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DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2011–BT–STD–0029]

RIN 1904–AC47

Energy Conservation Program for Certain Industrial Equipment: Energy Conservation Standards and Test Procedures for Commercial Heating, Air-Conditioning, and Water-Heating Equipment; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical correction.

SUMMARY: On May 16, 2012, the U.S. Department of Energy (DOE) published a final rule in the **Federal Register** that amended the energy conservation standards and test procedures for certain commercial heating, air-conditioning, and water-heating equipment. Due to a drafting error, there was a typographical error (*i.e.,* an incorrect symbol) for one equipment class of computer room air conditioners in a table to the applicable test procedure provision. This final rule rectifies this error.

DATES: *Effective:* March 5, 2015. The incorporation by reference of certain publications listed in the rule was approved by the Director of the Federal Register as of July 16, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 16, 2012, DOE's Office of Energy Efficiency and Renewable Energy published an energy conservation standards and test procedure final rule in the **Federal Register** titled, ''Energy Conservation Standards and Test Procedures for Commercial Heating, Air-Conditioning, and Water-Heating Equipment'' (hereafter referred to as the ''May 2012 final rule''). 77 FR 28928. Since the publication of that final rule, it has come to DOE's attention that, due to a technical oversight, the May 2012 final rule incorrectly included a typographical error regarding the symbol for one equipment class of the subject computer room air conditioners, which made it appear that there was more than one entry for that equipment class in the table showing the compliance date for use of the applicable test procedure. This final rule corrects this error, thereby eliminating the duplicative listing.

II. Need for Correction

As published, the May 2012 final rule mischaracterizes one computer room air conditioner equipment class in the table showing the compliance date for use of the applicable test procedure. In the May 2012 final rule, Table 2 on page 28990 contains a typographical error in the third column (''Cooling capacity'') for the equipment type, Computer Room Air Conditioners. The entry for the second line, ''<65,000 Btu/h and <760,000 Btu/h,'' should be corrected to read ''≥65,000 Btu/h and <760,000 Btu/h.'' At no place in the May 2012 final rule did DOE discuss any intention to have two separate entries for computer room air conditioners <65,000 Btu/h in the test procedure, and DOE notes that this was a typographical error in the final rule as published in the **Federal Register**. Thus, the table has been corrected to eliminate this error. Accordingly, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not issue a separate notice to solicit public comment on the changes contained in this document. Issuing a separate document to solicit public comment would be impractical, unnecessary, and contrary to the public interest.

III. Procedural Requirements

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the May 16, 2012 energy conservation standards and test procedure final rule for certain commercial heating, air-conditioning, and water-heating equipment remain unchanged for this final rule technical correction. These determinations are set forth in the May 16, 2012 final rule. 77 FR 28928, 28983–86.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Incorporation by reference, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC on February 26, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 431 of Chapter II, Subchapter D, of Title 10 of the Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Revise Table 2 in § 431.96(b)(2) to read as follows:

§ 431.96 Uniform test method for the measurement of energy efficiency of commercial air conditioners and heat pumps.

* * * * *

(b) * * *

(2) * * *

TABLE 2 TO § 431.96—TEST PROCEDURES FOR COMMERCIAL AIR CONDITIONERS AND HEAT PUMPS

Equipment type	Category	Cooling capacity	Energy efficiency descriptor	Compliance with test procedure required on or after	Use tests, conditions, and procedures [1] in
Small Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled, 3-Phase, AC and HP.	<65,000 Btu/h	SEER and HSPF	May 13, 2013	AHRI 210/240–2008 (omit section 6.5).
	Air-Cooled AC and HP	≥65,000 Btu/h and <135,000 Btu/h	EER and COP	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
	Water-Cooled and Evaporatively-Cooled AC.	<65,000 Btu/h	EER	May 13, 2013	AHRI 210/240–2008 (omit section 6.5).
		≥65,000 Btu/h and <135,000 Btu/h	EER	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
	Water-Source HP	<135,000 Btu/h	EER and COP	May 13, 2013	ISO Standard 13256–1 (1998).
Large Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP	≥135,000 Btu/h and <240,000 Btu/h	EER and COP	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
	Water-Cooled and Evaporatively-Cooled AC.	≥135,000 Btu/h and <240,000 Btu/h	EER	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
Very Large Commercial Packaged Air-Conditioning and Heating Equipment.	Air-Cooled AC and HP	≥240,000 Btu/h and <760,000 Btu/h	EER and COP	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
	Water-Cooled and Evaporatively-Cooled AC.	≥240,000 Btu/h and <760,000 Btu/h	EER	May 13, 2013	AHRI 340/360–2007 (omit section 6.3).
Packaged Terminal Air Conditioners and Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	May 13, 2013	AHRI 310/380–2004 (omit section 5.6).
Computer Room Air Conditioners	AC	<65,000 Btu/h	SCOP	October 29, 2012	ASHRAE 127–2007 (omit section 5.11).
		≥65,000 Btu/h and <760,000 Btu/h	SCOP	May 13, 2013	ASHRAE 127–2007 (omit section 5.11).
Variable Refrigerant Flow Multi-split Systems.	AC	<760,000 Btu/h	EER and COP	May 13, 2013	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).
Variable Refrigerant Flow Multi-split Systems, Air-cooled.	HP	<760,000 Btu/h	EER and COP	May 13, 2013	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).
Variable Refrigerant Flow Multi-split Systems, Water-source.	HP	<17,000 Btu/h	EER and COP	October 29, 2012	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).
Variable Refrigerant Flow Multi-split Systems, Water-source.	HP	≥17,000 Btu/h and <760,000 Btu/h	EER and COP	May 13, 2013	AHRI 1230–2010 (omit sections 5.1.2 and 6.6).
Single Package Vertical Air Conditioners and Single Package Vertical Heat Pumps.	AC and HP	<760,000 Btu/h	EER and COP	July 16, 2012	AHRI 390–2003 (omit section 6.4).

[1] Incorporated by reference, see § 431.95.

* * * * *

[FR Doc. 2015–05061 Filed 3–4–15; 08:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0383; Special Conditions No. 25–578–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Alternate Fuel Tank Structural Lightning Protection Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a nitrogen generation system (NGS) for all fuel tanks that actively reduces flammability exposure within the fuel tanks significantly below that required by the fuel tank flammability regulations. Among other benefits, the NGS significantly reduces the potential for fuel vapor ignition caused by lightning strikes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Bombardier Aerospace on April 6, 2015.

FOR FURTHER INFORMATION CONTACT: Margaret Langsted, FAA, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2677; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with a composite wing fuel tank structure and an aluminum alloy fuselage that is sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

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

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

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design feature: A fuel tank nitrogen generation system (NGS) that is intended to control fuel tank flammability for all fuel tanks. This NGS is designed to provide a level of performance to all fuel tanks of the CSeries airplanes that applies the more stringent standard for warm day flammability performance applicable to normally emptied tanks within the fuselage contour from § 25.981(b) and appendix M to part 25. An NGS actively reduces flammability exposure within the fuel tanks significantly below that required by the fuel tank flammability regulations. Among other benefits, the NGS significantly reduces the potential for fuel vapor ignition caused by lightning strikes. This high level of NGS performance for all fuel tanks is a novel or unusual design feature compared to the state of technology envisioned in the airworthiness standards for transport category airplanes.

Discussion

The certification basis of the CSeries airplanes includes § 25.981, as amended by Amendment 25–125, as required by 14 CFR 26.37. This amendment includes the ignition prevention requirements in § 25.981(a), as amended by Amendment 25–102, and it includes revised flammability limits for all fuel tanks and new specific limitations on flammability for all fuel tanks as defined in § 25.981(b), as amended by Amendment 25–125.

Ignition Source Prevention

Section 25.981(a)(3) requires applicants to show that an ignition source in the fuel tank system could not result from any single failure, from any single failure in combination with any latent failure condition not shown to be extremely remote, or from any combination of failures not shown to be extremely improbable. This requirement was originally adopted in Amendment 25–102, and it requires the assumption that the fuel tanks are always flammable when showing that the probability of an ignition source being present is extremely remote. (Amendment 25–102 included § 25.981(c) that required minimizing fuel tank flammability, and this was defined in the preamble as being equivalent to unheated aluminum fuel tanks located in the wing.) This requirement defines three types of scenarios that must be addressed in order to show compliance with § 25.981(a)(3). The first scenario is that any single failure, regardless of the probability of occurrence of the failure, must not cause an ignition source. The second scenario is that any single failure, regardless of the probability of occurrence, in combination with any latent failure condition not shown to be at least extremely remote, must not cause an ignition source. The third scenario is that any combination of failures not shown to be extremely improbable must not cause an ignition source. Demonstration of compliance with this requirement would typically require a structured, quantitative safety analysis. Design areas that have latent failure conditions typically would be driven by these requirements to have multiple fault tolerance, or ''triple redundancy.'' This means that ignition

sources are still prevented even after two independent failures.

Flammability Limits

Section 25.981(b) states that no fuel tank fleet average flammability exposure may exceed 3 percent of the flammability exposure evaluation time calculated using the method in part 25, appendix N, or the fleet average flammability of a fuel tank within the wing of the airplane being evaluated, whichever is greater. If the wing is not a conventional unheated aluminum wing, the analysis must be based on an assumed equivalent conventional construction unheated aluminum wing. In addition, for fuel tanks that are normally emptied during operation and that have any part of the tank located within the fuselage contour, the fleet average flammability for warm days (above 80 °F) must be limited to 3 percent as calculated using the method in part 25, appendix M.

Application of Existing Regulations Inappropriate Due to Impracticality

Since the issuance of § 25.981(a)(3), as amended by Amendment 25–102, the FAA has conducted certification projects in which applicants found it impractical to meet the requirements of that regulation for some areas of lightning protection for fuel tank structure. Partial exemptions were issued for these projects. These same difficulties exist for the CSeries project.

The difficulty of designing multiple-fault-tolerant structure, and the difficulty of detecting failures of hidden structural design features in general, makes compliance with § 25.981(a)(3) uniquely challenging and impractical for certain aspects of the electrical bonding of structural elements. Such bonding is needed to prevent occurrence of fuel tank ignition sources from lightning strikes. The effectiveness and fault tolerance of electrical bonding features for structural joints and fasteners is partially dependent on design features that cannot be effectively inspected or tested after assembly without damaging the structure, joint, or fastener. Examples of such features include a required interference fit between the shank of a fastener and the hole in which the fastener is installed, metal foil or mesh imbedded in composite material, a required clamping force provided by a fastener to pull two structural parts together, and a required faying surface bond between the flush surfaces of adjacent pieces of structural material such as in a wing skin joint or a mounting bracket installation. In addition, other features that can be physically inspected or tested may be located within the fuel tanks; therefore, it is not practical to inspect for failures of those features at short intervals. Examples of such failures include separation or loosening of cap seals over fastener ends and actual structural failures of internal fasteners. This inability to practically detect manufacturing errors and failures of structural design features critical to lightning protection results in degraded conditions that occur and remain in place for a very long time, possibly for the remaining life of the airplane.

Accounting for such long failure latency periods in the system safety analysis required by § 25.981(a)(3) would require multiple fault tolerance in the structural lightning protection design. As part of the design development activity for the CSeries, Bombardier has examined possible design provisions to provide multiple fault tolerance in the structural design to prevent ignition sources from occurring in the event of lightning attachment to the airplane in critical locations. Bombardier has concluded from this examination that providing multiple fault tolerance for some structural elements is not practical. Bombardier has also identified some areas of the CSeries design where it is impractical to provide even single fault tolerance in the structural design to prevent ignition sources from occurring in the event of lightning attachment after a single failure. The FAA has reviewed this examination with Bombardier in detail and has agreed that providing fault tolerance beyond that in the proposed CSeries design for these areas would be impractical.

As a result of the CSeries and other certifications projects, the FAA has now determined that compliance with § 25.981(a)(3) is impractical for some areas of lightning protection for fuel tank structure, and that application of § 25.981(a)(3) to those design areas is therefore inappropriate. The FAA plans further rulemaking to revise § 25.981(a)(3). As appropriate, the FAA plans to issue special conditions or exemptions, for certification projects progressing before the revision is complete. This is discussed in FAA Memorandum ANM–112–08–002, *Policy on Issuance of Special Conditions and Exemptions Related to Lightning Protection of Fuel Tank Structure,* dated May 26, 2009.

Application of Existing Regulations Inappropriate Due to Compensating Feature That Provides Equivalent Level of Safety

Section 25.981(b) sets specific standards for fuel tank flammability as discussed above under ''Flammability Limits.'' Under that regulation, the fleet average flammability exposure of all fuel tanks on the CSeries airplanes may not exceed 3 percent of the flammability exposure evaluation time calculated using the method in part 25, appendix N, or the fleet average flammability of a wing main tank within an equivalent construction conventional unheated aluminum wing fuel tank, whichever is greater. The typical fleet average fuel tank flammability of fuel tanks located in the wing ranges between 1 and 5 percent. If it is assumed that a CSeries equivalent conventional unheated aluminum wing fuel tank would not exceed a fleet average flammability time of 3 percent, the actual composite airplane wing fuel tank design would be required to comply with the 3 percent fleet average flammability standard, and therefore a means to reduce the flammability to 3 percent would be required. However, the proposed CSeries design includes NGS for all fuel tanks that will also be shown to meet the additional, more stringent warm day average flammability standard in part 25, appendix M, which is only required for normally emptied fuel tanks with some part of the tank within the fuselage contour. Fuel tanks that meet this requirement typically have average fuel tank flammability levels well below the required 3 percent.

Since the proposed NGS for all fuel tanks on the CSeries provides performance that meets part 25, appendix M, the FAA has determined that the risk reduction provided by this additional performance will provide compensation for some relief from the ignition prevention requirements of § 25.981(a)(3) while still establishing a level of safety equivalent to that established in the regulations.

In determining the appropriate amount of relief from the ignition prevention requirements of § 25.981(a), the FAA considered the original overall intent of Amendment 25–102, which was to ensure the prevention of catastrophic events due to fuel tank vapor explosion. These special conditions are intended to achieve that objective through a prescriptive requirement that fault tolerance (with respect to the creation of an ignition source) be provided for all structural lightning protection design features where providing such fault tolerance is

practical, and through a performance-based standard for the risk due to any single failure vulnerability that exists in the design. In addition, for any structural lightning protection design features for which Bombardier shows that providing fault tolerance is impractical, these special conditions would require Bombardier to show that a fuel tank vapor ignition event due to the summed risk of all non-fault-tolerant design features is extremely improbable. Bombardier would be required to show that this safety objective is met by the proposed design using a structured system safety assessment similar to that currently used for demonstrating compliance with §§ 25.901 and 25.1309.

Given these novel or unusual design features, and the compliance challenges noted earlier in this document, the FAA has determined that application of § 25.981(a)(3) is inappropriate in that it is neither practical nor necessary to apply the ignition source prevention provisions of § 25.981(a)(3) to the specific fuel tank structural lightning protection features of the Bombardier CSeries airplanes. However, without the § 25.981(a)(3) provisions, the remaining applicable regulations in the CSeries certification basis would be inadequate to set an appropriate standard for fuel tank ignition prevention. Therefore, in accordance with provisions of § 21.16, the FAA has determined that, instead of § 25.981(a)(3), alternative fuel tank structural lightning protection requirements be applied to fuel tank lightning protection features that are integral to the airframe structure of the CSeries airplanes. These alternative requirements are intended to provide the level of safety intended by § 25.981(a)(3), based on our recognition, as discussed above, that a highly effective NGS for the fuel tanks makes it unnecessary to assume that the fuel tank is always flammable. As discussed previously, the assumption that the fuel tanks are always flammable was required when demonstrating compliance to the ignition prevention requirements of § 25.981(a)(3).

One resulting difference between these special conditions and the § 25.981(a)(3) provisions they are meant to replace is the outcome being prevented—fuel vapor ignition versus an ignition source. These special conditions acknowledge that the application of fuel tank flammability performance standards will reduce fuel tank flammability to an extent that it is appropriate to consider the beneficial effects of flammability reduction when considering design areas where it is impractical to comply with § 25.981(a)(3).

One of the core requirements of these special conditions is a prescriptive requirement that structural lightning protection design features must be fault tolerant. (An exception wherein Bombardier can show that providing fault tolerance is impractical, and associated requirements, is discussed below.) The other core requirement is that Bombardier must show that the design, manufacturing processes, and Airworthiness Limitations section of the Instructions for Continued Airworthiness include all practical measures to prevent, and detect and correct, failures of structural lightning protection features due to manufacturing variability, aging, wear, corrosion, and likely damage. The FAA has determined that, if these core requirements are met, a fuel tank vapor ignition event due to lightning is not anticipated to occur in the life of the airplane fleet. This conclusion is based on the fact that a critical lightning strike to any given airplane is itself a remote event, and on the fact that fuel tanks must be shown to be flammable for only a relatively small portion of the fleet operational life.

For any non-fault-tolerant features proposed in the design, Bombardier must show that eliminating these features or making them fault tolerant is impractical. The requirements and considerations for showing it is impractical to provide fault tolerance are described in FAA Memorandum ANM–112–08–002. This requirement is intended to minimize the number of non-fault tolerant features in the design.

For areas of the design where Bombardier shows that providing fault tolerant structural lightning protection features is impractical, non-fault-tolerant features will be allowed provided Bombardier can show that a fuel tank vapor ignition event due to the non-fault-tolerant features is extremely improbable when the sum of probabilities of those events due to all non-fault-tolerant features is considered. Bombardier will be required to submit a structured, quantitative assessment of fleet average risk for a fuel tank vapor ignition event due to all non-fault-tolerant design features included in the design. This will require determination of the number of non-fault tolerant design features, estimates of the probability of the failure of each non-fault-tolerant design feature, and estimates of the exposure time for those failures. This analysis must include failures due to manufacturing variability, aging, wear, corrosion, and likely damage.

It is acceptable to consider the probability of fuel tank flammability, the probability of a lightning strike to the airplane, the probability of a lightning strike to specific zones of the airplane (for example, Zone 2 behind the nacelle, but not a specific location or feature), and a distribution of lightning strike amplitude in performing the assessment provided the associated assumptions are acceptable to the FAA. The analysis must account for any dependencies among these factors, if they are used. The assessment must also account for operation with inoperative features and systems, including any proposed or anticipated dispatch relief. This risk assessment requirement is intended to ensure that an acceptable level of safety is provided given the non-fault-tolerant features in the proposed design.

Part 25, appendix N, as adopted in Amendment 25–125, in conjunction with these special conditions, constitutes the standard for how to determine flammability probability. In performing the safety analysis required by these special conditions, relevant § 25.981(a)(3) compliance guidance is still applicable. Appropriate credit for the conditional probability of environmental or operational conditions occurring is normally limited to those provisions involving multiple failures, and this type of credit is not normally allowed in evaluation of single failures. However, these special conditions would allow consideration of the probability of occurrence of lightning attachment and flammable conditions when assessing the probability of structural failures resulting in a fuel tank vapor ignition event.

The FAA understands that lightning protection safety for airplane structure is inherently different from lightning protection for systems. We intend to apply these special conditions only to structural lightning protection features of fuel systems. We do not intend to apply the alternative standards used under these special conditions to other areas of the airplane design evaluation.

Requirements Provide Equivalent Level of Safety

In recognition of the unusual design feature discussed above, and the impracticality of requiring multiple fault tolerance for lightning protection of certain aspects of fuel tank structure, the FAA has determined that a level of safety that is equivalent to direct compliance with § 25.981(a)(3) will be achieved for the CSeries by applying these requirements. The FAA considers that, instead of only concentrating on fault tolerance for ignition source prevention, significantly reducing fuel tank flammability exposure in addition

to preventing ignition sources is a better approach to lightning protection for the fuel tanks. In addition, the level of average fuel tank flammability achieved by compliance with these special conditions is low enough that it is not appropriate or accurate to assume in a safety analysis that the fuel tanks may always be flammable.

Section 25.981(b), as amended by Amendment 25–125, sets limits on the allowable fuel tank flammability for the CSeries airplanes. Paragraph 2(a) of these special conditions applies the more stringent standard for warm day flammability performance applicable to normally emptied tanks within the fuselage contour from § 25.981(b) and part 25, appendix M, to all of the fuel tanks of the CSeries airplanes.

Because of the more stringent fuel tank flammability requirements in these special conditions, and because the flammability state of a fuel tank is independent of the various failures of structural elements that could lead to an ignition source in the event of lightning attachment, the FAA has agreed that it is appropriate in this case to allow treatment of flammability as an independent factor in the safety analysis. The positive control of flammability and the lower flammability that is required by these special conditions exceeds the minimum requirements of § 25.981(b). This offsets a reduction of the stringent standard for ignition source prevention in § 25.981(a)(3), which assumes that the fuel tank is flammable at all times.

Given the stringent requirements for fuel tank flammability, the fuel vapor ignition prevention and the ignition source prevention requirements in these special conditions will prevent ''. . . catastrophic failure . . . due to ignition of fuel or vapors'' as stated in § 25.981(a). Thus, the overall level of safety achieved by these special conditions is considered equivalent to that which would be required by compliance with § 25.981(a)(3) and (b).

