid hydrocarbon phase by separation. This does not include venting or flaring resulting from activities that are reported elsewhere, including tank venting, well completions, and well workovers.

* * * * *

Compressor mode means the operational and pressurized status of a compressor. For a centrifugal compressor, ''mode'' refers to either operating-mode or not-operating-depressurized-mode. For a reciprocating compressor, ''mode'' refers to either: Operating-mode, standby-pressurized-mode, or not-operating-depressurized-mode.

Compressor source means the source of certain venting or leaking emissions from a centrifugal or reciprocating compressor. For centrifugal compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and wet seal oil degassing vents. For reciprocating compressors, ''source'' refers to blowdown valve leakage through the blowdown vent, unit isolation valve leakage through an open blowdown vent without blind flanges, and rod packing emissions.

* * * * *

Manifolded compressor source means a compressor source (as defined in this section) that is manifolded to a common vent that routes gas from multiple compressors.

Manifolded group of compressor sources means a collection of any combination of manifolded compressor sources (as defined in this section) that are manifolded to a common vent.

Meter/regulator run means a series of components used in regulating pressure or metering natural gas flow, or both, in the natural gas distribution industry segment. At least one meter, at least one regulator, or any combination of both on a single run of piping is considered one meter/regulator run.

* * * * *

Reduced emissions completion means a well completion following hydraulic fracturing where gas flowback emissions from the gas outlet of the separator that are otherwise vented are captured, cleaned, and routed to the flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for other useful purpose that a purchased fuel or raw material would serve, with de minimis direct venting to the atmosphere. Short periods of flaring during a reduced emissions completion may occur.

Reduced emissions workover means a well workover with hydraulic fracturing (*i.e.,* refracturing) where gas flowback emissions from the gas outlet of the separator that are otherwise vented are captured, cleaned, and routed to the flow line or collection system, re-injected into the well or another well, used as an on-site fuel source, or used for other useful purpose that a purchased fuel or raw material would serve, with de minimis direct venting to the atmosphere. Short periods of flaring during a reduced emissions workover may occur.

* * * * *

Sub-basin category, for onshore natural gas production, means a subdivision of a basin into the unique combination of wells with the surface coordinates within the boundaries of an individual county and subsurface completion in one or more of each of the following five formation types: Oil, high permeability gas, shale gas, coal seam, or other tight gas reservoir rock. The distinction between high permeability gas and tight gas reservoirs shall be designated as follows: High permeability gas reservoirs with >0.1 millidarcy permeability, and tight gas reservoirs with ≤0.1 millidarcy permeability. Permeability for a reservoir type shall be determined by engineering estimate. Wells that produce only from high permeability gas, shale gas, coal seam, or other tight gas reservoir rock are considered gas wells; gas wells producing from more than one of these formation types shall be classified into only one type based on the formation with the most contribution to production as determined by engineering knowledge. All wells that produce hydrocarbon liquids (with or without gas) and do not meet the definition of a gas well in this sub-basin category definition are considered to be in the oil formation. All emission sources that handle condensate from gas wells in high permeability gas, shale gas, or tight gas reservoir rock formations are considered to be in the formation that the gas well belongs to and not in the oil formation.

* * * * *

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