Discussion of Comments

Notice of proposed special conditions No. 25–14–05 for the Bombardier CSeries airplanes was published in the **Federal Register** on July 25, 2014 (79 FR 43318). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Models BD–500–1A10 and BD–500–1A11 series airplanes. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes.

Alternate Fuel Tank Structural Lightning Protection Requirements

1. Definitions

Most of the terms used in these special conditions either have the common dictionary meaning or are defined in Advisory Circular 25.1309–1A, *System Design and Analysis,* dated June 21, 1988. The following definitions are the only terms intended to have a specialized meaning when used in these special conditions:

(a) *Basic Airframe Structure.* Includes design elements such as structural members, structural joint features, and fastener systems including airplane skins, ribs, spars, stringers, etc., and associated fasteners, joints, coatings, and sealant. Basic airframe structure may also include those structural elements that are expected to be removed for maintenance, such as exterior fuel tank access panels and fairing attachment features, provided maintenance errors that could compromise associated lightning protection features would be evident upon an exterior preflight inspection of the airplane and would be corrected prior to flight.

(b) *Permanent Systems Supporting Structure.* Includes static, permanently attached structural parts (such as brackets) that are used to support system elements. It does not include any part intended to be removed, or any joint intended to be separated, to maintain or replace system elements or other parts, unless that part removal or joint separation is accepted by the FAA as being extremely remote.

(c) *Manufacturing Variability.* Includes tolerances and variability allowed by the design and production specifications as well as anticipated errors or escapes from the manufacturing and inspection processes.

(d) *Extremely Remote.* Conditions that are not anticipated to occur to each airplane during its total life, but which may occur a few times when considering the total operational life of all airplanes of one type. Extremely remote conditions are those having an average probability per flight hour on the order of 1×10^{-7} or less, but greater than on the order of 1×10^{-9}.

(e) *Extremely Improbable.* Conditions that are so unlikely that they are not anticipated to occur during the entire operational life of all airplanes of one type. Extremely improbable conditions are those having an average probability per flight hour of the order of 1×10^{-9} or less.

2. Alternative Fuel Tank Structural Lightning Protection Requirements

For lightning protection features that are integral to fuel tank basic airframe structure or permanent systems supporting structure, as defined in Special Condition No. 1, ''Definitions,'' for which Bombardier shows and the FAA finds compliance with § 25.981(a)(3) to be impractical, the following requirements may be applied in lieu of the requirements of § 25.981(a)(3):

(a) Bombardier must show that the airplane design meets the requirements of part 25, appendix M, as amended by Amendment 25–125, for all fuel tanks installed on the airplane.

(b) Bombardier must show that the design includes at least two independent, effective, and reliable lightning protection features (or sets of features) such that fault tolerance to prevent lightning-related ignition sources is provided for each area of the structural design proposed to be shown compliant with these special conditions in lieu of compliance with the requirements of § 25.981(a)(3). Fault tolerance is not required for any specific design feature if:

(1) For that feature, providing fault tolerance is shown to be impractical, and

(2) Fuel tank vapor ignition due to that feature and all other non-fault-tolerant features, when their fuel tank vapor ignition event probabilities are summed, is shown to be extremely improbable.

(c) Bombardier must perform an analysis to show that the design, manufacturing processes, and the airworthiness limitations section of the instructions for continued airworthiness include all practical measures to prevent, and detect and correct, failures of structural lightning protection features due to manufacturing variability, aging, wear, corrosion, and likely damage.

Issued in Renton, Washington, on February 25, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–05047 Filed 3–4–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 150206120–5120–01]

RIN 0694–AG50

Amendments to Existing Validated End-User Authorization in the People's Republic of China: Samsung China Semiconductor Co. Ltd.

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise the existing authorization for Validated End User Samsung China Semiconductor Co. Ltd. (Samsung China) in the People's Republic of China (PRC). Specifically, BIS amends Supplement No. 7 to Part 748 of the EAR to add two items to Samsung China's eligible items that may be exported, reexported or transferred (in country) to the company's eligible facilities (also known as ''eligible destinations'') in the PRC.

DATES: This rule is effective March 5, 2015.

FOR FURTHER INFORMATION CONTACT: Mi-Yong Kim, Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Phone: 202–482-5991; Fax: 202–482–3911; Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User

Validated End-Users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the dates they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to Part 748 of the EAR. Under the terms described in that supplement, VEUs may obtain eligible items without an export license from BIS, in conformity with Section 748.15 of the EAR. Eligible items vary between VEUs and may include commodities, software, and technology, except those controlled for missile technology or crime control reasons on the Commerce Control List (CCL) (part 774 of the EAR).

VEUs are reviewed and approved by the U.S. Government in accordance with the provisions of Section 748.15 and Supplement Nos. 8 and 9 to Part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646) to create Authorization VEU.

Amendment to Existing VEU Authorization for Samsung China Semiconductor Co. Ltd (Samsung China) in the People's Republic of China (PRC)

Revision to the List of ''Eligible Items (by ECCN)'' for Samsung China

In this final rule, BIS amends Supplement No. 7 to Part 748 to add two Export Control Classification Numbers (ECCNs), 2B006.a and 2B006.b.1.d, to the list of items that may be exported, reexported or transferred (in-country) to Samsung China's facility in the PRC under Authorization VEU. The revised list of eligible items for Samsung China is as follows:

Eligible Items (by ECCN) That May Be Exported, Reexported or Transferred (In-Country) to the Eligible Destination Identified Under Samsung China Semiconductor Co. Ltd.'s Validated End-User Authorization

1C350.c.3, 1C350.d.7, 2B006.a, 2B006.b.1.d, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to ''technology'' for items classified under 3C002 and 3C004 and ''technology'' for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694–0088 are not expected to increase significantly as a result of this rule. Notwithstanding any other provisions of law, no person is required to respond to, nor 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.

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

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because they are unnecessary. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In addition, as with license applications, VEU authorization applications contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending the authorization of an existing VEU by adding two ECCNs to the list of eligible items that may be sent to that VEU, consistent with established objectives and parameters administered and enforced by the responsible designated departmental representatives to the End-User Review Committee. Delaying this action's effectiveness could cause confusion regarding which items are authorized by the U.S. Government and in turn stifle the purpose of the VEU Program. Accordingly, it is contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 748

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

Accordingly, part 748 of the EAR (15 CFR parts 730–774) is amended as follows:

PART 748—[AMENDED]

■ 1. The authority citation for 15 CFR part 748 continues to read as follows:

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

■ 2. Amend Supplement No. 7 to Part 748 by revising the entry for ''Samsung China Semiconductor Co. Ltd.'' in ''China (People's Republic of)'' to read as follows:

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END–USER (VEU): LIST OF VALIDATED END–USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS

Country	Validated end-user	Eligible items (by ECCN)	Eligible destination	**Federal Register** citation
Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).				
*	*	*	*	*
	Samsung China Semi con-ductor Co. Ltd.	1C350.c.3, 1C350.d.7, 2B006.a, 2B006.b.1.d, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to ''technology'' for items classified under 3C002 and 3C004 and ''technology'' for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).	Samsung China Semiconductor Co. Ltd. No. 1999, North Xiaohe Road Xi'an, China 710119.	78 FR 41291, 7/10/13. 78 FR 69535, 11/20/13. 79 FR 30713, 5/29/14. 80 FR [INSERT PAGE NUMBER], March 5, 2015.
*	*	*	*	*

Dated: February 27, 2015.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2015–05085 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 895

Banned Devices

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 800 to 1299, revised as of April 1, 2014, on page 594, in § 895.21, remove the undesignated paragraph following paragraph (d)(8).

[FR Doc. 2015–05028 Filed 3–4–15; 08:45 am]

BILLING CODE 1505–01D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1980

[Docket Number: OSHA–2011–0126]

RIN 1218–AC53

Procedures for the Handling of Retaliation Complaints Under Section 806 of the Sarbanes-Oxley Act of 2002, as Amended

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations governing employee protection (retaliation or whistleblower) claims under section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley or Act), which was amended by sections 922 and 929A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), enacted on July 21, 2010. An interim final rule (IFR) governing these provisions and request for comment was published in the **Federal Register** on November 3, 2011. Five comments were received. This rule responds to those comments and establishes the final procedures and time frames for the handling of retaliation complaints under Sarbanes-Oxley, including procedures and time frames for employee complaints to the Occupational Safety and Health Administration (OSHA), investigations by OSHA, appeals of OSHA determinations to an administrative law judge (ALJ) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the Administrative Review Board (ARB) (acting on behalf of the Secretary of Labor), and judicial review of the Secretary of Labor's final decision. It also sets forth the Secretary of Labor's interpretations of the Sarbanes-Oxley whistleblower provision on certain matters.

DATES: This final rule is effective on March 5, 2015.

FOR FURTHER INFORMATION CONTACT: Brian Broecker, Directorate of Whistleblower Protection Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–4624, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2199; email: *OSHA.DWPP@dol.gov.* This is not a toll-free number. This **Federal Register** publication is available in alternative formats. The alternative formats available are large print, electronic file on computer disk (Word Perfect, ASCII, Mates with Duxbury Braille System) and audiotape.

SUPPLEMENTARY INFORMATION:

I. Background

Sarbanes-Oxley was first enacted on July 30, 2002. Title VIII is designated as the Corporate and Criminal Fraud Accountability Act of 2002. Section 806, codified at 18 U.S.C. 1514A, is the ''whistleblower provision,'' which provides protection to employees against retaliation by certain persons covered under the Act for engaging in specified protected activity. The Act generally was designed to protect investors by ensuring corporate responsibility, enhancing public disclosure, and improving the quality and transparency of financial reporting and auditing. The whistleblower provision is intended to protect employees who report fraudulent activity and violations of Securities Exchange Commission (SEC) rules and regulations that can harm innocent investors in publicly traded companies.

Dodd-Frank amended the Sarbanes-Oxley whistleblower provision, 18 U.S.C. 1514A. The regulatory revisions described herein reflect these statutory amendments and also seek to clarify and improve OSHA's procedures for handling Sarbanes-Oxley whistleblower claims, as well as to set forth OSHA's interpretations of the Act. To the extent possible within the bounds of applicable statutory language, these revised regulations are designed to be consistent with the procedures applied to claims under other whistleblower statutes administered by OSHA, including the Surface Transportation Assistance Act of 1982 (STAA), 29 CFR part 1978; the National Transit Systems Security Act (NTSSA) and the Federal Railroad Safety Act (FRSA), 29 CFR part 1982; the Consumer Product Safety Improvement Act of 2008 (CPSIA), 29 CFR part 1983; the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as amended, 29 CFR part 24; the Affordable Care Act (ACA), 29 CFR part 1984; the Consumer Financial Protection Act (CFPA), 29 CFR part 1985; the Seaman's Protection Act (SPA), 29 CFR part 1986; and the FDA Food Safety Modernization Act (FSMA), 29 CFR part 1987.

II. Summary of Statutory Procedures and Statutory Changes to the Sarbanes-Oxley Whistleblower Provision

Sarbanes-Oxley's whistleblower provision, as amended by Dodd-Frank, includes procedures that allow a covered employee to file a complaint with the Secretary of Labor (Secretary) [1] not later than 180 days after the alleged retaliation or after the employee learns of the alleged retaliation. Sarbanes-Oxley further provides that the rules and procedures set forth in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. 42121(b), govern in Sarbanes-Oxley actions. 18 U.S.C. 1514A(b)(2)(A). Accordingly, upon receipt of the complaint, the Secretary must provide written notice to the person or persons named in the complaint alleged to have violated the Act (respondent) of the filing of the complaint, the allegations contained in the complaint, the substance of the evidence supporting the complaint, and the rights afforded the respondent throughout the investigation. The Secretary must then, within 60 days of receipt of the complaint, afford the respondent an opportunity to submit a

[1] The regulatory provisions in this part have been written and organized to be consistent with other whistleblower regulations promulgated by OSHA to the extent possible within the bounds of the statutory language of Sarbanes-Oxley. Responsibility for receiving and investigating complaints under Sarbanes-Oxley has been delegated to the Assistant Secretary for Occupational Safety and Health. Secretary of Labor's Order No. 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012). Hearings on determinations by the Assistant Secretary are conducted by the Office of Administrative Law Judges, and appeals from decisions by administrative law judges are decided by the ARB. Secretary of Labor's Order 2–2012 (Oct. 19, 2012), 77 FR 69378 (Nov. 16, 2012).

response and meet with the investigator to present statements from witnesses, and conduct an investigation.

The statute provides that the Secretary may conduct an investigation only if the complainant has made a prima facie showing that the protected activity was a contributing factor in the adverse action alleged in the complaint and the respondent has not demonstrated, through clear and convincing evidence, that the employer would have taken the same adverse action in the absence of that activity (*see* Section 1980.104 for a summary of the investigation process). OSHA interprets the prima facie case requirement as allowing the complainant to meet this burden through the complaint as supplemented by interviews of the complainant.

After investigating a complaint, the Secretary will issue written findings. If, as a result of the investigation, the Secretary finds there is reasonable cause to believe that retaliation has occurred, the Secretary must notify the respondent of those findings, along with a preliminary order which includes all relief necessary to make the employee whole, including, where appropriate: Reinstatement with the same seniority status that the employee would have had but for the retaliation; back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees.

The complainant and the respondent then have 30 days after the date of the Secretary's notification in which to file objections to the findings and/or preliminary order and request a hearing before an ALJ. The filing of objections under Sarbanes-Oxley will stay any remedy in the preliminary order except for preliminary reinstatement. If a hearing before an ALJ is not requested within 30 days, the preliminary order becomes final and is not subject to judicial review.

If a hearing is held, Sarbanes-Oxley requires the hearing to be conducted ''expeditiously.'' The Secretary then has 120 days after the conclusion of any hearing in which to issue a final order, which may provide appropriate relief or deny the complaint. Until the Secretary's final order is issued, the Secretary, the complainant, and the respondent may enter into a settlement agreement that terminates the proceeding. Where the Secretary has determined that a violation has occurred, the Secretary, will order all relief necessary to make the employee whole, including, where appropriate: reinstatement of the complainant to his or her former position together with the same seniority status the complainant would have had but for the retaliation; payment of back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees.

Within 60 days of the issuance of the final order, any person adversely affected or aggrieved by the Secretary's final order may file an appeal with the United States Court of Appeals for the circuit in which the violation occurred or the circuit where the complainant resided on the date of the violation.

Sarbanes-Oxley permits the employee to seek de novo review of the complaint by a United States district court in the event that the Secretary has not issued a final decision within 180 days after the filing of the complaint and there is no showing that such delay is due to the bad faith of the complainant. The court will have jurisdiction over the action without regard to the amount in controversy, and the case will be tried before a jury at the request of either party.

Dodd-Frank, enacted on July 21, 2010, amended the Sarbanes-Oxley whistleblower provision to make several substantive changes. First, section 922(b) of Dodd-Frank added protection for employees from retaliation by nationally recognized statistical rating organizations (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c)) or their officers, employees, contractors, subcontractors, and agents.[2] Second, as noted above, section 922(c) of Dodd-Frank extended the statutory filing period for retaliation complaints under Sarbanes-Oxley from 90 days to 180 days after the date on which the violation occurs or after the date on which the employee became aware of the violation. Section 922(c) of Dodd-Frank also provided parties with a right to a jury trial in district court actions brought under Sarbanes-Oxley's ''kick-out'' provision, 18 U.S.C. 1514A(b)(1)(B), which provides that, if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States, which will have jurisdiction over such action without regard to the amount in controversy. Third, section 922(c) amended Sarbanes-Oxley to state that the rights and remedies provided for in 18 U.S.C. 1514A may not be waived by any agreement, policy form, or condition of employment, including by a pre-dispute arbitration agreement, and to provide that no pre-dispute arbitration agreement shall be valid or enforceable if the agreement requires arbitration of a dispute arising under this section.

In addition, section 929A of Dodd-Frank clarified that companies covered by the Sarbanes-Oxley whistleblower provision include any company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company. As explained in *Johnson* v. *Siemens Building Technologies, Inc.,* ARB No. 08–032, 2011 WL 1247202, at *11 (Mar. 31, 2011), section 929A merely clarified that subsidiaries and affiliates are covered under the Sarbanes-Oxley whistleblower provision. Section 929A applies to all cases currently pending before the Secretary.

III. Summary of Regulations and Rulemaking Proceedings

On November 3, 2011, OSHA published in the **Federal Register** an IFR revising rules governing the whistleblower provisions of Section 806 of Sarbanes-Oxley. 76 FR 68084. OSHA included a request for public comment on the interim rules by January 3, 2012.

In response, four organizations and one individual filed comments with OSHA within the public comment period. Comments were received from Mr. Hunter Levi; the National Whistleblower Center (NWC); Katz, Marshall & Banks, LLP (Marshall); the Equal Employment Advisory Council (EEAC); and the Society of Corporate Secretaries & Governance Professionals (SCSGP).

OSHA has reviewed and considered the comments and now adopts this final rule with minor revisions. The following discussion addresses the

[2] Section 3(a) of the Securities Exchange Act of 1934 defines a nationally recognized statistical ratings organization as a credit rating agency that issues credit ratings certified by qualified institutional buyers, in accordance with 15 U.S.C. 78*o*–7(a)(1)(B)(ix), with respect to: financial institutions, brokers, or dealers; insurance companies; corporate issuers; issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on September 29, 2006); issuers of government securities, municipal securities, or securities issued by a foreign government; or a combination of one or more categories of obligors described in any of clauses (i) through (v); and is registered under 15 U.S.C. 78*o*–7 (15 U.S.C. 78c(a)(62)).

comments, OSHA's responses, and any other changes to the provisions of the rule. The provisions in the IFR are adopted and continued in this final rule, unless otherwise noted below.

General Comments

Marshall commented that ''in large part, the rules simply effectuate changes made by [Dodd-Frank] and are rather modest in scope,'' and wrote in support of several changes made in the IFR. Marshall stated that Congress enacted Sarbanes-Oxley whistleblower provisions to ensure that employees could raise concerns about potentially harmful fraud on shareholders and others without fear of retaliation. In response to anticipated comments that the rules ''will make pursuing a SOX whistleblower claim far less daunting,'' Marshall noted, ''why *should* OSHA procedures make pursuing a whistleblower complaint daunting for an employee in a procedural sense?'' (emphasis in original). Marshall explained, ''If the purpose of SOX whistleblower protections is to encourage and facilitate the timely reporting of financial fraud that can cause tremendous harm to the public good, the administrative process should be as accessible as possible.'' Marshall also commented on specific provisions of the rule; those comments are addressed below.

SCSGP noted that Section 806 of Sarbanes-Oxley provides whistleblowers with broad protection against retaliation, and its safeguards were enhanced by the enactment of Dodd-Frank. SCSGP also pointed to recent ARB case law and other provisions of Dodd-Frank that provide expanded whistleblower protections. SCSGP commented that these developments ''underscore the need to ensure that employers are provided adequate due process in the context of DOL's administration of Section 806 complaints.'' SCSGP comments then focused on four aspects of the IFR that SCSGP considers are ''unauthorized by statute, imbalanced, and unduly prejudicial to employers' reasonable interests.'' Those specific comments and provisions are discussed in detail below.

Mr. Levi asserted his belief that the IFR contained ''new provisions that violate the intent of Congress, ignore longstanding precedent concerning the authority of the Secretary, and seek to create a bogus legal exception to SOX Section 802, [18 U.S.C. 1519]; which deals with the criminal obstruction of SOX in government proceedings.'' Mr. Levi also asserted his belief that the revisions to which he objects violate the rights of Sarbanes-Oxley complainants and increase the risk of employer securities fraud. Mr. Levi's comments additionally addressed two specific portions of the IFR **Federal Register** notice: Section 1980.112 and the preamble discussion of Section 1980.114. OSHA has addressed Mr. Levi's comments in the discussion of the specific provisions below.

EEAC commented that the IFR accurately reflected the changes made by Dodd-Frank, and commended OSHA for this effort. EEAC further submitted that many of the additional changes incorporated in the IFR, for purposes of clarification and improvement of the procedures, were not directed by Dodd-Frank. EEAC respectfully submitted that many of these changes ''seem intentionally designed to make it easier for claimants to file and prosecute, and more difficult for respondents to defend,'' Sarbanes-Oxley whistleblower complaints. EEAC then commented on several specific provisions of the rule, and those comments are addressed below.

NWC, in support of its various suggested revisions, discussed the overall remedial purpose of the Sarbanes-Oxley whistleblower provisions, as well as the employee protection provisions of various other statutes that OSHA enforces. NWC also commented specifically on several provisions of the IFR, which are discussed below.

Subpart A—Complaints, Investigations, Findings and Preliminary Orders

Section 1980.100 Purpose and Scope

This section describes the purpose of the regulations implementing Sarbanes-Oxley and provides an overview of the procedures covered by these regulations. No comments were received on this section. However, OSHA has added a statement in subparagraph (b) noting that these rules reflect the Secretary's interpretations of the Act.

Section 1980.101 Definitions

This section includes general definitions applicable to Sarbanes-Oxley's whistleblower provision. The interim final rule updated and revised this section in light of Dodd-Frank's amendments to Sarbanes-Oxley. In March 2014, the Supreme Court issued its decision in *Lawson* v. *FMR LLC,* 134 S. Ct. 1158 (2014), in which it affirmed the Department's view that protected employees under Sarbanes-Oxley's whistleblower provision include employees of contractors to public companies. No changes have been made to the definition of ''employee'' in this rule, as the interim final rule's definition of ''employee'' is consistent with the Supreme Court's decision. No comments were received on this section of the interim final rule and no changes have been made to this section.

Section 1980.102 Obligations and Prohibited Acts

This section describes the activities that are protected under Sarbanes-Oxley and the conduct that is prohibited in response to any protected activities.

The final rule, like the interim final rule, provides that an employee is protected against retaliation by a covered person for any lawful act done by the employee:

(1) To provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of 18 U.S.C. 1341 (mail fraud), 1343 (wire fraud), 1344 (bank fraud), or 1348 (securities fraud), any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(i) A Federal regulatory or law enforcement agency;

(ii) Any Member of Congress or any committee of Congress; or

(iii) A person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) To file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of 18 U.S.C. 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

In order to have a ''reasonable belief'' under Sarbanes-Oxley, a complainant must have both a subjective, good faith belief and an objectively reasonable belief that the complained-of conduct violates one of the enumerated categories of law. *See Lockheed Martin Corp.* v. *ARB,* 717 F.3d 1121, 1132 (10th Cir. 2013); *Wiest* v. *Lynch,* 710 F.3d 121, 131–32 (3d Cir. 2013); *Sylvester* v. *Parexel Int'l LLC,* ARB No. 07–123, 2011 WL 2165854, at *12 (ARB May 25, 2011). The requirement that the complainant have a subjective, good faith belief is satisfied so long as the complainant actually believed that the conduct complained of violated the relevant law. *See Sylvester,* 2011 WL

2165854, at *12 (citing *Harp* v. *Charter Commc'ns,* 558 F.3d 722, 723 (7th Cir. 2009)); *Day* v. *Staples, Inc.,* 555 F.3d 42, 54 n.10 (1st Cir. 2009) (quoting *Welch* v. *Chao,* 536 F.3d 269, 277 n.4 (4th Cir. 2008) (''Subjective reasonableness requires that the employee 'actually believed the conduct complained of constituted a violation of pertinent law.' '')). ''[T]he legislative history of Sarbanes-Oxley makes clear that its protections were 'intended to include all good faith and reasonable reporting of fraud, and there should be no presumption that reporting is otherwise.' '' *Sylvester,* 2011 WL 2165854, at *11 (quoting *Van Asdale* v. *Int'l Game Tech.,* 577 F.3d 989, 1002 (9th Cir. 2009) (citing 148 Cong. Rec. S7418–01, S7420 (daily ed. July 26, 2002))).

The objective ''reasonableness'' of a complainant's belief is typically determined ''based on the knowledge available to a reasonable person in the same factual circumstances with the same training and experience as the aggrieved employee.'' *Sylvester,* 2011 WL 2165854, at *12 (internal quotation marks and citation omitted); *Harp,* 558 F.3d at 723. However, the complainant need not show that the conduct complained of constituted an actual violation of law. Pursuant to this standard, an employee's whistleblower activity is protected where it is based on a reasonable, but mistaken, belief that a violation of the relevant law has occurred or is likely to occur. *See Sylvester,* 2011 WL 2165854, at *13 (citing *Welch,* 536 F.3d at 277); *Allen* v. *Admin. Rev. Bd.,* 514 F.3d 468, 476–77 (5th Cir. 2008); *Melendez* v. *Exxon Chemicals Americas,* ARB No. 96–051, slip op. at 21 (ARB July 14, 2000) (''It is also well established that the protection afforded whistleblowers who raise concerns regarding statutory violations is contingent on meeting the aforementioned 'reasonable belief' standard rather than proving that actual violations have occurred.'').

NWC commented on this section and suggested that an additional paragraph be added to this section, addressing the question of extraterritorial application of Section 806 of Sarbanes-Oxley. At the time of its comment, this question was before the ARB for consideration. NWC noted that because the issue of extraterritorial application was pending, the Department of Labor (Department) could ''facilitate determination of these issues by making a few clarifications in the regulations.'' NWC suggested OSHA add a paragraph 29 CFR 1980.102(c), that provides as follows: ''(c) The employee protections of the Act shall have the same extraterritorial application as the Securities Exchange Act, including the Foreign Corrupt Practices Act (FCPA), 15 U.S.C. 78dd-1.'' However, since the writing of the comment, the ARB has issued its decision on this question, holding that ''Section 806(a)(1) does not allow for its extraterritorial application.'' *Villanueva* v. *Core Laboratories NV,* No. 09–108, 2011 WL 7021145, at *9 (ARB Dec. 22, 2011), *affirmed on other grounds, Villanueva* v. *U.S. Dep't of Labor,* 743 F.3d 103 (5th Cir. 2014). The ARB's decision in *Villanueva* provides the Secretary's views on the extraterritorial application of the SOX whistleblower provision and OSHA therefore declines to include NWC's suggested paragraph on this issue. No other comments were received on this section and no changes have been made to it.

Section 1980.103 Filing of Retaliation Complaints

This section explains the requirements for filing a retaliation complaint under Sarbanes-Oxley. The Dodd-Frank 2010 statutory amendments changed the statute of limitations for filing a complaint from 90 to 180 days after the date on which the violation occurs, or after the date on which the employee became aware of the violation. This change was reflected in the IFR and is continued here. Therefore, to be timely, a complaint must be filed within 180 days of when the alleged violation occurs, or after the date on which the employee became aware of the violation. Under *Delaware State College* v. *Ricks,* 449 U.S. 250, 258 (1980), the time of the alleged violation is considered to be when the retaliatory decision has been both made and communicated to the complainant. The time for filing a complaint under Sarbanes-Oxley may be tolled for reasons warranted by applicable case law. For example, OSHA may consider the time for filing a Sarbanes-Oxley complaint equitably tolled if the complainant mistakenly files a complaint with another agency instead of OSHA within 180 days after becoming aware of the alleged violation. EEAC expressed its support for this revision.

The IFR also amended Section 1980.103(b) to change the requirement that whistleblower complaints to OSHA under Sarbanes-Oxley ''must be in writing and should include a full statement of the acts and omissions, with pertinent dates, which are believed to constitute the violations.'' Consistent with OSHA's procedural rules under other whistleblower statutes, complaints filed under Sarbanes-Oxley now need not be in any particular form. They may be either oral or in writing. When a complaint is made orally, OSHA will reduce the complaint to writing. If a complainant is not able to file the complaint in English, the complaint may be filed in any language. With the consent of the employee, complaints may be filed by any person on the employee's behalf. As noted below, several comments were received on this section of the interim final rule. No changes have been made in response to the comments. However, the term ''email'' in paragraph (d) has been changed to ''electronic communication transmittal'' because OSHA has published an on-line complaint form on its Web site, *http://www.whistleblowers.gov/complaint_page.html.*

SCSGP commented that it is ''very concerned that the proposed 'oral complaint' provision will have unintended negative consequences, and [it] urge[s] OSHA not to enact it.'' SCSGP further commented that the new rule is ''unnecessary because SOX complaints most often are filed by sophisticated professionals,'' and that the rule shifts the OSHA investigator's role from one of a neutral fact-finder to an advocate for the complainant. SCSGP also commented that the rule lacks any standard for the investigator's creation of the complaint. SCSGP also raised the concern that the new rule ''presents the risk that the complainant will later treat the investigator as an adverse witness in the litigation.'' SCSGP explained that in cases where a complainant who proceeds to further stages of the administrative proceeding, or a complainant who transfers their case to federal district court, may seek to modify or expand their original complaint by arguing that the OSHA investigator did not accurately record the complainant's allegations at the time of the initial complaint. SCSGP explained this could place the investigator in the role of an adverse witness and subject him or her to scrutiny for failing to capture the oral complaint in totality.

Similarly, EEAC commented that it questioned the ''rationale of eliminating the requirement that a written complaint contain the full details concerning the alleged violation.'' EEAC commented that written complaints emphasize the gravity of invoking protection under Sarbanes-Oxley and discourage frivolous complaints. The EEAC also commented on the provision that complaints may be made in any language, stating that ''[t]he agency offers no guidance on by whom, if at all, the complaint will be translated into English'' nor how a respondent may submit its own proposed translation.

EEAC respectfully recommended that this final rule make clear how these issues would be resolved. Conversely, Marshall wrote in support of these revisions.

OSHA has considered these comments and adopts the changes made in the IFR. The statutory text of SOX does not require written complaints to OSHA. *See* 29 U.S.C. 1514A(b)(1)(A). Further, as Marshall noted in his comment, ''[m]aking it clear that OSHA can accept oral complaints is better described as a clarification than as an amendment to existing procedures.'' Indeed, the Department has long permitted oral complaints under the environmental statutes. *See, e.g., Roberts* v. *Rivas Environmental Consultants, Inc.,* ARB No. 97–026, 1997 WL 578330, at *3 n.6 (ARB Sept. 17, 1997) (complainant's oral statement to an OSHA investigator, and the subsequent preparation of an internal memorandum by that investigator summarizing the oral complaint, satisfies the ''in writing'' requirement of CERCLA, 42 U.S.C. 9610(b), and the Department's accompanying regulations in 29 CFR part 24); *Dartey* v. *Zack Co. of Chicago,* No. 1982–ERA–2, 1983 WL 189787, at *3 n.1 (Sec'y of Labor Apr. 25, 1983) (adopting administrative law judge's findings that complainant's filing of a complaint to the wrong DOL office did not render the filing invalid and that the agency's memorandum of the complaint satisfied the ''in writing'' requirement of the Energy Reorganization Act (''ERA'') and the Department's accompanying regulations in 29 CFR part 24). Moreover, accepting oral complaints under Sarbanes-Oxley is consistent with OSHA's longstanding practice of accepting oral complaints filed under Section 11(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 660(c); Section 211 of the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. 2651; Section 7 of the International Safe Container Act of 1977, 46 U.S.C. 80507; and STAA, 49 U.S.C. 31105. This change also accords with the Supreme Court's decision in *Kasten* v. *Saint-Gobain Performance Plastics Corp.,* in which the Court held that the anti-retaliation provision of the Fair Labor Standards Act, which prohibits employers from discharging or otherwise discriminating against an employee because such employee has ''filed any complaint,'' protects employees' oral complaints of violations of the Fair Labor Standards Act. 563 U.S. ____, 131 S. Ct. 1325 (2011).

Furthermore, OSHA believes that its acceptance of oral complaints under Sarbanes-Oxley is most consistent with the ARB's decisions in *Sylvester* and *Evans* v. *U.S. Environmental Protection Agency,* ARB No. 08–059 (ARB Jul. 31, 2012). In *Sylvester,* noting that OSHA does not require complaints under Sarbanes-Oxley to be in any form and that under 29 CFR 1980.104(b) OSHA has a duty, if appropriate, to interview the complainant to supplement the complaint, the ARB held that the federal court pleading standards established in *Bell Atlantic Corp.* v. *Twombly,* 550 U.S. 544 (2007) and *Ashcroft* v. *Iqbal,* 556 U.S. 662 (2009) do not apply to Sarbanes-Oxley whistleblower complaints filed with OSHA. 2011 WL 2165854, at *9–10. In *Evans,* the ARB articulated the legal standard for analyzing the sufficiency of a whistleblower complaint brought before an ALJ. The ARB held that the whistleblower complaint need only give ''fair notice'' of the protected activity and adverse action to withstand a motion to dismiss for failure to state a claim. ARB No. 08–059, slip op. at *9. Furthermore, the ARB instructed that an ALJ should not act on a motion to dismiss for failure to state a claim until it is clear that the complainant has filed a document that articulates the claims presented to the OALJ for hearing following OSHA's findings. *Id.,* at *8. Complaints filed with OSHA under this section are simply ''informal documents that initiate an investigation into allegations of unlawful retaliation in violation of the [Act].'' *Id.,* at *7. Permitting a complainant to file a complaint orally or in writing or in any language is consistent with the purpose of the complaint filed with OSHA, which is to trigger an investigation regarding whether there is reasonable cause to believe that retaliation occurred.

Furthermore, upon receipt of a complaint, OSHA must provide the respondent notice of the filing of the complaint, the allegations contained in the complaint, and the substance of the evidence supporting the complaint. 49 U.S.C. 42121(b)(2)(A); 29 CFR 1980.104(a). OSHA may not undertake an investigation of the complaint unless the complaint, supplemented as appropriate by interviews of the complainant, makes a prima facie allegation of retaliation. 49 U.S.C. 42121(b)(2)(B); 29 CFR 1980.104(e). If OSHA commences an investigation, the respondent has the opportunity to submit a response to the complaint and meet with the investigator to present statements from witnesses. 49 U.S.C. 42121(b)(2)(A); 29 CFR 1980.104(b). To fulfill these statutory responsibilities, when OSHA receives an oral complaint, OSHA gathers as much information as it can from the complainant about the complainant's allegations so that the respondent will be able to adequately respond to the complaint and so that OSHA may properly determine the scope of any investigation into the complaint. OSHA also generally provides the respondent with a copy of its memorandum memorializing the complaint, and the respondent has the opportunity to request that OSHA clarify the allegations in the complaint if necessary.

Regarding SCSGP's comment that the investigator may be later called as an adverse witness in litigation, OSHA understands this comment to be implicating the issue of adding untimely claims or exhaustion of remedies. Under Section 806, an employee must file a complaint with OSHA alleging a violation of this provision and allow OSHA an opportunity to investigate before pursuing the claim before an ALJ or in federal court. 18 U.S.C. 1514A(b)(1)(A). Failure to raise a particular claim or allegation before OSHA can result in that claim being barred in subsequent administrative or federal court proceedings for failure to ''exhaust administrative remedies.'' *See, e.g., Willis* v. *Vie Financial Group, Inc.,* No. Civ. A. 04–435, 2004 WL 1774575 (E.D. Pa. Aug. 6, 2004) (barring a complainant's claim because he did not amend his OSHA complaint to assert post-complaint retaliation); *Carter* v. *Champion Bus, Inc.,* ARB No. 05–076, slip op. at *9 (ARB Sept. 29, 2006) (the ARB generally will not consider arguments or evidence first raised on appeal); *Saporito* v. *Central Locating Services, Ltd.,* ARB No. 05–004, slip op. at *9 (ARB Feb. 28, 2006) (the ARB was unwilling to entertain an argument from the complainant that he had engaged in certain activity where he had not presented that theory to the ALJ, and where the argument was supported by no ''references to the record, legal authority or analysis.''). While a dispute could arise in a whistleblower complaint filed orally regarding whether OSHA properly recorded the allegations at issue in the complaint and whether the complainant properly exhausted his administrative remedies, this possibility is not new, as OSHA's historical practice has been to accept complaints orally and reduce them to writing and to supplement complaints with interviews of the complainant as necessary. In addition, the possibility that a dispute could arise regarding the claims raised to OSHA does not outweigh the benefits to whistleblowers and the public of allowing such

complaints to be filed orally with OSHA.

In response to EEAC's comment regarding OSHA's acceptance of complaints in any language, OSHA believes that its procedures are fair and ensure the accuracy of the complaint and evidence submitted to OSHA. Under current practices for receiving complaints, OSHA uses professional interpretive services to communicate with employees speaking a language other than English. The OSHA investigator will reduce the complaint to writing, in English, as communicated to him or her through the interpretive service. Translation services are also available to interview complainants throughout an investigation. Additionally, should the complainant wish to submit his or her complaint in another language in writing, or submit additional documents throughout the investigation in another language, OSHA will use document translation services. Should a respondent wish to see an original document, as well as any translation, this information may be exchanged in accordance with the procedures and privacy protections set forth in Section 1980.104 (discussed in detail below). A respondent then would be free to submit his or her own translation of any such document to the OSHA investigator in accordance with the investigation procedures set forth in Section 1980.104.

Section 1980.104 Investigation

This section describes the procedures that apply to the investigation of Sarbanes-Oxley complaints. Paragraph (a) of this section outlines the procedures for notifying the parties and the SEC of the complaint and notifying respondents of their rights under these regulations. Paragraph (b) describes the procedures for the respondent to submit its response to the complaint. Paragraph (c) of the IFR specified that OSHA will provide to the complainant (or the complainant's legal counsel if the complainant is represented by counsel) a copy of all of respondent's submissions to OSHA that are responsive to the complainant's whistleblower complaint at a time permitting the complainant an opportunity to respond to those submissions. Paragraph (c) further provided that before providing such materials to the complainant, OSHA will redact them in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. Paragraph (d) of this section discusses confidentiality of information provided during investigations.

Paragraph (e) of this section sets forth the applicable burdens of proof. Paragraph (f) describes the procedures OSHA will follow prior to the issuance of findings and a preliminary order when OSHA has reasonable cause to believe that a violation has occurred.

The Sarbanes-Oxley whistleblower provision mandates that an action under the Act is governed by the burdens of proof set forth in AIR21, 49 U.S.C. 42121(b). The statute requires that a complainant make an initial prima facie showing that a protected activity was ''a contributing factor'' in the adverse action alleged in the complaint, *i.e.,* that the protected activity, alone or in combination with other factors, affected in some way the outcome of the employer's decision. The complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing. Complainant's burden may be satisfied, for example, if he or she shows that the adverse action took place within a temporal proximity of the protected activity, or at the first opportunity available to the respondent, giving rise to the inference that it was a contributing factor in the adverse action. *See, e.g., Porter* v. *Cal. Dep't of Corr.,* 419 F.3d 885, 895 (9th Cir. 2005) (years between the protected activity and the retaliatory actions did not defeat a finding of a causal connection where the defendant did not have the opportunity to retaliate until he was given responsibility for making personnel decisions).

If the complainant does not make the prima facie showing, the investigation must be discontinued and the complaint dismissed. *See Trimmer* v. *U.S. Dep't of Labor,* 174 F.3d 1098, 1101 (10th Cir. 1999) (noting that the burden-shifting framework of the ERA, which is the same as that under Sarbanes-Oxley, serves a ''gatekeeping function'' that ''stem[s] frivolous complaints''). Even in cases where the complainant successfully makes a prima facie showing, the investigation must be discontinued if the employer ''demonstrates, by clear and convincing evidence,'' that it would have taken the same adverse action in the absence of the protected activity. 49 U.S.C. 42121(b)(2)(B)(ii). Thus, OSHA must dismiss a complaint under Sarbanes-Oxley and not investigate further if either: (1) The complainant fails to meet the prima facie showing that protected activity was a contributing factor in the adverse action; or (2) the employer rebuts that showing by clear and convincing evidence that it would have taken the same adverse action absent the protected activity.

Assuming that an investigation proceeds beyond the gatekeeping phase, the statute requires OSHA to determine whether there is reasonable cause to believe that protected activity was a contributing factor in the alleged adverse action. A contributing factor is ''any factor which, alone or in connection with other factors, tends to affect in any way the outcome of the decision.'' *Marano* v. *Dep't of Justice,* 2 F.3d 1137, 1140 (Fed. Cir. 1993) (Whistleblower Protection Act, 5 U.S.C. 1221(e)(1)); *see, e.g., Lockheed Martin Corp.,* 717 F.3d at 1136. For protected activity to be a contributing factor in the adverse action, ''a complainant need not necessarily prove that the respondent's articulated reason was a pretext in order to prevail,'' because a complainant alternatively can prevail by showing that the respondent's ''reason, while true, is only one of the reasons for its conduct'' and that another reason was the complainant's protected activity. *See Klopfenstein* v. *PCC Flow Techs. Holdings, Inc.,* No. 04–149, 2006 WL 3246904, at *13 (ARB May 31, 2006) (citing *Rachid* v. *Jack in the Box, Inc.,* 376 F.3d 305, 312 (5th Cir. 2004)) (discussing contributing factor test under the Sarbanes-Oxley whistleblower provision), *aff'd sub nom. Klopfenstein* v. *Admin. Review Bd., U.S. Dep't of Labor,* 402 F. App'x 936, 2010 WL 4746668 (5th Cir. 2010).

If OSHA finds reasonable cause to believe that the alleged protected activity was a contributing factor in the adverse action, OSHA may not order relief if the employer demonstrates by ''clear and convincing evidence'' that it would have taken the same action in the absence of the protected activity. *See* 49 U.S.C. 42121(b)(2)(B)(iv). The ''clear and convincing evidence'' standard is a higher burden of proof than a ''preponderance of the evidence'' standard. Clear and convincing evidence is evidence indicating that the thing to be proved is highly probable or reasonably certain. *Clarke* v. *Navajo Express, Inc.,* No. 09–114, 2011 WL 2614326, at *3 (ARB June 29, 2011) (discussing burdens of proof under analogous whistleblower provision in STAA).

NWC and the EEAC commented on this section. NWC suggested clarification of what ''other applicable confidentiality laws'' might apply to redaction of respondent's submissions, before providing them to the complainant. NWC also suggested several additions and revisions to this

section, as well as to Section 1980.107, to further protect the confidentiality of complainants. NWC pointed to the confidentiality provisions of Section 922 of the Dodd-Frank Act, creating a whistleblower program under section 21F of the Securities Exchange Act, [3] as well as recent developments in the United States Tax Court, and suggested that the Department bring its own confidentiality practices into conformity.

The EEAC commented that it was extremely concerned that the modifications made in this section in the IFR would increase the amount of information provided to the complainant during the investigation but reduce information provided to the respondent. As OSHA explained in the preamble to the IFR, those revisions were aimed at aiding OSHA's ability to conduct a ''full and fair investigation.'' EEAC submitted that the same logic supports providing respondents with all of the information that OSHA receives from the complainant during the investigation. Specifically, EEAC suggested that OSHA retain the former language in paragraph (a) regarding notice to the respondent upon receipt of a complaint, and revise paragraph (c) to provide that the same information will be provided to respondents as is provided to complainants during the investigation. EEAC also suggested paragraph (f) include language that if the complainant submits new information at this stage, the employer will be given a copy and the opportunity to respond before OSHA makes a final determination on the complaint.

Regarding NWC's suggestion that OSHA provide more specific information about the confidentiality laws that may protect portions of the information submitted by a respondent, OSHA anticipates that the vast majority of respondent submissions will not be subject to any confidentiality laws. However, in addition to the Privacy Act, a variety of confidentiality provisions may protect information submitted during the course of an investigation. For example, a respondent may submit information that the respondent identifies as confidential commercial or financial information exempt from disclosure under the Freedom of Information Act (FOIA). OSHA's procedures for handling information identified as confidential during an investigation are explained in OSHA's Whistleblower Investigations Manual available at: *http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=506.*

Additionally, OSHA has considered NWC's suggestions regarding complainants' confidentiality. OSHA agrees that protecting complainants' confidentiality and privacy to the extent possible under the law is essential. However, OSHA believes that existing procedures and the Privacy Act of 1974, 5 U.S.C. 552a, *et seq.,* provide sufficient safeguards. The Whistleblower Investigations Manual instructs that while a case is an open investigation, information contained in the case file generally may not be disclosed to the public. Once a case is closed, complainants continue to be protected from third party public disclosure under the Privacy Act. 5 U.S.C. 552a(k)(2). However, if a case moves to the ALJ hearing process, it becomes a public proceeding and the public has a right of access to information under various laws and the Constitution. *See Newport* v. *Calpine Corp.,* ALJ No. 2007–ERA–00007, slip op. at *6 (Feb. 12, 2008), available at *http://www.oalj.dol.gov/PUBLIC/WHISTLEBLOWER/DECISIONS/ALJ_DECISIONS/ERA/2007ERA00007A.PDF* (discussing hearings before the ALJ under the analogous statutory provisions of the ERA and the public right of access). Information submitted as evidence during these proceedings becomes the exclusive record for the Secretary's decision. Public disclosure of the record for the Secretary's decision is governed by the Freedom of Information Act and the Privacy Act. *Id.* A party may request that a record be sealed to prevent disclosure of such information. However, the Constitution and various federal laws cited in *Newport* govern the granting of such a motion; OSHA cannot circumvent these authorities by rulemaking. *See also Thomas* v. *Pulte Homes, Inc.,* ALJ No. 2005–SOX–00009, slip op. at *2–3 (Aug. 9, 2005) (noting that in order to prevent disclosure of such information, a moving party must request a protective order pursuant to the OALJ rules of procedure; the standard for granting such a motion is high and the burden of making a showing of good cause rests with the moving party).

In response to EEAC's comments and suggestions, OSHA agrees that respondents must be afforded fair notice of the allegations and substance of the evidence against them. OSHA also believes that the input of both parties in the investigation is important to ensuring that OSHA reaches the proper outcome during its investigation. Thus, in response to EEAC's comments, Section 1980.104(a) has been revised to more closely mirror AIR21's statutory requirement, incorporated by Sarbanes-Oxley, in 49 U.S.C. 42121(b)(1) that after receiving a complaint, the Secretary shall notify the respondent of the filing of the complaint, of the allegations contained in the complaint, and of the substance of the evidence supporting the complaint. In response to EEAC's comment regarding paragraph (c), OSHA notes that its current policy is to request that each party provide the other parties with a copy of all submissions to OSHA that are responsive to the whistleblower complaint. Where the parties do not so provide, OSHA will ensure that each party is provided with such information, redacted as appropriate. OSHA will also ensure that each party is provided with an opportunity to respond to the other party's submissions. OSHA has revised paragraph (c) to clarify these policies regarding information sharing during the course of an investigation. Further information regarding OSHA's nonpublic disclosure and information sharing policies may also be found in the Whistleblower Investigations Manual. Regarding EEAC's suggestion for paragraph (f), it is already OSHA's policy to provide the respondent a chance to review any additional evidence on which OSHA intends to rely that is submitted by the complainant at this stage and to provide the respondent an opportunity to respond to any such additional evidence. This policy is necessary to achieve the purpose of paragraph (f), which is to afford respondent due process prior to ordering preliminary reinstatement as required by the Supreme Court's decision in *Brock* v. *Roadway Express, Inc.,* 481 U.S. 252 (1987). OSHA also notes that the Whistleblower Investigations Manual provides guidance to investigators on sharing information with both parties throughout the investigation.

OSHA has made additional minor edits throughout this section to clarify the applicable procedures and burdens of proof.

Section 1980.105 Issuance of Findings and Preliminary Orders

Throughout this section, minor changes were made as needed to clarify the provision without changing its meaning. This section provides that, on the basis of information obtained in the investigation, the Assistant Secretary will issue, within 60 days of the filing

[3] Section 21F(h)(2)(A) prevents disclosure of identifying information by the Commission and its officers, except in accordance with the provisions of the Privacy Act, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any other specified entity. 15 U.S.C. 78u–6(h)(2).

of a complaint, written findings regarding whether or not there is reasonable cause to believe that the complaint has merit. If the findings are that there is reasonable cause to believe that the complaint has merit, in accordance with the statute, 18 U.S.C. 1514A(c), the Assistant Secretary will order ''all relief necessary to make the employee whole,'' including preliminary reinstatement, back pay with interest, and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees.

Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. In the Secretary's view, 26 U.S.C. 6621 provides the appropriate rate of interest to ensure that victims of unlawful retaliation under Sarbanes-Oxley are made whole. The Secretary has long applied the interest rate in 26 U.S.C. 6621 to calculate interest on back pay in whistleblower cases. *Doyle* v. *Hydro Nuclear Servs.,* Nos. 99–041, 99–042, 00–012, 2000 WL 694384, at *14–15, 17 (ARB May 17, 2000); *see also Cefalu* v. *Roadway Express, Inc.,* ARB Case No. 09–070, 2011 WL 1247212, at *2 (ARB Mar. 17, 2011); *Pollock* v. *Cont'l Express,* ARB Case Nos. 07–073, 08–051, 2010 WL 1776974, at *8 (ARB Apr. 10, 2010); *Murray* v. *Air Ride, Inc.,* ARB Case No. 00–045, slip op. at 9 (ARB Dec. 29, 2000). Section 6621 provides the appropriate measure of compensation under Sarbanes-Oxley and other DOL-administered whistleblower statutes because it ensures the complainant will be placed in the same position he or she would have been in if no unlawful retaliation occurred. *See Ass't Sec'y* v. *Double R. Trucking, Inc.,* ARB Case No. 99–061, slip op. at 5 (ARB July 16, 1999) (interest awards pursuant to § 6621 are mandatory elements of complainant's make-whole remedy). Section 6621 provides a reasonably accurate prediction of market outcomes (which represents the loss of investment opportunity by the complainant and the employer's benefit from use of the withheld money) and thus provides the complainant with appropriate make-whole relief. *See EEOC* v. *Erie Cnty.,* 751 F.2d 79, 82 (2d Cir. 1984) (''[s]ince the goal of a suit under the [Fair Labor Standards Act] and the Equal Pay Act is to make whole the victims of the unlawful underpayment of wages, and since [§ 6621] has been adopted as a good indicator of the value of the use of money, it was well within'' the district court's discretion to calculate prejudgment interest under § 6621); *New Horizons for the Retarded,* 283 N.L.R.B. No. 181, 1173 (May 28, 1987) (observing that ''the short-term Federal rate [used by § 6621] is based on average market yields on marketable Federal obligations and is influenced by private economic market forces''). Similarly, as explained in the interim final rule, daily compounding of the interest award ensures that complainants are made whole for unlawful retaliation in violation of Sarbanes-Oxley. 76 FR 68088.

In ordering back pay, OSHA also will require the respondent to submit the appropriate documentation to the Social Security Administration (SSA) allocating the back pay to the appropriate calendar quarters. Requiring the reporting of back pay allocation to the SSA serves the remedial purposes of Sarbanes-Oxley by ensuring that employees subjected to retaliation are truly made whole. *See Don Chavas, LLC d/b/a Tortillas Don Chavas,* 361 NLRB No. 10 (NLRB Aug. 8, 2014). As the NLRB explained, when back pay is not properly allocated to the years covered by the award, a complainant may be disadvantaged in several ways. First, improper allocation may interfere with a complainant's ability to qualify for any old-age Social Security benefit. *Id.* at *3 (''Unless a [complainant's] multiyear backpay award is allocated to the appropriate years, she will not receive appropriate credit for the entire period covered by the award, and could therefore fail to qualify for any old-age social security benefit.''). Second, improper allocation may reduce the complainant's eventual monthly benefit. *Id.* As the NLRB explained, ''if a backpay award covering a multi-year period is posted as income for 1 year, it may result in SSA treating the [complainant] as having received wages in that year in excess of the annual contribution and benefit base.'' *Id.* Wages above this base are not subject to Social Security taxes, which reduces the amount paid on the employee's behalf. ''As a result, the [complainant's] eventual monthly benefit will be reduced because participants receive a greater benefit when they have paid more into the system.'' *Id.* Finally, ''social security benefits are calculated using a progressive formula: although a participant receives more in benefits when she pays more into the system, the rate of return diminishes at higher annual incomes.'' Therefore, a complainant may ''receive a smaller monthly benefit when a multiyear award is posted to 1 year rather than being allocated to the appropriate periods, even if social security taxes were paid on the entire amount.'' *Id.* The purpose of a make-whole remedy such as back pay is to put the complainant in the same position the complainant would have been absent the prohibited retaliation. That purpose is not achieved when the complainant suffers the disadvantages described above. The Secretary believes that requiring proper SSA allocation is necessary to achieve the make-whole purpose of a back pay award.

The findings and, where appropriate, preliminary order, advise the parties of their right to file objections to the findings of the Assistant Secretary and to request a hearing. If no objections are filed within 30 days of receipt of the findings, the findings and any preliminary order of the Assistant Secretary become the final decision and order of the Secretary. If objections are timely filed, any order of preliminary reinstatement will take effect, but the remaining provisions of the order will not take effect until administrative proceedings are completed.

The provision that reinstatement would not be appropriate where the respondent establishes that the complainant is a security risk was removed from 1980.105(a)(1) in the IFR. OSHA believes that the determination of whether reinstatement is inappropriate in a given case is best made on the basis of the facts of each case and the relevant case law, and thus it is not necessary in these procedural rules to define the circumstances in which reinstatement is not a proper remedy. This amendment also makes these procedural regulations consistent with the rules under STAA, NTSSA, FRSA, and CPSIA, which do not contain this statement.

SCSGP, EEAC, and Marshall commented on this removal, as well as on the overall guidance provided when determining whether preliminary reinstatement is appropriate. SCSGP commented that the IFR lacked ''any standards governing the issuance of preliminary reinstatement orders'' and that the rule should contain appropriate safeguards that preliminary reinstatement is warranted under the circumstances, rather than presuming that reinstatement is proper. SCSGP suggested that OSHA include in the final rule a list of non-exhaustive factors to be considered by the courts to determine when reinstatement is appropriate, including whether hostility exists between the employee and the company, and whether the employee's position no longer exists. EEAC ''urge[d] OSHA to reinstate this 'security risk' exception'' in the final rule. EEAC also submitted that OSHA's reasoning for

removing the exception is flawed (that the determination of whether reinstatement is inappropriate in a given case should be based on the factual circumstances of that case). EEAC first pointed to Sarbanes-Oxley's incorporation of the AIR21 rules and procedures and that the security risk exception is consistent with OSHA's whistleblower regulations promulgated under AIR21. EEAC also noted that the security risk exception was predicated on the respondent establishing that the complainant is in fact a security risk prior to the exception taking effect and thus would be determined on a case-by-case basis in this manner. Marshall wrote in support of the removal of the security risk language and supported the explanation that determinations of whether reinstatement is appropriate should be based on the facts of the particular case. Marshall noted that the Act itself does not contain any statutory prohibition of reinstatement under certain circumstances.

OSHA disagrees that the rule requires any further guidance on when preliminary reinstatement is appropriate. First, OSHA emphasizes that Congress intended that employees be preliminarily reinstated to their positions if OSHA finds reasonable cause to believe that they were discharged in violation of Sarbanes-Oxley, thus creating the presumption it is the appropriate remedy. Neither Sarbanes-Oxley nor AIR21 specify any statutorily predetermined circumstances under which preliminary reinstatement would be inappropriate. Furthermore, although the regulations governing proceedings under AIR21 reference a security risk exception, this exception is not in the statutory text incorporated by Sarbanes-Oxley. *See* 18 U.S.C. 1514(b)(1)(A) (. . . shall be governed ''under the rules and procedures set forth in section 42121(b) of title 49, United States Code.''). This reference to AIR21's statutory procedures does not impose an obligation for OSHA to also incorporate any procedural regulations promulgated under AIR21 not mandated by the statute.

OSHA agrees that there may be circumstances where preliminary reinstatement is inappropriate. However, OSHA believes that the rule as drafted provides sufficient safeguards for these situations, as well as sufficient guidance to OSHA, ALJs, and the ARB as to when those safeguards may be appropriate. First, the rule provides the ALJ and ARB discretion to grant a stay of an order of preliminary reinstatement (See Sections 1980.106(b) and 1980.110(b)). As discussed in detail in the discussion of Section 1980.106, ALJs and the ARB can refer to long-standing precedential case law in making this determination. Second, in appropriate circumstances, OSHA may order economic reinstatement in lieu of actual reinstatement, which is also discussed in detail below. In *Hagman* v. *Washington Mutual Bank, Inc.,* the ALJ delineated several factors to consider when making this determination. ALJ No. 2005–SOX–73, 2006 WL 6105301, at *32 (Dec. 19, 2006) (noting that while reinstatement is the ''preferred and presumptive remedy'' under Sarbanes-Oxley, ''[f]ront pay may be awarded as a substitute when reinstatement is inappropriate due to: (1) An employee's medical condition that is causally related to her employer's retaliatory action; (2) manifest hostility between the parties; (3) the fact that claimant's former position no longer exists; or (4) the fact that employer is no longer in business at the time of the decision'') (internal citations omitted). Many of these factors are similar to the factors SCSGP suggested be included in the rule. Thus, given the existing safeguards in place and sufficient guidance for when such safeguards are appropriate, OSHA declines to include the security risk exception in the final rule and declines to add additional guidance to the rule for when preliminary reinstatement is appropriate.

As mentioned above, in appropriate circumstances, in lieu of preliminary reinstatement, OSHA may order that the complainant receive the same pay and benefits that he received prior to his termination, but not actually return to work. Such ''economic reinstatement'' is akin to an order of front pay and is frequently employed in cases arising under Section 105(c) of the Federal Mine Safety and Health Act of 1977, which protects miners from retaliation. 30 U.S.C. 815(c); *see, e.g., Sec'y of Labor on behalf of York* v. *BR&D Enters., Inc.,* 23 FMSHRC 697, 2001 WL 1806020, at *1 (June 26, 2001). Front pay has been recognized as a possible remedy in cases under Sarbanes-Oxley and other whistleblower statutes enforced by OSHA in circumstances where reinstatement would not be appropriate. *See, e.g., Hagman,* 2006 WL 6105301; *Hobby* v. *Georgia Power Co.,* ARB Nos. 98–166, 98–169 (ARB Feb. 9, 2001), *aff'd sub nom. Hobby* v. *U.S. Dept. of Labor,* No. 01–10916 (11th Cir. Sept. 30, 2002) (unpublished) (noting circumstances where front pay may be available in lieu of reinstatement but ordering reinstatement); *Brown* v. *Lockheed Martin Corp.,* ALJ No. 2008–SOX–00049, 2010 WL 2054426, at *55–56 (ALJ Jan. 15, 2010) (same). Congress intended that employees be preliminarily reinstated to their positions if OSHA finds reasonable cause to believe that they were discharged in violation of Sarbanes-Oxley. When a violation is found, the norm is for OSHA to order immediate preliminary reinstatement. Neither an employer nor an employee has a statutory right to choose economic reinstatement. Rather, economic reinstatement is designed to accommodate situations in which evidence establishes to OSHA's satisfaction that immediate reinstatement is inadvisable for some reason, notwithstanding the employer's retaliatory discharge of the employee. In such situations, actual reinstatement might be delayed until after the administrative adjudication is completed as long as the employee continues to receive his or her pay and benefits and is not otherwise disadvantaged by a delay in reinstatement. There is no statutory basis for allowing the employer to recover the costs of economically reinstating an employee should the employer ultimately prevail in the whistleblower adjudication.

SCSGP and Marshall commented on the issue of economic reinstatement. Marshall commented that the inclusion of the above language in the preamble is of ''crucial significance for whistleblowers,'' but continued that OSHA's recognition that actual reinstatement remains the presumptive remedy is ''essential as well.'' Marshall explained that ''[a]ctual reinstatement protects interests that economic reinstatement cannot. Nonetheless, economic reinstatement must be available as a remedy for situations where a whistleblower cannot return to the workplace.''

SCSGP addressed the issue of allowing an employer to recover the costs of economically reinstating an employee should the employer ultimately prevail in the whistleblower adjudication. SCSGP believes OSHA's interpretation, that there is no statutory basis for allowing such reimbursement, ''compromises an employer's due process rights'' and raises other concerns. SCSGP commented that conversely there is ''no statutory basis for allowing the employee to keep the value of economic reinstatement where his or her claim is unfounded.'' SCSGP noted that in situations where economic reinstatement is awarded, an employer may have to pay both the labor cost of filling the position, and the cost of the economic reinstatement awarded to the complainant. Where the employer ultimately prevails, it would not recover

the duplicative cost, an outcome which SCSGP believes is grossly unfair. SCSGP recommended that OSHA include an additional paragraph in this section, allowing that economic reinstatement be available only upon consent of all parties, or upon the condition that the complainant will reimburse the employer in the event the employer ultimately prevails.

OSHA disagrees that economic reinstatement without a mechanism for reimbursement violates the employer's rights under the Due Process clause. The Supreme Court has addressed the issue of what is required to afford an employer procedural due process prior to ordering preliminary reinstatement in *Brock* v. *Roadway Express, Inc.,* 481 U.S. 252 (1987). In *Roadway Express,* the Court held that ''minimum due process for the employer in this context requires notice of the employee's allegations, notice of the substance of the relevant supporting evidence, an opportunity to submit a written response, and an opportunity to meet with the investigator and present statements from rebuttal witnesses.'' *Id.* at 264. The Court did not require any mechanism for reimbursing the employer for wages paid during actual preliminary reinstatement should the employer ultimately prevail in the litigation. Because economic reinstatement is akin to actual reinstatement, OSHA believes the same requirements apply when ordering economic reinstatement.

Furthermore, OSHA disagrees that there is no statutory basis for precluding reimbursement of economic reinstatement. As discussed above, Congress intended that employees be preliminarily reinstated to their positions if OSHA finds reasonable cause to believe that they were discharged in violation of Sarbanes-Oxley. However, the statutory procedural scheme does not allow for reimbursement to the employer if actual preliminary reinstatement was ordered and yet the employer ultimately prevailed. Thus, there is no statutory basis to reimburse an employer in that instance. Because economic reinstatement is a substitute for preliminary reinstatement, this same reasoning would apply for not awarding an employer reimbursement for any front pay the employee receives should the employer ultimately prevail. OSHA therefore declines to allow for such reimbursement where Congress has not so provided.

Subpart B—Litigation

Section 1980.106 Objections to the Findings and the Preliminary Order and Request for a Hearing

To be effective, objections to the findings of the Assistant Secretary must be in writing and must be filed with the Chief Administrative Law Judge, U.S. Department of Labor, within 30 days of receipt of the findings. The date of the postmark, facsimile transmittal, or electronic communication transmittal is considered the date of the filing; if the objection is filed in person, by hand-delivery or other means, the objection is filed upon receipt. The filing of objections also is considered a request for a hearing before an ALJ. Although the parties are directed to serve a copy of their objections on the other parties of record, as well as the OSHA official who issued the findings and order, the Assistant Secretary, and the Department of Labor's Associate Solicitor for Fair Labor Standards, the failure to serve copies of the objections on the other parties of record does not affect the ALJ's jurisdiction to hear and decide the merits of the case. *See Shirani* v. *Calvert Cliffs Nuclear Power Plant, Inc.,* ARB No. 04–101, 2005 WL 2865915, at *7 (ARB Oct. 31, 2005). Throughout this section, minor changes were made as needed to clarify the provision without changing its meaning.

The IFR revised paragraph (b) to note that a respondent's motion to stay the Assistant Secretary's preliminary order of reinstatement will be granted only based on exceptional circumstances. This revision clarified that a stay is only available in ''exceptional circumstances,'' because the Secretary believes that a stay of the Assistant Secretary's preliminary order of reinstatement under Sarbanes-Oxley would be appropriate only where the respondent can establish the necessary criteria for equitable injunctive relief, *i.e.,* irreparable injury, likelihood of success on the merits, and a balancing of possible harms to the parties, and the public interest favors a stay.

SCSGP, EEAC, and Marshall commented on this section. Marshall wrote in support of this revision, noting that ''[p]reliminary reinstatement protects a number of important values; it should be ordered and enforced unless the respondent is able to make a credible and persuasive showing that these values are overwhelmed.'' SCSGP and EEAC requested that OSHA provide additional guidance regarding when a stay of an order for preliminary reinstatement would be appropriate. SCSGP suggested that OSHA modify paragraph (b) to provide ''meaningful standards governing when an ALJ should stay a preliminary order of reinstatement.'' SCSGP's comment included concerns that the current standard, based on ''exceptional circumstances,'' may unduly constrain the ALJ's discretion and authority, as well as leave the ALJ without guidance as to when a stay is appropriate. EEAC commented that in its view, the term '''exceptional circumstances' implies a limitation far narrower than OSHA says that it intends.'' EEAC recommended that the language in the preamble referring to the requirements to obtain equitable injunctive relief be added to the regulatory text. EEAC also suggested this addition to Section 1980.110(b), which covers appeals to the ARB.

It is well established that the standard for a stay of preliminary reinstatement is the standard needed to obtain a preliminary injunction. A party must prove: Likely irreparable injury; likelihood of success on the merits; the balancing of hardships favors an injunction; and the public interest favors an injunction. *Johnson* v. *U.S. Bancorp,* ARB No. 13–014, 2013 WL 2902820, at *2 (ARB May 21, 2013); *see also Evans* v. *T-Mobil USA, Inc.,* ALJ No. 2012–SOX–00036 (ALJ May 21, 2013) (granting stay of reinstatement). This traditional four-element test is applied in all federal courts. *See Winter* v. *N.R.D.C.,* 555 U.S. 7, 20 (2008). The Department's ALJs and ARB have also applied this standard in a number of cases prior to the issuance of the IFR. *See, e.g., Welch* v. *Cardinal Bankshares Corp.,* No. 06–062, 2006 WL 3246902 (ARB Mar. 31, 2006); *Bechtel and Jacques* v. *Competitive Technologies, Inc.,* ALJ Nos. 2005–SOX–0033, 2005–SOX–0034, 2005 WL 4888999 (ALJ Mar. 29, 2005). The regulation and its preamble, existing ALJ and ARB decisions, and other federal case law clearly delineate the standard for a successful motion to stay a preliminary order of reinstatement. OSHA thus declines to provide further guidance on this issue.

EEAC also commented that there may be situations in which the complainant does not desire reinstatement, preliminary or otherwise. EEAC suggested the final rule contain language addressing this situation, allowing for the parties to come to an agreement to not order reinstatement. OSHA declines to include such language in this rule. Under Sarbanes-Oxley, reinstatement of the complainant to his or her former position is the presumptive remedy in merit cases and is a critical component of making the complainant whole. As Marshall notes in his comment, actual reinstatement

protects interests that economic reinstatement cannot so effectively address. For example, reinstatement serves to reassure other employees through the complainant's presence in the workplace that they too will be protected from retaliation for reporting violations of the law. By ordering preliminary reinstatement in cases involving discharge where OSHA has reasonable cause to believe that a statutory violation has occurred, OSHA properly places the burden upon the employer to make a bona fide offer of reinstatement. In doing so, OSHA also ensures that the employee is not forced to make a decision about whether he or she wants to return to the workplace until the employer actually makes such an offer.

Section 1980.107 Hearings

This section adopts the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges, as set forth in 29 CFR part 18 subpart A. Hearings are to commence expeditiously, except upon a showing of good cause or unless otherwise agreed to by the parties. Hearings will be conducted de novo, on the record. ALJs continue to have broad discretion to limit discovery where necessary to expedite the hearing. Formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. The administrative law judge may exclude evidence that is immaterial, irrelevant, or unduly repetitious. Throughout this section, minor changes were made as needed to clarify the provision without changing its meaning.

NWC commented in part on this section, requesting language be added to further protect the confidentiality of complainants. The discussion of the agency's consideration of this comment is included in the discussion of Section 1980.104, above.

Section 1980.108 Role of Federal Agencies

The Assistant Secretary, at his or her discretion, may participate as a party or *amicus curiae* at any time in the administrative proceedings under Sarbanes-Oxley. For example, the Assistant Secretary may exercise his or her discretion to prosecute the case in the administrative proceeding before an ALJ; petition for review of a decision of an ALJ, including a decision based on a settlement agreement between the complainant and the respondent, regardless of whether the Assistant Secretary participated before the ALJ; or participate as *amicus curiae* before the ALJ or in the ARB proceeding. Although OSHA anticipates that ordinarily the Assistant Secretary will not participate, the Assistant Secretary may choose to do so in appropriate cases, such as cases involving important or novel legal issues, multiple employees, alleged violations that appear egregious, or where the interests of justice might require participation by the Assistant Secretary. The Securities and Exchange Commission, if interested in a proceeding, also may participate as *amicus curiae* at any time in the proceedings.

No comments were received on this section. However, paragraph (a)(2) has been revised to specify that parties must send copies of documents to OSHA and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, only upon request of OSHA, or when OSHA is participating in the proceeding, or when service on OSHA and the Associate Solicitor is otherwise required by these rules. Other minor changes were made as needed to clarify the provision without changing its meaning.

Section 1980.109 Decision and Orders of the Administrative Law Judge

This section sets forth the requirements for the content of the decision and order of the ALJ, and includes the standard for finding a violation under Sarbanes-Oxley. Specifically, the complainant must demonstrate (*i.e.* prove by a preponderance of the evidence) that the protected activity was a ''contributing factor'' in the adverse action. *See, e.g., Allen,* 514 F.3d at 475 n.1 (''The term 'demonstrates' means to prove by a preponderance of the evidence.''). If the employee demonstrates that the alleged protected activity was a contributing factor in the adverse action, the employer, to escape liability, must demonstrate by ''clear and convincing evidence'' that it would have taken the same action in the absence of the protected activity. *See id.*

Paragraph (c) provides that OSHA's determination to dismiss the complaint without an investigation or without a complete investigation pursuant to Section 1980.104 is not subject to review. Thus, Section 1980.109(c) clarifies that OSHA's determinations on whether to proceed with an investigation under Sarbanes-Oxley and whether to make particular investigative findings are discretionary decisions not subject to review by the ALJ. The ALJ hears cases *de novo* and, therefore, as a general matter, may not remand cases to OSHA to conduct an investigation or make further factual findings. Paragraph (c) also clarifies that the ALJ can dispose of a matter without a hearing if the facts and circumstances warrant. In its comments, EEAC expressed support for this clarification.

Paragraph (d) notes the remedies that the ALJ may order under the Act and provides that interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. Paragraph (d) has been revised to note that when back pay is ordered, the order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters. Paragraph (e) requires that the ALJ's decision be served on all parties to the proceeding, the Assistant Secretary, and the U.S. Department of Labor's Associate Solicitor for Fair Labor Standards. Paragraph (e) also provides that any ALJ decision requiring reinstatement or lifting an order of reinstatement by the Assistant Secretary will be effective immediately upon receipt of the decision by the respondent. All other portions of the ALJ's order will be effective 14 days after the date of the decision unless a timely petition for review has been filed with the ARB.

No comments were received on this section. However, the statement that the decision of the ALJ will become the final order of the Secretary unless a petition for review is timely filed with the ARB and the ARB accepts the petition for review was deleted from Section 1980.110(a) and moved to paragraph (e) of this section. Additionally, OSHA has revised the period for filing a timely petition for review with the ARB to 14 days rather than 10 business days. With this change, the final rule expresses the time for a petition for review in a way that is consistent with the other deadlines for filings before the ALJs and the ARB in the rule, which are also expressed in days rather than business days. This change also makes the final rule congruent with the 2009 amendments to Rule 6(a) of the Federal Rules of Civil Procedure and Rule 26(a) of the Federal Rules of Appellate Procedure, which govern computation of time before the federal courts and express filing deadlines as days rather than business days. Accordingly, the ALJ's order will become the final order of the Secretary 14 days after the date of the decision, rather than after 10 business days, unless a timely petition for review is filed. As a practical matter, this revision does not substantively alter the window

of time for filing a petition for review before the ALJ's order becomes final.

Other minor changes were made as needed to clarify the provision without changing its meaning.

Section 1980.110 Decision and Orders of the Administrative Review Board

Upon the issuance of the ALJ's decision, the parties have 14 days within which to petition the ARB for review of that decision. If no timely petition for review is filed with the ARB, the decision of the ALJ becomes the final decision of the Secretary and is not subject to judicial review. The date of the postmark, facsimile transmittal, or electronic communication transmittal is considered the date of filing of the petition; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt.

The appeal provisions in this part provide that an appeal to the ARB is not a matter of right but is accepted at the discretion of the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. The ARB has 30 days to decide whether to grant the petition for review. If the ARB does not grant the petition, the decision of the ALJ becomes the final decision of the Secretary. If a timely petition for review is filed with the ARB, any relief ordered by the ALJ, except for that portion ordering reinstatement, is inoperative while the matter is pending before the ARB. When the ARB accepts a petition for review, the ALJ's factual determinations will be reviewed under the substantial evidence standard.

This section also provides that, based on exceptional circumstances, the ARB may grant a motion to stay an ALJ's preliminary order of reinstatement under the Act, which otherwise would be effective, while review is conducted by the ARB. The Secretary believes that a stay of an ALJ's preliminary order of reinstatement under Sarbanes-Oxley would be appropriate only where the respondent can establish the necessary criteria for equitable injunctive relief, *i.e.,* irreparable injury, likelihood of success on the merits, a balancing of possible harms to the parties, and the public interest favors a stay. The EEAC's comment regarding guidance on when a stay of preliminary reinstatement is appropriate addressed this provision of the rule, as well Section 1980.106(b). OSHA's response to this comment is explained in detail above, in the discussion of Section 1980.106.

If the ARB concludes that the respondent has violated the law, it will order the remedies listed in paragraph (d). Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. Paragraph (d) has been revised to note that when back pay is ordered, the order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters. If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint.

NWC requested that the agency make several revisions to this section that would ''further the goal of deciding cases on their merits.'' The requested revisions included: (1) Change the time limit for a petition for review from 10 days to 30 days; (2) require that a petition for review set forth legal issues showing good cause to allow full briefing; (3) change the provision that objections to legal conclusions not raised in petitions for review ''will ordinarily'' be deemed waived, to ''may'' be deemed waived; and (4) specify in the regulation that the ARB may extend the time to submit petitions for review upon good cause shown. NWC stated that these revisions would ''advance the remedial purposes of the Act by lowering the procedural hurdles to a decision on the merits.''

OSHA first notes that the IFR did use the phrase ''may'' be deemed waived regarding objections not specifically raised in a petition for review. This change was made as a result of comments submitted by NWC on other whistleblower rules published by OSHA. *See, e.g.,* Procedures for the Handling of Retaliation Complaints Under Section 219 of the Consumer Product Safety Improvement Act of 2008, 77 FR 40494, 40500–01 (July 10, 2012); Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provision of the Surface Transportation Assistance Act of 1982 (STAA), as Amended, 77 FR 44121, 44131–32 (July 27, 2012).

However, OSHA declines to adopt NWC's additional suggestions relating to this section. First, OSHA declines to extend the time limit to petition for review because the shorter review period is consistent with the practices and procedures followed in OSHA's other whistleblower programs. Furthermore, parties may file a motion for extension of time to appeal an ALJ's decision, and the ARB has discretion to grant such extensions. However, as explained above, OSHA has revised the period to petition for review of an ALJ decision to 14 days rather than 10 business days. As a practical matter, this revision does not substantively alter the window of time for filing a petition for review before the ALJ's order becomes final. In addition, Section 1980.110(c), which provides that the ARB will issue a final decision within 120 days of the conclusion of the ALJ hearing, was similarly revised to state that the conclusion of the ALJ hearing will be deemed to be 14 days after the date of the decision of the ALJ, rather than after 10 business days, unless a motion for reconsideration has been filed with the ALJ in the interim. Like the revision to Section 1980.110(a), this revision does not substantively alter the length of time before the ALJ hearing will be deemed to have been concluded.

Finally, OSHA believes that use of the word ''may,'' as discussed above, adequately addresses NWC's underlying concern that grounds not raised in a petition for review may be barred from consideration before the ARB.

Non-substantive changes were made to paragraph (c) of this section to clarify when all hearings before an ALJ are considered concluded, and thus when the time for the ARB to issue a final decision begins to run.

Subpart C—Miscellaneous Provisions

Section 1980.111 Withdrawal of Complaints, Findings, Objections, and Petitions for Review; Settlement

This section provides the procedures and time periods for withdrawal of complaints, the withdrawal of findings and/or preliminary orders by the Assistant Secretary, and the withdrawal of objections to findings and/or orders. It also provides for approval of settlements at the investigative and adjudicative stages of the case. No comments were received on this section. Minor changes were made as needed to this section and section title to clarify the provision without changing its meaning.

Section 1980.112 Judicial Review

This section describes the statutory provisions for judicial review of decisions of the Secretary and requires, in cases where judicial review is sought, that the ARB or the ALJ submit the record of proceedings to the appropriate court pursuant to the rules of such court.

Mr. Levi commented on this section, stating that paragraph (b) created a new rule. Paragraph (b) provided, ''A final order of the ARB is not subject to judicial review in any criminal or other

civil proceeding.'' As explained in the IFR, no new rules were added to this section; rather, the section was simply reorganized and renumbered. The 2004 version of the rule concluded paragraph (a) with the sentence, ''A final order of the Board is not subject to judicial review in any criminal or other civil proceeding.'' This sentence implemented the statutory provision found at 49 U.S.C. 42121(b)(4)(B), ''Limitation on Collateral Attack,'' adopted by the Act, which provides, ''[a]n order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.'' This sentence was moved to be a stand-alone provision in paragraph (b) of the IFR. The word ''Board'' was changed to ''ARB;'' however, both designations refer to the same body (Administrative Review Board). The old paragraph (b) was then renumbered to paragraph (c) in the IFR. The text of this paragraph was also slightly revised, as discussed in the preamble to the IFR, to clarify that ''rules of the court'' refers to the Federal Rules of Appellate Procedure and local rules of the relevant federal court of appeals. Most of these non-substantive revisions have been adopted in this final rule. Paragraph (c) of the final rule has been revised to provide that ''If a timely petition for review is filed, the record of a case, including the record of proceedings before the ALJ, will be transmitted by the ARB or the ALJ, as the case may be, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court.'' This revision simply reflects that in some instances the ALJ, and not the ARB, will have possession of the record to be reviewed in the U.S. court of appeals.

However, upon further review of the statutory language, OSHA has revised paragraph (b) in the final rule to more accurately reflect the statutory provisions found in AIR21, adopted by Sarbanes-Oxley. The rule as written previously and in the IFR referred only to limitation on collateral attack of final orders of the ARB. AIR21's limitation on collateral attacks applies to all final orders of the Secretary. 49 U.S.C. 42121(b)(4)(A)–(B). Thus, paragraph (b) has been revised accordingly.

Section 1980.113 Judicial Enforcement

This section describes the Secretary's power under Sarbanes-Oxley to obtain judicial enforcement of orders and the terms of a settlement agreement. While some courts have declined to enforce preliminary orders of reinstatement under Sarbanes-Oxley, the Secretary's consistent position has been that such orders are enforceable in federal district court. *See Solis* v. *Tenn. Commerce Bancorp, Inc.,* No. 10–5602 (6th Cir. 2010) (order granting stay of preliminary injunction); *Bechtel* v. *Competitive Technologies, Inc.,* 448 F.3d 469 (2d Cir. 2006); *Welch* v. *Cardinal Bankshares Corp.,* 454 F. Supp. 2d 552 (W.D. Va. 2006) (decision vacated, appeal dismissed, No. 06–2295 (4th Cir. Feb. 20, 2008)). *See also* Brief for the Intervenor/Plaintiff-Appellee Secretary of Labor, *Solis* v. *Tenn. Commerce Bancorp, Inc.,* No. 10–5602 (6th Cir. 2010); Brief for the Intervenor/Plaintiff-Appellant United States of America, *Welch* v. *Cardinal Bankshares Corp.,* No. 06–2295 (4th Cir. Feb. 20, 2008); Brief for the Intervenor/Plaintiff-Appellee Secretary of Labor, *Bechtel* v. *Competitive Technologies, Inc.,* 448 F.3d 469 (2d Cir. 2006) (No. 05–2402).

In its comments, SCSGP asserted that ''this position is directly at odds with the express language of the statute and the federal court decisions that have addressed this issue. . . .'' In support of its position, SCSGP cited the above decisions in *Solis, Bechtel,* and *Welch.* However, as noted by Marshall in its comment, an inspection of these cases shows that none of these decisions held by a majority that federal courts lack jurisdiction to enforce preliminary orders of reinstatement. In *Bechtel,* the Second Circuit vacated the preliminary order of reinstatement but failed to agree on a basis for which to do so. 448 F.3d at 476. In the three-judge panel, one judge found that the court lacked jurisdiction to enforce the order, thus holding to vacate the order. *Id.* at 470–76. A second judge found that the order could not be enforced on separate, due process grounds, and concurred in the result on this basis. *Id.* at 476–81. The third judge dissented from the result and found that the court did have jurisdiction to enforce orders of preliminary reinstatement. *Id.* at 483–90. Additionally, in *Solis,* the Sixth Circuit applied traditional injunctive relief standards (''balancing of the harms'') to grant a stay of a preliminary order of reinstatement and thus did not reach the jurisdictional issue on the merits. No. 10–5602, slip op. at 2 (6th Cir. May 25, 2010). Finally, in *Welch,* the district court granted the defendant's motion to dismiss the complainant's enforcement proceeding because the ALJ's opinion did not make clear whether he was ordering preliminary reinstatement, as opposed to simply recommending reinstatement. 407 F. Supp. 2d at 776–77. The court in *Welch* specifically noted that it was ''unnecessary to consider whether it would have had the authority to enforce the preliminary order of reinstatement had such an order been properly entered.'' *Id.* at 777 n.2. Therefore, the Secretary's position is not at odds with the federal courts that have addressed this issue, as none has reached the issue on the merits with a majority of the court.

Additionally, the Secretary's position is consistent with the plain language of the statute. By incorporating the procedures of AIR21, Sarbanes-Oxley authorizes district courts to enforce orders, including preliminary orders of reinstatement, issued by the Secretary under the Act. *See* 18 U.S.C. 1514A(b)(2)(A) (adopting the rules and procedures set forth in AIR21, 49 U.S.C. 42121(b)). Under 49 U.S.C. 42121(b), which provides the procedures applicable to investigations of whistleblower complaints under Sarbanes-Oxley, the Secretary must investigate complaints under the Act and determine whether there is reasonable cause to believe that a violation has occurred. ''[I]f the Secretary of Labor concludes that there is a reasonable cause to believe that a violation . . . has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B),'' which includes reinstatement of the complainant to his or her former position. 49 U.S.C. 42121(b)(2)(A) and (b)(3)(B)(ii). The respondent may file objections to the Secretary's preliminary order and request a hearing. However, the filing of such objections ''shall not operate to stay any reinstatement remedy contained in the preliminary order.'' 49 U.S.C. 42121(b)(2)(A).

Paragraph (5) of 49 U.S.C. 42121(b) provides for judicial enforcement of the Secretary's orders, including preliminary orders of reinstatement. That paragraph states ''[w]henever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.'' 49 U.S.C. 42121(b)(5). Preliminary orders that contain the relief of reinstatement prescribed by paragraph (3)(B) are judicially enforceable orders, issued under paragraph (3). Brief for the Intervenor/Plaintiff-Appellee Secretary

of Labor, *Solis* v. *Tenn. Commerce Bancorp, Inc.,* No. 10–5602, at 23–25 (6th Cir. 2010).

This analysis is not altered by the fact that paragraph (3) bears the heading ''Final Order.'' SCSGP asserted that this title and paragraph (5)'s reference to only paragraph (3) provides clear and unmistakable language that preliminary orders are not final orders enforceable under paragraph (3). However, sections of a statute should not be read in isolation, but rather in conjunction with the provisions of the entire Act, considering both the object and policy of the Act. *See, e.g., Brown & Williamson Tobacco Corp.* v. *FDA,* 153 F.3d 155, 162 (4th Cir. 1998), *aff'd,* 529 U.S. 120 (2000). *See also United States* v. *Buculei,* 262 F.3d 322, 331 (4th Cir. 2001) (a statute's title cannot limit the plain meaning of its text), *cert. denied,* 535 U.S. 962 (2002). Focusing on the title to subsection (b)(3) instead of reading section 42121(b) as a coherent whole negates the congressional directives that preliminary reinstatement must be ordered upon a finding of reasonable cause and that such orders not be stayed pending appeal. 49 U.S.C. 42121(b)(2)(A)'s clear statement that objections shall not stay any preliminary order of reinstatement demonstrates Congress's intent that the Secretary's preliminary orders of reinstatement be immediately effective. Reading 49 U.S.C. 42121(b)(5) to allow enforcement of such orders is the only way to effectuate this intent.

Furthermore, the Secretary's interpretation is buttressed by the legislative history of Sarbanes-Oxley and AIR21. Before Congress enacted Sarbanes-Oxley, the Department of Labor had interpreted this AIR21 provision to permit judicial enforcement of preliminary reinstatement orders. Accordingly, Congress is presumed to have been aware of the Department's interpretation of 49 U.S.C. 42121(b)(5) and to have adopted that interpretation when it incorporated that provision by reference. *See Lorillard* v. *Pons,* 434 U.S. 575, 580–81 (1978) (''[W]here . . . Congress adopts a new law incorporating sections of a prior law, Congress normally can be presumed to have had knowledge of the interpretation given to the incorporated law, at least insofar as it affects the new statute.''). The Secretary's interpretation is further supported by the legislative history of AIR21, which makes clear that Congress regarded preliminary reinstatement as crucial to the protections provided in the statute. Brief for the Intervenor/Plaintiff-Appellee Secretary of Labor, *Solis* v. *Tenn. Commerce Bancorp, Inc.,* No. 10–5602, at 41–44 (6th Cir. 2010) (reviewing legislative history of AIR21). Interpreting 49 U.S.C. 42121(b)(5) to permit judicial enforcement of the Secretary's preliminary orders of reinstatement is necessary to carry out Congress' clearly expressed intent that whistleblowers be immediately reinstated upon the Secretary's finding of reasonable cause to believe that retaliation has occurred. Sarbanes-Oxley also permits the person on whose behalf the order was issued under Sarbanes-Oxley to obtain judicial enforcement of orders and the terms of a settlement agreement. 18 U.S.C. 1514A(b)(2)(A) incorporating 49 U.S.C. 42121(b)(6). Accordingly, OSHA declines to make the changes to this section suggested by SCSGP.

OSHA has made two changes that are not intended to have substantive effects. First, OSHA has revised this section slightly to more closely parallel the provisions of the statute regarding the proper venue for an enforcement action. Second, the list of remedies that formerly appeared in this section has been moved to Section 1980.114. This revision does not reflect a change in the Secretary's views regarding the remedies that are available under Sarbanes-Oxley in an action to enforce an order of the Secretary. The revision has been made to better parallel the statutory structure of Sarbanes-Oxley and AIR21, which contemplate enforcement of a Secretary's order and specify the remedies that are available in an action for de novo review of a retaliation complaint in district court. Compare 49 U.S.C. 42121(b)(5) and (6) to 18 U.S.C. 1514A(c).

Section 1980.114 District Court Jurisdiction Over Retaliation Complaints

This section sets forth Sarbanes-Oxley's provisions allowing a complainant to bring an original de novo action in district court, alleging the same allegations contained in the complaint filed with OSHA, if there has been no final decision of the Secretary within 180 days of the filing of the complaint. It is the Secretary's position that complainants may not initiate an action in federal court after the Secretary issues a final decision, even if the date of the final decision is more than 180 days after the filing of the complaint. The purpose of the ''kick-out'' provision is to aid the complainant in receiving a prompt decision. That goal is not implicated in a situation where the complainant already has received a final decision from the Secretary. In addition, permitting the complainant to file a new case in district court in such circumstances could conflict with the parties' rights to seek judicial review of the Secretary's final decision in the court of appeals.

OSHA received two comments on the inclusion of this statement of the Secretary's position in the preamble to the IFR. Mr. Levi wrote in opposition to this language, while the EEAC wrote in support of this language, and requested that it be inserted into the regulatory text. Mr. Levi noted his belief that this position is in conflict with the rule itself, which allows complainants to ''kick-out'' under the specified circumstances. To support his position, Mr. Levi quoted from the preamble to the 2004 version of the rules. In that preamble, the agency stated, and Mr. Levi quoted, ''The Act might even be interpreted to allow a complainant to bring an action in Federal court after receiving a final decision from the Board, if that decision was issued more than 180 days after the filing of the complaint.'' 69 FR 52111(Aug. 24, 2004). The 2004 preamble used the words ''might even'' to denote that this is a possible interpretation of the language. However, in that preamble, the agency went on to state, ''The Secretary believes that it would be a waste of the resources of the parties, the Department, and the courts for complainants to pursue duplicative litigation.'' *Id.* The language in the preamble to the 2011 IFR, continued and retained above, simply asserts the Secretary's longstanding position, which is consistent with the statute, the 2004 rule, the 2004 preamble language, and the 2011 rule, that once a complainant has received a final decision from the Secretary, the goal of the ''kick-out'' provision is no longer implicated.

Mr. Levi also commented that this position creates an impediment to a complainant's right to access the federal district courts, and forces the complainant to give up one right or another: Access to the ARB or access to the district courts. However, as discussed above, the Secretary believes that access to district courts under this provision is intended to provide the complainant with a speedy adjudication of his complaint; it is not intended to create two simultaneous proceedings or a de novo review of an unfavorable determination by the Secretary. Congress provided a clear avenue for review in federal courts of a final order. As provided in Section 1980.112, either party aggrieved by a final order of the ALJ or ARB may still appeal to the federal courts of appeals. The Secretary's position does not adversely affect this right, but rather is intended

to prevent interference with this right. Therefore, after considering Mr. Levi and EEAC's comments, the agency has decided to retain the language in the preamble to the rule, but refrain from adding it to the regulatory text.

The IFR amended paragraph (b) of this section to require complainants to provide file-stamped copies of their complaint within seven days after filing a complaint in district court to the Assistant Secretary, the ALJ, or the ARB, depending on where the proceeding is pending, rather than requiring such notice fifteen days in advance of such filing. The IFR noted a copy of the complaint also must be provided to the Regional Administrator, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. This provision is necessary to notify the agency that the complainant has opted to file a complaint in district court. This provision is not a substitute for the complainant's compliance with the requirements for service of process of the district court complaint contained in the Federal Rules of Civil Procedure and the local rules of the district court where the complaint is filed. These revisions are continued in this final rule. However, OSHA has replaced the requirement of providing a copy of the complaint to the Regional Administrator with a requirement that a copy be provided to the ''OSHA official who issued the findings and/or preliminary order.'' This non-substantive change is intended to reflect that an official other than the Regional Administrator may be the official who issued the findings and/or preliminary order.

The NWC noted its appreciation for this revision to the rule, and suggested that ''[t]he Department's wise policy on notice . . . should now be replicated in the Department's regulations under other whistleblower protection laws.'' OSHA is conducting several rulemakings for whistleblower proceedings at this time and intends to include this revised notice provision where applicable.

In addition to the changes noted above, OSHA has revised this section to clarify the provision and more closely mirror the language used in the statute. For example, paragraph (b) now incorporates the provisions of the statute specifying the remedies and burdens of proof in a district court action.

Section 1980.115 Special Circumstances; Waiver of Rules

This section provides that in circumstances not contemplated by these rules or for good cause the ALJ or the ARB may, upon application and notice to the parties, waive any rule as justice or the administration of Sarbanes-Oxley requires. No comments were received on this section.

IV. Paperwork Reduction Act.

This rule contains a reporting provision (filing a retaliation complaint, Section 1980.103) which was previously reviewed and approved for use by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The assigned OMB control number is 1218–0236.

V. Administrative Procedure Act.

The notice and comment rulemaking procedures of Section 553 of the Administrative Procedure Act (APA) do not apply to ''interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). Part 1980 sets forth interpretive rules and rules of agency procedure and practice within the meaning of that section. Therefore, publication in the **Federal Register** of a notice of proposed rulemaking and request for comments was not required. Although Part 1980 was not subject to the notice and comment procedures of the APA, the Assistant Secretary sought and considered comments to enable the agency to improve the rules by taking into account the concerns of interested persons.

Furthermore, because this rule is procedural and interpretive rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule not be effective until at least 30 days after publication in the **Federal Register** is inapplicable. The Assistant Secretary also finds good cause to provide an immediate effective date for this rule. It is in the public interest that the rule be effective immediately so that parties may know what procedures are applicable to pending cases. Most of the provisions of this rule were in the IFR and have already been in effect since November 3, 2011, so a delayed effective date is unnecessary.

VI. Executive Orders 12866 and 13563; Unfunded Mandates Reform Act of 1995; Executive Order 13132

The Department has concluded that this rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866, reaffirmed by Executive Order 13563, because it is not likely to: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no economic impact analysis under Section 6(a)(3)(C) of Executive Order 12866 has been prepared. For the same reason, and because no notice of proposed rulemaking was published, no statement is required under Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532. In any event, this rulemaking is procedural and interpretive in nature and is thus not expected to have a significant economic impact. Finally, this rule does not have ''federalism implications.'' The rule 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'' and therefore is not subject to Executive Order 13132 (Federalism).

VII. Regulatory Flexibility Analysis

The notice and comment rulemaking procedures of Section 553 of the APA do not apply ''to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). Rules that are exempt from APA notice and comment requirements are also exempt from the Regulatory Flexibility Act (RFA). *See* SBA Office of Advocacy, A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act 9 (May 2012); also found at: *http://www.sba.gov/sites/default/files/rfaguide_0512_0.pdf**. This is a rule of agency procedure, practice, and interpretation within the meaning of that section; and therefore the rule is exempt from both the notice and comment rulemaking procedures of the APA and the requirements under the RFA.

List of Subjects in 29 CFR Part 1980

Administrative practice and procedure, Corporate fraud, Employment, Investigations, Reporting and recordkeeping requirements, Whistleblower.

Authority and Signature

This document was prepared under the direction and control of David

Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health.

Signed at Washington, DC on February 25, 2015.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Accordingly, for the reasons set out in the preamble, 29 CFR part 1980 is revised to read as follows:

PART 1980—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER SECTION 806 OF THE SARBANES-OXLEY ACT OF 2002, AS AMENDED.

Subpart A—Complaints, Investigations, Findings and Preliminary Orders

Sec:
1980.100 Purpose and scope.
1980.101 Definitions.
1980.102 Obligations and prohibited acts.
1980.103 Filing of retaliation complaints.
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Authority: 18 U.S.C. 1514A, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203 (July 21, 2010); Secretary of Labor's Order No. 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary of Labor's Order No. 2–2012 (Oct. 19, 2012), 77 FR 69378 (Nov. 16, 2012).

Subpart A—Complaints, Investigations, Findings and Preliminary Orders

§ 1980.100 Purpose and scope.

(a) This part implements procedures under section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley or Act), enacted into law July 30, 2002, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, enacted into law July 21, 2010. Sarbanes-Oxley provides for employee protection from retaliation by companies, their subsidiaries and affiliates, officers, employees, contractors, subcontractors, and agents because the employee has engaged in protected activity pertaining to a violation or alleged violation of 18 U.S.C. 1341, 1343, 1344, or 1348, or any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders. Sarbanes-Oxley also provides for employee protection from retaliation by nationally recognized statistical rating organizations, their officers, employees, contractors, subcontractors or agents because the employee has engaged in protected activity.

(b) This part establishes procedures pursuant to Sarbanes-Oxley for the expeditious handling of retaliation complaints made by employees, or by persons acting on their behalf and sets forth the Secretary's interpretations of the Act on certain statutory issues. These rules, together with those codified at 29 CFR part 18, set forth the procedures for submission of complaints under Sarbanes-Oxley, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges, post-hearing administrative review, withdrawals, and settlements.

§ 1980.101 Definitions.

As used in this part:

(a) *Act* means section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002, Pub. L. 107–204, July 30, 2002, codified at 18 U.S.C. 1514A, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203, July 21, 2010.

(b) *Assistant Secretary* means the Assistant Secretary of Labor for Occupational Safety and Health or the person or persons to whom he or she delegates authority under the Act.

(c) *Business days* means days other than Saturdays, Sundays, and Federal holidays.

(d) *Company* means any company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or any company required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company.

(e) *Complainant* means the employee who filed a complaint under the Act or on whose behalf a complaint was filed.

(f) *Covered person* means any company, including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or any nationally recognized statistical rating organization, or any officer, employee, contractor, subcontractor, or agent of such company or nationally recognized statistical rating organization.

(g) *Employee* means an individual presently or formerly working for a covered person, an individual applying to work for a covered person, or an individual whose employment could be affected by a covered person.

(h) *Nationally recognized statistical rating organization* means a credit rating agency under 15 U.S.C. 78c(61) that:

(1) Issues credit ratings certified by qualified institutional buyers, in accordance with 15 U.S.C. 78*o*–7(a)(1)(B)(ix), with respect to:

(i) Financial institutions, brokers, or dealers;

(ii) Insurance companies;

(iii) Corporate issuers;

(iv) Issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on September 29, 2006);

(v) Issuers of government securities, municipal securities, or securities issued by a foreign government; or

(vi) A combination of one or more categories of obligors described in any of paragraphs (h)(1)(i) through (v) of this section; and

(2) Is registered under 15 U.S.C. 78*o*-7.

(i) *OSHA* means the Occupational Safety and Health Administration of the United States Department of Labor.

(j) *Person* means one or more individuals, partnerships, associations, companies, corporations, business trusts, legal representatives or any group of persons.

(k) *Respondent* means the person named in the complaint who is alleged to have violated the Act.

(l) *Secretary* means the Secretary of Labor or persons to whom authority under the Act has been delegated.

(m) Any future statutory amendments that affect the definition of a term or terms listed in this section will apply in lieu of the definition stated herein.

§ 1980.102 Obligations and prohibited acts.

(a) No covered person may discharge, demote, suspend, threaten, harass or in any other manner retaliate against, including, but not limited to,

intimidating, threatening, restraining, coercing, blacklisting or disciplining, any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee, or any person acting pursuant to the employee's request, has engaged in any of the activities specified in paragraphs (b)(1) and (2) of this section.

(b) An employee is protected against retaliation (as described in paragraph (a) of this section) by a covered person for any lawful act done by the employee:

(1) To provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of 18 U.S.C. 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(i) A Federal regulatory or law enforcement agency;

(ii) Any Member of Congress or any committee of Congress; or

(iii) A person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) To file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of 18 U.S.C. 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

§ 1980.103 Filing of retaliation complaints.

(a) *Who may file.* An employee who believes that he or she has been retaliated against by a covered person in violation of the Act may file, or have filed on the employee's behalf, a complaint alleging such retaliation.

(b) *Nature of filing.* No particular form of complaint is required. A complaint may be filed orally or in writing. Oral complaints will be reduced to writing by OSHA. If the complainant is unable to file the complaint in English, OSHA will accept the complaint in any language.

(c) *Place of filing.* The complaint should be filed with the OSHA office responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. Addresses and telephone numbers for these officials are set forth in local directories and at the following Internet address: *http://www.osha.gov.*

(d) *Time for filing.* Within 180 days after an alleged violation of the Act occurs or after the date on which the employee became aware of the alleged violation of the Act, any employee who believes that he or she has been retaliated against in violation of the Act may file, or have filed on the employee's behalf, a complaint alleging such retaliation. The date of the postmark, facsimile transmittal, electronic communication transmittal, telephone call, hand-delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office will be considered the date of filing. The time for filing a complaint may be tolled for reasons warranted by applicable case law. For example, OSHA may consider the time for filing a complaint equitably tolled if a complainant mistakenly files a complaint with the another agency instead of OSHA within 180 days after becoming aware of the alleged violation.

§ 1980.104 Investigation.

(a) Upon receipt of a complaint in the investigating office, OSHA will notify the respondent of the filing of the complaint, of the allegations contained in the complaint, and of the substance of the evidence supporting the complaint. Such materials will be redacted, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, *et seq.,* and other applicable confidentiality laws. OSHA will also notify the respondent of its rights under paragraphs (b) and (f) of this section and § 1980.110(e). OSHA will provide an unredacted copy of these same materials to the complainant (or complainant's legal counsel, if complainant is represented by counsel) and to the Securities and Exchange Commission.

(b) Within 20 days of receipt of the notice of the filing of the complaint provided under paragraph (a) of this section, the respondent may submit to OSHA a written statement and any affidavits or documents substantiating its position. Within the same 20 days, the respondent may request a meeting with OSHA to present its position.

(c) During the investigation, OSHA will request that each party provide the other parties to the whistleblower complaint with a copy of submissions to OSHA that are pertinent to the whistleblower complaint. Alternatively, if a party does not provide its submissions to OSHA to the other party, OSHA will provide them to the other party (or the party's legal counsel if the party is represented by counsel) at a time permitting the other party an opportunity to respond. Before providing such materials to the other party, OSHA will redact them, if necessary, consistent with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. OSHA will also provide each party with an opportunity to respond to the other party's submissions.

(d) Investigations will be conducted in a manner that protects the confidentiality of any person who provides information on a confidential basis, other than the complainant, in accordance with part 70 of this title.

(e)(1) A complaint will be dismissed unless the complainant has made a prima facie showing that a protected activity was a contributing factor in the adverse action alleged in the complaint.

(2) The complaint, supplemented as appropriate by interviews of the complainant, must allege the existence of facts and evidence to make a prima facie showing as follows:

(i) The employee engaged in a protected activity;

(ii) The respondent knew or suspected that the employee engaged in the protected activity;

(iii) The employee suffered an adverse action; and

(iv) The circumstances were sufficient to raise the inference that the protected activity was a contributing factor in the adverse action.

(3) For purposes of determining whether to investigate, the complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required showing, *i.e.,* to give rise to an inference that the respondent knew or suspected that the employee engaged in protected activity and that the protected activity was a contributing factor in the adverse action. The burden may be satisfied, for example, if the complaint shows that the adverse personnel action took place within a temporal proximity after the protected activity, or at the first opportunity available to respondent, giving rise to the inference that it was a contributing factor in the adverse action. If the required showing has not been made, the complainant (or the complainant's legal counsel, if complainant is represented by counsel) will be so notified and the investigation will not commence.

(4) Notwithstanding a finding that a complainant has made a prima facie showing, as required by this section, further investigation of the complaint will not be conducted if the respondent demonstrates by clear and convincing

evidence that it would have taken the same adverse action in the absence of the complainant's protected activity.

(5) If the respondent fails to make a timely response or fails to satisfy the burden set forth in the prior paragraph, OSHA will proceed with the investigation. The investigation will proceed whenever it is necessary or appropriate to confirm or verify the information provided by the respondent.

(f) Prior to the issuance of findings and a preliminary order as provided for in § 1980.105, if OSHA has reasonable cause, on the basis of information gathered under the procedures of this part, to believe that the respondent has violated the Act and that preliminary reinstatement is warranted, OSHA will contact the respondent (or the respondent's legal counsel, if respondent is represented by counsel) to give notice of the substance of the relevant evidence supporting the complainant's allegations as developed during the course of the investigation. This evidence includes any witness statements, which will be redacted to protect the identity of confidential informants where statements were given in confidence; if the statements cannot be redacted without revealing the identity of confidential informants, summaries of their contents will be provided. The complainant will also receive a copy of the materials that must be provided to the respondent under this paragraph. Before providing such materials to the complainant, OSHA will redact them, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and other applicable confidentiality laws. The respondent will be given the opportunity to submit a written response, to meet with the investigator, to present statements from witnesses in support of its position, and to present legal and factual arguments. The respondent will present this evidence within 10 business days of OSHA's notification pursuant to this paragraph, or as soon afterwards as OSHA and the respondent can agree, if the interests of justice so require.

§ 1980.105 Issuance of findings and preliminary orders.

(a) After considering all the relevant information collected during the investigation, the Assistant Secretary shall issue, within 60 days of the filing of the complaint, written findings as to whether or not there is reasonable cause to believe that the respondent has retaliated against the complainant in violation of the Act.

(1) If the Assistant Secretary concludes that there is reasonable cause to believe that a violation has occurred, the Assistant Secretary will accompany the findings with a preliminary order providing relief to the complainant. The preliminary order will include all relief necessary to make the employee whole, including reinstatement with the same seniority status that the complainant would have had but for the retaliation; back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The preliminary order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters.

(2) If the Assistant Secretary concludes that a violation has not occurred, the Assistant Secretary will notify the parties of that finding.

(b) The findings, and where appropriate, the preliminary order will be sent by certified mail, return receipt requested (or other means that allow OSHA to confirm receipt), to all parties of record (and each party's legal counsel if the party is represented by counsel). The findings, and where appropriate, the preliminary order will inform the parties of the right to object to the findings and/or order and to request a hearing, and of the right of the respondent to request an award of attorney fees not exceeding $1,000 from the administrative law judge (ALJ) regardless of whether the respondent has filed objections, if the complaint was frivolous or brought in bad faith. The findings, and where appropriate, the preliminary order, also will give the address of the Chief Administrative Law Judge, U.S. Department of Labor. At the same time, the Assistant Secretary will file with the Chief Administrative Law Judge a copy of the original complaint and a copy of the findings and/or order.

(c) The findings and any preliminary order will be effective 30 days after receipt by the respondent (or the respondent's legal counsel if the respondent is represented by counsel), or on the compliance date set forth in the preliminary order, whichever is later, unless an objection and/or a request for hearing has been timely filed as provided at § 1980.106. However, the portion of any preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and the preliminary order, regardless of any objections to the findings and/or the order.

Subpart B—Litigation

§ 1980.106 Objections to the findings and the preliminary order and request for a hearing.

(a) Any party who desires review, including judicial review, of the findings and preliminary order, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees under the Act, must file any objections and/or a request for a hearing on the record within 30 days of receipt of the findings and preliminary order pursuant to § 1980.105(b). The objections and/or request for a hearing must be in writing and state whether the objections are to the findings and/or the preliminary order, and/or whether there should be an award of attorney fees. The date of the postmark, facsimile transmittal, or electronic communication transmittal is considered the date of filing; if the objection is filed in person, by hand-delivery or other means, the objection is filed upon receipt. Objections must be filed with the Chief Administrative Law Judge, U.S. Department of Labor, and copies of the objections must be mailed at the same time to the other parties of record, the OSHA official who issued the findings and order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

(b) If a timely objection is filed, all provisions of the preliminary order will be stayed, except for the portion requiring preliminary reinstatement, which will not be automatically stayed. The portion of the preliminary order requiring reinstatement will be effective immediately upon the respondent's receipt of the findings and preliminary order, regardless of any objections to the order. The respondent may file a motion with the Office of Administrative Law Judges for a stay of the Assistant Secretary's preliminary order of reinstatement, which shall be granted only based on exceptional circumstances. If no timely objection is filed with respect to either the findings or the preliminary order, the findings and/or preliminary order will become the final decision of the Secretary, not subject to judicial review.

§ 1980.107 Hearings.

(a) Except as provided in this part, proceedings will be conducted in accordance with the rules of practice and procedure for administrative

hearings before the Office of Administrative Law Judges, codified at subpart A of part 18 of this title.

(b) Upon receipt of an objection and request for hearing, the Chief Administrative Law Judge will promptly assign the case to an ALJ who will notify the parties, by certified mail, of the day, time, and place of hearing. The hearing is to commence expeditiously, except upon a showing of good cause or unless otherwise agreed to by the parties. Hearings will be conducted de novo, on the record. ALJs have broad discretion to limit discovery in order to expedite the hearing.

(c) If both the complainant and the respondent object to the findings and/or order, the objections will be consolidated and a single hearing will be conducted.

(d) Formal rules of evidence will not apply, but rules or principles designed to assure production of the most probative evidence will be applied. The ALJ may exclude evidence that is immaterial, irrelevant, or unduly repetitious.

§ 1980.108 Role of Federal agencies.

(a)(1) The complainant and the respondent will be parties in every proceeding and must be served with copies of all documents in the case. At the Assistant Secretary's discretion, the Assistant Secretary may participate as a party or as amicus curiae at any time at any stage of the proceeding. This right to participate includes, but is not limited to, the right to petition for review of a decision of an ALJ, including a decision approving or rejecting a settlement agreement between the complainant and the respondent.

(2) Parties must send copies of documents to OSHA and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, only upon request of OSHA, or when OSHA is participating in the proceeding, or when service on OSHA and the Associate Solicitor is otherwise required by these rules.

(b) The Securities and Exchange Commission, if interested in a proceeding, may participate as amicus curiae at any time in the proceeding, at the Commission's discretion. At the request of the Securities and Exchange Commission, copies of all documents in a case must be sent to the Commission, whether or not the Commission is participating in the proceeding.

§ 1980.109 Decision and orders of the administrative law judge.

(a) The decision of the ALJ will contain appropriate findings, conclusions, and an order pertaining to the remedies provided in paragraph (d) of this section, as appropriate. A determination that a violation has occurred may be made only if the complainant has demonstrated by a preponderance of the evidence that protected activity was a contributing factor in the adverse action alleged in the complaint.

(b) If the complainant has satisfied the burden set forth in the prior paragraph, relief may not be ordered if the respondent demonstrates by clear and convincing evidence that it would have taken the same adverse action in the absence of any protected activity.

(c) Neither OSHA's determination to dismiss a complaint without completing an investigation pursuant to § 1980.104(e) nor OSHA's determination to proceed with an investigation is subject to review by the ALJ, and a complaint may not be remanded for the completion of an investigation or for additional findings on the basis that a determination to dismiss was made in error. Rather, if there otherwise is jurisdiction, the ALJ will hear the case on the merits or dispose of the matter without a hearing if the facts and circumstances warrant.

(d)(1) If the ALJ concludes that the respondent has violated the law, the order will provide all relief necessary to make the employee whole, including, reinstatement with the same seniority status that the complainant would have had but for the retaliation; back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters.

(2) If the ALJ determines that the respondent has not violated the law, an order will be issued denying the complaint. If, upon the request of the respondent, the ALJ determines that a complaint was frivolous or was brought in bad faith, the judge may award to the respondent reasonable attorney fees, not exceeding $1,000.

(e) The decision will be served upon all parties to the proceeding, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor. Any ALJ's decision requiring reinstatement or lifting an order of reinstatement by the Assistant Secretary will be effective immediately upon receipt of the decision by the respondent. All other portions of the ALJ's order will be effective 14 days after the date of the decision unless a timely petition for review has been filed with the Administrative Review Board (ARB). The decision of the ALJ will become the final order of the Secretary unless a petition for review is timely filed with the ARB, and the ARB accepts the petition for review.

§ 1980.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB, which has been delegated the authority to act for the Secretary and issue final decisions under this part. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

(b) If a timely petition for review is filed pursuant to paragraph (a) of this section, the decision of the ALJ will become the final order of the Secretary unless the ARB, within 30 days of the filing of the petition, issues an order notifying the parties that the case has been accepted for review. If a case is accepted for review, the decision of the ALJ will be inoperative unless and until the ARB issues an order adopting the decision, except that any order of reinstatement will be effective while review is conducted by the ARB, unless the ARB grants a motion by the respondent to stay the order based on exceptional circumstances. The ARB will specify the terms under which any briefs are to be filed. The ARB will review the factual determinations of the ALJ under the substantial evidence standard. If no timely petition for

review is filed, or the ARB denies review, the decision of the ALJ will become the final order of the Secretary. If no timely petition for review is filed, the resulting final order is not subject to judicial review.

(c) The final decision of the ARB shall be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's final decision will be served upon all parties and the Chief Administrative Law Judge by mail. The final decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue a final order providing all relief necessary to make the complainant whole, including reinstatement with the same seniority status that the complainant would have had but for the retaliation; back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters.

(e) If the ARB determines that the respondent has not violated the law, an order will be issued denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000.

Subpart C—Miscellaneous Provisions

§ 1980.111 Withdrawal of complaints, findings, objections, and petitions for review; settlement.

(a) At any time prior to the filing of objections to the Assistant Secretary's findings and/or preliminary order, a complainant may withdraw his or her complaint by notifying OSHA, orally or in writing, of his or her withdrawal. OSHA then will confirm in writing the complainant's desire to withdraw and determine whether to approve the withdrawal. OSHA will notify the parties (and each party's legal counsel if the party is represented by counsel) of the approval of any withdrawal. If the complaint is withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section. A complainant may not withdraw his or her complaint after the filing of objections to the Assistant Secretary's findings and/or preliminary order.

(b) The Assistant Secretary may withdraw the findings and/or preliminary order at any time before the expiration of the 30-day objection period described in § 1980.106, provided that no objection has been filed yet, and substitute new findings and/or a new preliminary order. The date of the receipt of the substituted findings and/or order will begin a new 30-day objection period.

(c) At any time before the Assistant Secretary's findings and/or order become final, a party may withdraw objections to the Assistant Secretary's findings and/or order by filing a written withdrawal with the ALJ. If the case is on review with the ARB, a party may withdraw a petition for review of an ALJ's decision at any time before that decision becomes final by filing a written withdrawal with the ARB. The ALJ or the ARB, as the case may be, will determine whether to approve the withdrawal of the objections or the petition for review. If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings and/or order, and there are no other pending objections, the Assistant Secretary's findings and/or order will become the final order of the Secretary. If the ARB approves a request to withdraw a petition for review of an ALJ decision, and there are no other pending petitions for review of that decision, the ALJ's decision will become the final order of the Secretary. If objections or a petition for review are withdrawn because of settlement, the settlement must be submitted for approval in accordance with paragraph (d) of this section.

(d)(1) *Investigative settlements.* At any time after the filing of a complaint, and before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if OSHA, the complainant and the respondent agree to a settlement. OSHA's approval of a settlement reached by the respondent and the complainant demonstrates OSHA's consent and achieves the consent of all three parties.

(2) *Adjudicatory settlements.* At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the ALJ, or by the ARB if the ARB has accepted the case for review. A copy of the settlement will be filed with the ALJ or the ARB, as appropriate.

(e) Any settlement approved by OSHA, the ALJ, or the ARB, will constitute the final order of the Secretary and may be enforced in United States district court pursuant to § 1980.113.

§ 1980.112 Judicial review.

(a) Within 60 days after the issuance of a final order under §§ 1980.109 and 1980.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(b) A final order is not subject to judicial review in any criminal or other civil proceeding.

(c) If a timely petition for review is filed, the record of a case, including the record of proceedings before the ALJ, will be transmitted by the ARB or the ALJ, as the case may be, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court.

§ 1980.113 Judicial enforcement.

Whenever any person has failed to comply with a preliminary order of reinstatement, or a final order, including one approving a settlement agreement, issued under the Act, the Secretary may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred. Whenever any person has failed to comply with a preliminary order of reinstatement, or a final order, including one approving a settlement agreement, issued under the Act, a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the appropriate United States district court.

§ 1980.114 District court jurisdiction over retaliation complaints.

(a) If the Secretary has not issued a final decision within 180 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United

States, which will have jurisdiction over such an action without regard to the amount in controversy. A party to an action brought under this paragraph shall be entitled to trial by jury.

(b) A proceeding under paragraph (a) of this section shall be governed by the same legal burdens of proof specified in § 1980.109. An employee prevailing in any action under paragraph (a) of this section shall be entitled to all relief necessary to make the employee whole, including:

(1) Reinstatement with the same seniority status that the employee would have had, but for the retaliation;

(2) The amount of back pay, with interest;

(3) Compensation for any special damages sustained as a result of the retaliation; and

(4) Litigation costs, expert witness fees, and reasonable attorney fees.

(c) Within seven days after filing a complaint in federal court, a complainant must file with OSHA, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. A copy of the complaint also must be served on the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

§ 1980.115 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of this part, or for good cause shown, the ALJ or the ARB on review may, upon application, after three days notice to all parties, waive any rule or issue any orders that justice or the administration of the Act requires.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0907]

RIN 1625–AA00

Safety Zones; Upper Mississippi River Between Mile 38.0 and 46.0, Thebes, IL; and Between Mile 78.0 and 81.0, Grand Tower, IL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing safety zones for all waters of the Upper Mississippi River (UMR) from mile 38.0 to 46.0 and from mile 78.0 to 81.0. These safety zones are needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with subsurface rock removal in the Upper Mississippi River. Any deviation from the conditions and requirements put into place are prohibited unless specifically authorized by the cognizant Captain of the Port (COTP) Ohio Valley or his designated representatives.

DATES: This rule is effective on March 5, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0907]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Dan McQuate, U.S. Coast Guard; telephone 270–442–1621, email *daniel.j.mcquate@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

AIS Automated Information System
BNM Broadcast Notice to Mariners
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
MM Mile Marker
MSU Marine Safety Unit
M/V Motor Vessel
NPRM Notice of Proposed Rulemaking
RIAC River Industry Action Committee
UMR Upper Mississippi River
USACE United States Army Corps of Engineers

A. Regulatory History and Information

Based on forecasted historical low water on the UMR in the fall of 2012, the USACE contracted subsurface rock removal operations in Thebes, IL to mitigate the effects of the forecasted low water event. In order to provide additional safety measures and regulate navigation during low water and the planned rock removal operations, the Coast Guard published a temporary final rule in the **Federal Register** for an RNA from mile 0.0 to 185.0 UMR (77 FR 75850). The RNA was in effect from December 1, 2012 until March 31, 2013, which is when river levels rebounded and the subsurface rock removal operation was delayed because of high water levels. During the effective period for this temporary RNA, restrictions were enforced for a total of approximately 45 days.

In the fall of 2013, based on changing river conditions, low water was again forecasted and the USACE's contracted subsurface rock removal operations in Thebes, IL were scheduled to resume. The Coast Guard then published a second temporary final rule in the **Federal Register** re-establishing the RNA (78 FR 70222). Based on the forecasted water levels and the plans and needs for the resumed rock removal operations, the RNA covered a smaller river section extending from mile 0.0 to 109.9 on the UMR. The RNA was implemented to ensure the safety of the USACE contractors and marine traffic during the actual rock removal work, and to support the safe and timely clearing of vessel queues at the conclusion of the work each day. The RNA was in effect from November 4, 2013 until April 12, 2014, but was only enforced from December 10, 2013 until February 19, 2014 due to water levels increasing and forcing the USACE contractors to cease rock removal operations. During the times the RNA was enforced, the Coast Guard worked with the USACE, RIAC, and the USACE contractor to implement river closures and various restrictions to maximize the size of tows that could safely pass while keeping the USACE contractor crews safe. The Coast Guard also assisted in clearing vessel queues after each closure or restriction.

On April 17, 2014, MSU Paducah contacted USACE St. Louis to determine if subsurface rock removal operations will be conducted in the Upper Mississippi River in the vicinity of Thebes, IL in future years. USACE St. Louis reported that such operations are anticipated to continue as river conditions permit, and that there are multiple phases of subsurface rock removal operations remaining. On August 28, 2014 USACE St. Louis notified the Coast Guard that based on recently acquired data, rock removal operations will also be required in the Upper Mississippi River between miles 78.0 and 81.0 at Grand Tower, IL in the future.

USACE St. Louis also informed the Coast Guard that the environmental window for these operations each year

moving forward is July 1 to April 12. However, river conditions likely will not permit work for the majority of that timeframe each year, and in some years river conditions may not permit any work on this project to be completed. This project is expected to go on indefinitely when river conditions permit during the allowable times within the environmental windows. For continuity and based on the necessary restrictions, USACE St. Louis requested continued involvement of the Coast Guard for navigation expertise and facilitating restrictions with users of the waterway and the contractor. According to USACE St. Louis, the majority of the rock removal operations will impact vessel traffic and requested that the Coast Guard establish restrictions under 33 CFR part 165, Regulated Navigation Areas and Limited Access Areas to maintain safety of navigation during the rock removal project. The Coast determined that safety zones, one type of Limited Access Area provided for under 33 CFR part 165, will provide the necessary additional safety measures to ensure commerce can continue to navigate safely while the contractors are working. These safety zones limit access to specific areas of the river during rock removal operations rather than creating a larger regulated area encompassing the entire stretch of river where the work may take place.

On November 10, 2014, an interim rule was published in the **Federal Register** (79 FR 66622). This interim rule was effective upon publication without prior notice through publication in the **Federal Register**, but also invited comments regarding the creation of permanent safety zones before the rule was published in final form. The Coast Guard received no comments on the interim rule and no requests for public meeting. No public meetings were held. No changes were made to the rule as it was published in the interim rule.

B. Basis and Purpose

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

The purpose of these safety zones are to protect persons and vessels while subsurface rock removal operations are ongoing on the UMR from mile 38.0 to mile 46.0 and from mile 78.0 to mile 81.0. The removal operations pose significant safety hazards to vessels and mariners operating on the UMR. At the previous request of RIAC and after reviewing best practices from the previous temporary RNAs in effect in 2012 and 2013, the Coast Guard plans to assist in facilitating the clearing of vessel queues in future years following restricted access on the UMR from mile 38.0 to mile 46.0 and from mile 78.0 to mile 81.0. For these reasons, the Coast Guard is to establishing these safety zones to limit vessel access between mile 38.0 and mile 46.0, and between mile 78.0 and mile 81.0 on the UMR.

C. Discussion of Comments, Changes and the Final Rule

No comments were received by the Coast Guard on this rule. No changes to the rule have been made from the interim rule and request for comments.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This rule establishes safety zones for vessels on all waters of the UMR from mile 38.0 to mile 46.0, and from mile 78.0 to mile 81.0. The safety zones listed in this final rule will only restrict vessel traffic from entering, transiting, or anchoring within specific sections of the UMR. Notifications of enforcement times and restrictions put into effect for these safety zones will be communicated to the marine community via BNM, through outreach with RIAC, and through LNMs. Such notices provide the opportunity for industry to plan transits accordingly and work around the schedule of rock removal operations as necessary. The impacts on navigation will be limited to ensuring the safety of mariners and vessels associated with hazards presented by USACE contractor operations involving subsurface rock removal, and the safe and timely resumption of vessel traffic following any river closures or restrictions associated with subsurface rock removal operations. Restrictions under these safety zones will be the minimum necessary to protect mariners, vessels, the public, and the environment from known or perceived risks.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the UMR during USACE contracted subsurface rock removal operations. These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. While the safety zones listed in this final rule will restrict vessel traffic from entering, transiting, or anchoring within specific sections of the UMR, this rule does allow for the intermittent passing of vessels. Traffic in this area is limited to almost entirely recreational vessels and commercial towing vessels subject to noticed restrictions and requirements. Notifications to the marine community will be made through BNM, LNM, and communications with RIAC. Notices of changes to the safety zones and enforcement times will also be made. Additionally, deviation from the restrictions may be requested from the COTP Ohio Valley or designated representative and will be considered on a case-by-case basis.

3. Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves creation of safety zones from mile 38.0 to mile 46.0, and from mile 78.0 to mile 81.0 UMR. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under the **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

Accordingly, the interim rule amending 33 CFR part 165 that published at 77 FR 75850 on December 26, 2012, is adopted as a final rule without change.

Dated: December 29, 2014.

R.V. Timme,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2015–03331 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0810; FRL–9923–94–Region 4]

Approval and Promulgation of Implementation Plans; Tennessee; Emissions Statement Requirement for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Tennessee state implementation plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on January 5, 2015, to address the emissions statement requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The revision affects Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, and Wilson Counties. Annual emissions statements are required for certain sources in all ozone nonattainment areas. These changes address requirements for the Knoxville, Tennessee 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Knoxville Area) and the Tennessee portion of the Memphis, Tennessee-Arkansas-Mississippi 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Memphis Area). The Knoxville Area is comprised of Knox and Blount County, and a portion of Anderson County, Tennessee, and the Tennessee portion of the Memphis Area is comprised of Shelby

County, Tennessee. Davidson, Rutherford, Sumner, Williamson, Wilson and the remaining portion of Anderson County are not part of an ozone nonattainment area.

DATES: This direct final rule is effective May 4, 2015 without further notice, unless EPA receives adverse comment by April 6, 2015. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0810, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *R4-ARMS@epa.gov.*
3. Fax: (404) 562–9019.
4. Mail: ''EPA–R04–OAR–2014–0810,'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2014–0810. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann can be reached at (404) 562–9029 and via electronic mail at *spann.jane@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the Clean Air Act (CAA or Act) requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Knoxville Area was designated nonattainment for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2009–2011 ambient air quality data. *See* 77 FR 30088 (April 30, 2012). At the time of designation, the Knoxville Area was classified as a Marginal nonattainment area for the 2008 8-hour ozone NAAQS. The Memphis Area was designated nonattainment for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2008–2010 ambient air quality data. *See* 77 FR 30088 (April 30, 2012). At the time of designation, the Memphis Area was classified as a Marginal nonattainment area for the 2008 8-hour ozone NAAQS.

Based on these nonattainment designations, Tennessee was required to develop SIP revisions addressing ozone nonattainment requirements of the CAA for the Knoxville and Memphis Areas. Specifically, pursuant to CAA section 182(a)(3)(B), Tennessee was required to submit a SIP revision addressing emissions statements for these two Areas.

Ground level ozone is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO_X) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_X and VOC. Section 182(a)(3)(B) of the CAA requires each state with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of each NO_X or VOC stationary source located within a nonattainment area, showing the actual emissions of NO_X

and VOC from that source.[1] The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter.

On January 5, 2015, Tennessee submitted a SIP revision revising its existing Rule 1200–03–18–.02, ''General Provisions and Applicability,'' which amends its emissions statement requirements to address the Knoxville and Memphis Areas under CAA section 182(a)(3)(B). EPA is now taking action to approve this SIP revision as meeting the requirements of sections 110 and 182(a)(3)(B) of the CAA for those Areas. More information on EPA's analysis of Tennessee's SIP revision is provided below.

II. Analysis of the State's Submittal

Tennessee's January 5, 2015, submission seeks to modify its SIP to reflect recent changes to the emissions statement requirements in State Rule 1200–03–18–.02(8). EPA initially approved this state regulation into Tennessee's SIP in 1995. *See* 60 FR 10504 (February 27, 1995). At that time, the regulation applied to stationary sources within Davidson, Rutherford, Shelby, Sumner, Williamson, and Wilson Counties. Tennessee modified State Rule 1200–03–18–.02(8) in 2014 to include Anderson, Blount, and Knox counties; clarify that all owners or operators of stationary sources with actual emissions of 25 tons per year or more of VOC or NO_X within these nine counties must generate emissions statements; and allow subject sources in counties that operate their own air pollution program to send these statements to the local permitting authority rather than to the Technical Secretary of the Tennessee Air Pollution Control Board. EPA has determined that this amended regulation meets all of the requirements of CAA section 182(a)(3)(B) for the Knoxville and Memphis Areas because it covers the counties within those nonattainment areas and satisfies the applicability, certification, and other emissions statement criteria contained therein.

III. Final Action

EPA is approving Tennessee's January 5, 2015, SIP revision addressing emissions statement requirements because the State's submission meets the requirements of sections 110 and 182 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 4, 2015 without further notice unless the Agency receives adverse comments by April 6, 2015.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 4, 2015 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 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

[1] A state may waive the emission statement requirement for any class or category of stationary sources which emit less than 25 tons per year of VOCs or NO_X if the state meets the requirements of section 182(a)(3)(B)(ii).

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. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 13, 2015.

V. Anne Heard,

Acting Regional Administrator, Region 4.

Therefore, 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 RR—Tennessee

■ 2. In § 52.2220, table 1 in paragraph (c) is amended by revising the entry ''Section 1200–3–18–.02'' to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter 1200–3–18 Volatile Organic Compounds				
*	*	*	*	*
Section 1200–3–18–.02	General Provisions and Applicability.	12/18/2014	3/5/2015 [*Insert **Federal Register** citation*].	Adds Knox, Blount, and Anderson County to Emissions Statement requirement applicability; clarifies that 25 tons or more NO_X sources are required to submit in addition to VOC sources; and allows subject sources to send statements to the local permitting authority rather than to the Technical Secretary of the Tennessee Air Pollution Control Board.
*	*	*	*	*

* * * * *

[FR Doc. 2015–04489 Filed 3–4–15; 08:45 am]

BILLING CODE 6560–50P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0798; FRL 9923–92–Region 4]

Approval and Promulgation of Implementation Plans; Mississippi: New Source Review—Prevention of Significance Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Mississippi State Implementation Plan (SIP) submitted by the State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), on February 10, 2012. The SIP revision modifies Mississippi's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program to incorporate by reference (IBR) certain Federal PSD regulations. The revision also removes certain language from the SIP that is no longer relevant. EPA is approving Mississippi's February 10, 2012, revision to Mississippi's SIP because the Agency has determined that the changes are consistent with the Clean Air Act (CAA or Act) and EPA's PSD permitting regulations.

DATES: This rule is effective April 6, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0798. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory and Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9088. Ms. Bell can also be reached via electronic mail at *bell.tiereny@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA is taking final action to approve Mississippi's February 10, 2012, SIP revision to IBR [1] federal requirements for NSR permitting. Mississippi's February 10, 2012, SIP revision includes changes to the air quality regulations in Air Pollution Control, Section 5 (APC–S–5)—Regulations for the Prevention of Significant Deterioration of Air Quality. These rule changes were provided to comply with Federal NSR PSD permitting requirements. The February 10, 2012, SIP submission updates the IBR date at APC–S–5 to November 4, 2011, for the Federal PSD permitting regulations at 40 CFR 52.21 and portions of 51.166 to include PSD provisions promulgated in the Carbon Dioxide (CO_2) Biomass Deferral Rule,[2] Particulate Matter (PM_{10}), Surrogate and Grandfather Policy Repeal,[3] and Reasonable Possibility Rule.[4] However, EPA cannot act on the portion of Mississippi's SIP submission that IBR the July 20, 2011, CO_2 Biomass Deferral Rule because the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision on July 12, 2013, in *Center for Biological Diversity* v. *EPA,* 722 F.3d 401 (D.C. Cir. 2013) vacating the rule. Accordingly, Mississippi has since submitted a letter to EPA dated October 22, 2014, requesting that the Biomass Deferral Rule provisions from the February 10, 2012, SIP submission be withdrawn from EPA's consideration; therefore these provisions are no longer before EPA for consideration. The letter can be found in Docket ID: EPA–R04–OAR–2012–0798.

On August 6, 2014, EPA published a proposed rulemaking to approve the aforementioned changes to MDEQ's NSR program at APC–S–5. *See* 79 FR 45733. Comments on the proposed rulemaking were due on or before September 5, 2014. No comments, adverse or otherwise, were received on EPA's August 6, 2014, proposed rulemaking. Pursuant to section 110 of the CAA, EPA is now taking final action to approve the changes to Mississippi's NSR program as provided in EPA's August 6, 2014, proposed rulemaking. EPA's August 6, 2014, proposed rulemaking contains more detailed information regarding Mississippi's SIP revision being approved today, and the rationale for today's final action. Detailed information regarding the Reasonable Possibility Rule and PM_{10} Surrogate and Grandfather Policy Repeal can be found in EPA's August 6, 2014, proposed rulemaking as well as in the aforementioned final rulemakings. *See* 72 FR 72607 (December 21, 2007) and 76 FR 28646 (May 18, 2011), respectively. These rulemakings are summarized below. This final action approves a revision to the Mississippi SIP that (1) IBR the PSD provisions promulgated in the PM_{10} Surrogate and Grandfather Policy Repeal and the Reasonable Possibility Rule, and (2) removes language from the SIP relating to the PM_{10} Surrogate and Grandfather Policy and the Reasonable Possibility Rule that is no longer relevant.

A. Reasonable Possibility Rule

On December 14, 2007, EPA issued a final rule that provides additional explanation and more detailed criteria to clarify the ''reasonable possibility'' recordkeeping and reporting standard found in 40 CFR 52.21(r)(6) and 40 CFR 51.165(a)(6) and 51.166(r)(6) of the 2002 NSR reform rules.[5] The ''reasonable possibility'' standard establishes for sources and reviewing authorities the criteria for determining when recordkeeping and reporting are required for a major stationary source undergoing a physical change or change in the method of operation that does not trigger major NSR permitting requirements. The standard also specifies the recordkeeping and reporting requirements for such sources. The December 14, 2007, final rule clarified and required recordkeeping and reporting when the projected increase in emissions to which the ''reasonable possibility'' test applies equals or exceeds 50 percent of the Act's NSR significance levels for any pollutant. *See* 72 FR 72607. NSR significance levels are pollutant-specific threshold emission rates (tons per year). If a project results in an emissions increase of a regulated NSR pollutant that equals or exceeds the significance level for that pollutant, the increase is a ''significant emissions increase'' and NSR permitting requirements would apply. EPA's December 14, 2007, rulemaking clarifying the reasonable possibility provision was in response to the June 24, 2005, remand from the D.C. Circuit Court requiring that EPA either provide an acceptable explanation for its ''reasonable possibility'' standard or devise an appropriately supported alternative.

MDEQ adopted the NSR Reform rules in the SIP on July 28, 2005, but did not incorporate the ''reasonable possibility'' provision into their SIP at APC–S–5 due to the remand. In its 2005 PSD regulations at APC–S–5(2.6), MDEQ excluded the following phrase from its IBR of 40 CFR 52.21: ''In circumstances where there is a reasonable possibility, within the meaning of paragraph (r)(6)(vi) of 40 CFR 52.21, that a project that is not a part of a major modification may result in a significant emissions increase.'' [6] MDEQ's February 10, 2012, SIP revision removes the ''reasonable possibility'' exclusion at APC–S–5(2.6) and IBR EPA's December 21, 2007, revised definition of ''reasonable possibility'' into its SIP.

B. PM_{10} Surrogate and Grandfather Policy Repeal

In the NSR $PM_{2.5}$ Rule,[7] EPA finalized regulations to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas. This rule included a grandfather provision that allowed PSD applicants that submitted their complete permit application prior to the July 15, 2008, effective date of the NSR $PM_{2.5}$ Rule to continue to rely on the 1997 PM_{10} Surrogate Policy rather than amend

[1] Throughout this rulemaking the acronym IBR means ''incorporate by reference'' or ''incorporates by reference.''

[2] ''Deferral for CO_2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs,'' Final Rule, 76 FR 43490, (July 20, 2011) (hereinafter referred to as the ''CO_2 Biomass Deferral Rule'').

[3] Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$); Final Rule To Repeal Grandfather Provision, 76 FR 28646 (May 18, 2011) (hereafter referred to as the ''PM_{10} Surrogate and Grandfather Policy Repeal'').

[4] ''Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping'' Final Rule, 72 FR 72607, (December 21, 2007) (hereinafter referred to as the ''Reasonable Possibility Rule'').

[5] Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping, 72 FR 72607 (December 21, 2007) (hereafter referred to as the Reasonable Possibility Rule). For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002) and *http://www.epa.gov/nsr.*

[6] On July 10, 2006, EPA published the final rulemaking approving Mississippi's SIP revision adopting the NSR Reform Rule.1 *See* 71 FR 38773. In the approval, EPA acknowledged that Mississippi's rule did not contain the reasonable possibility language that was included in the remand and stated, ''EPA continues to move forward with its evaluation of the portion of its NSR reform rules that were remanded by the D.C. Circuit and is preparing to respond to the D.C. Circuit's remand. EPA's final decision with regard to the remand may require EPA to take further action on this portion of Mississippi's rules.''

[7] This rulemaking established regulations to implement the NSR program for the $PM_{2.5}$ NAAQS on May 16, 2008. *See* 73 FR 28321. As a result of EPA's final NSR $PM_{2.5}$ Rule, states were required to submit SIP revisions to EPA no later than May 16, 2011, to address these requirements for both the PSD and NNSR programs. On May 12, 2011, Mississippi submitted a SIP revision to IBR the NSR $PM_{2.5}$ Rule into the state's SIP at APC–S–5. EPA approved portions of the NSR $PM_{2.5}$ rule into the Mississippi SIP PSD program on September 26, 2012. *See* 77 FR 59095.

their application to demonstrate compliance directly with the new $PM_{2.5}$ requirements. *See* 73 FR 28321. On May 12, 2011, Mississippi submitted a SIP revision that excluded the PM_{10} surrogate grandfathering provision at 40 CFR 52.21(i)(1)(xi) from the state's PSD regulations. EPA approved portions of Mississippi's May 12, 2011, SIP revision on September 26, 2012 (77 FR 59095). On May 18, 2011, EPA took final action to repeal the $PM_{2.5}$ grandfathering provision at 40 CFR 52.21(i)(1)(xi). *See* 76 FR 28646. Mississippi's February 10, 2012, SIP revision IBR the version of 40 CFR 52.21 that includes the PM_{10} Surrogate and Grandfathering Rule Repeal and removes the May 12, 2011, PM_{10} surrogate exclusion language from the PSD regulations at APC–S–5.

II. This Action

EPA is taking final action to approve Mississippi's February 10, 2012, SIP submission that updates the IBR date in Mississippi's SIP (at APC–S–5) to November 4, 2011, for 40 CFR 52.21 and portions of 51.166, to include PSD provisions promulgated in the PM_{10} Surrogate and Grandfather Policy Repeal and Reasonable Possibility Rule. As stated above and in EPA's August 6, 2014, proposed rulemaking, EPA is not approving the CO_2 Biomass Deferral Rule into the Mississippi SIP because of the D.C. Circuit court's July 12, 2013, decision to vacate the rule. Accordingly, on October 22, 2014, MDEQ submitted a letter to EPA requesting that the CO_2 Biomass Deferral Rule provisions in the February 10, 2012, SIP submission be withdrawn from EPA consideration; therefore these provisions are no longer before EPA for consideration. Regarding the 2007 Reasonable Possibility Rule, Mississippi's February 10, 2012, SIP revision removes the ''reasonable possibility'' exclusion at APC–S–5(2.6) and IBR EPA's December 21, 2007, revised definition of ''reasonable possibility.''

Mississippi's February 10, 2012, SIP submittal also incorporates into the Mississippi SIP the version of 40 CFR 52.21 as of November 4, 2011, which includes the May 18, 2011, PM_{10} Surrogate and Grandfather Policy Repeal. Thus, the language previously approved into Mississippi SIP at APC–S–5(2.7) that excludes the grandfathering provision is no longer necessary. Mississippi's February 10, 2012, SIP submittal removes this unnecessary language.

III. Final Action

EPA is taking final action to approve Mississippi's February 10, 2012, SIP revision that (1) updates the IBR date in APC–S–5 to November 4, 2011, for the Federal PSD permitting regulations at 40 CFR 52.21 and portions of 51.166 to include the Reasonable Possibility Rule and the PM_{10} Surrogate and Grandfather Policy Repeal, and (2) removes language from the SIP at APC–S–5 pertaining to the PM_{10} Surrogate and Grandfather Policy and the Reasonable Possibility Rule that is no longer relevant. EPA has made the determination that these changes to Mississippi's SIP are approvable because they are consistent with section 110 of the CAA and EPA's PSD permitting regulations.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 4, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 13, 2015.

V. Anne Heard,

Acting Regional Administrator, Region 4.

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 Z—Mississippi

■ 2. Section 52.1270(c), is amended by revising the entries under the heading ''APC–S–5'' to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
APC–S–5 Regulations for Prevention of Significant Deterioration for Air Quality				
All		12/14/2011	3/5/2015 [Insert **Federal Register** citation].	The approval does not include incorporation by reference of the CO2 Biomass Deferral which was withdrawn by the State on October 22, 2014. On 9–26–2012, EPA approved a revision to APC–S–5 which incorporated by reference the regulations found at 40 CFR 52.21 as of March 22, 2011. This approval did not include Mississippi's revision to IBR (at Rule APC–S–5) the term ''particulate matter emissions'' (as promulgated in the May 16, 2008 NSR $PM_{2.5}$ Rule (at 40 CFR 51.166(b)(49)(vi)) and the $PM_{2.5}$ SILs threshold and provisions (as promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increment-SILs–SMC Rule at 40 CFR 52.21(k)(2)). **Note:** On October 22, 2014, Mississippi withdrew the $PM_{2.5}$ SILs provision from Mississippi's May 18, 2011 SIP Submission. On December 29, 2010, EPA approved a revision to APC–S–5 which incorporated by reference the regulations found at 40 CFR 52.21 as of September 13, 2010. *See* 75 FR 81858. That action approved the incorporation by reference with the exception of the phrase ''except ethanol production facilities producing ethanol by natural fermentation under the North American Industry Classification System (NAICS) codes 325193 or 312140,'' APC–S–5 incorporated by reference from 40 CFR 52.21(b)(1)(i)(a) and (b)(1(iii)(t). Additionally, that final EPA action did not incorporate by reference, into the Mississippi SIP, the administrative regulations that were amended in the Fugitive Emissions Rule (73 FR 77882) and are stayed through October 3, 2011.
*	*	*	*	* * *

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[FR Doc. 2015–05072 Filed 3–4–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–8373]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood

insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region V				
Indiana: Brooksburg, Town of, Jefferson County.	180105	September 18, 1975, Emerg; December 1, 1983, Reg; April 2, 2015, Susp.	April 2, 2015 ..	April 2, 2015
Cambridge City, Town of, Wayne County	180281	April 28, 1975, Emerg; October 15, 1981, Reg; April 2, 2015, Susp.	.....do	Do.
Centerville, Town of, Wayne County	180624	N/A, Emerg; April 16, 2014, Reg; April 2, 2015, Susp.	.....do	Do.
Dupont, Town of, Jefferson County	180106	April 19, 1993, Emerg; November 1, 1995, Reg; April 2, 2015, Susp.	.....do	Do.
Fountain City, Town of, Wayne County	180282	January 2, 1981, Emerg; November 4, 1981, Reg; April 2, 2015, Susp.	.....do	Do.
Greens Fork, Town of, Wayne County	180283	May 30, 1975, Emerg; November 4, 1981, Reg; April 2, 2015, Susp.	.....do	Do.
Hagerstown, Town of, Wayne County	180284	January 29, 1975, Emerg; October 15, 1981, Reg; April 2, 2015, Susp.	.....do	Do.
Hanover, Town of, Jefferson County	180326	April 24, 1975, Emerg; September 30, 1976, Reg; April 2, 2015, Susp.	.....do	Do.
Jefferson County, Unincorporated Areas	180104	October 5, 1973, Emerg; October 1, 1992, Reg; April 2, 2015, Susp.	.....do	Do.
Jennings County, Unincorporated Areas	180108	October 8, 1992, Emerg; November 1, 1995, Reg; April 2, 2015, Susp.	.....do	Do.
Madison, City of, Jefferson County	180107	November 12, 1971, Emerg; September 30, 1977, Reg; April 2, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Milton, Town of, Wayne County	180285	May 20, 1975, Emerg; October 15, 1981, Reg; April 2, 2015, Susp.	.....do	Do.
North Vernon, City of, Jennings County	180109	August 4, 1975, Emerg; January 3, 1985, Reg; April 2, 2015, Susp.	.....do	Do.
Richmond, City of, Wayne County	180287	April 1, 1975, Emerg; August 16, 1982, Reg; April 2, 2015, Susp.	.....do	Do.
Spring Grove, Town of, Wayne County	180286	July 10, 1975, Emerg; September 2, 1982, Reg; April 2, 2015, Susp.	.....do	Do.
Vernon, Town of, Jennings County	180110	May 9, 1975, Emerg; October 18, 1983, Reg; April 2, 2015, Susp.	.....do	Do.
Wayne County, Unincorporated Areas	180280	March 24, 1975, Emerg; September 2, 1982, Reg; April 2, 2015, Susp.	.....do	Do.
Minnesota: Mahnomen, City of, Mahnomen County.	270266	May 8, 1975, Emerg; September 2, 1988, Reg; April 2, 2015, Susp.	.....do	Do.
Mahnomen County, Unincorporated Areas	270671	November 15, 1974, Emerg; May 15, 1985, Reg; April 2, 2015, Susp.	.....do	Do.
Waubun, City of, Mahnomen County	270772	July 25, 1997, Emerg; N/A, Reg; April 2, 2015, Susp.	.....do	Do.
Ohio: Botkins, Village of, Shelby County	390504	August 22, 1975, Emerg; September 29, 1978, Reg; April 2, 2015, Susp.	.....do	Do.
Jackson Center, Village of, Shelby County	390505	November 13, 2008, Emerg; April 1, 2009, Reg; April 2, 2015, Susp.	.....do	Do.
Port Jefferson, Village of, Shelby County	390506	May 14, 1975, Emerg; September 2, 1988, Reg; April 2, 2015, Susp.	.....do	Do.
Russia, Village of, Shelby County	390880	June 3, 1981, Emerg; September 30, 1988, Reg; April 2, 2015, Susp.	.....do	Do.
Shelby County, Unincorporated Areas	390503	April 3, 1979, Emerg; September 2, 1982, Reg; April 2, 2015, Susp.	.....do	Do.
Sidney, City of, Shelby County	390507	December 3, 1974, Emerg; November 17, 1982, Reg; April 2, 2015, Susp.	.....do	Do.
Region VII				
Missouri: Dearborn, City of, Platte County	290504	August 9, 1974, Emerg; June 15, 1979, Reg; April 2, 2015, Susp.	.....do	Do.
Edgerton, City of, Platte County	290291	October 7, 1974, Emerg; June 4, 1980, Reg; April 2, 2015, Susp.	.....do	Do.
Ferrelview, Village of, Platte County	290895	N/A, Emerg; March 30, 2009, Reg; April 2, 2015, Susp.	.....do	Do.
Lake Waukomis, City of, Platte County	290700	March 20, 1979, Emerg; April 15, 1980, Reg; April 2, 2015, Susp.	.....do	Do.
Parkville, City of, Platte County	290294	July 3, 1975, Emerg; May 15, 1978, Reg; April 2, 2015, Susp.	.....do	Do.
Platte City, City of, Platte County	290295	May 22, 1975, Emerg; May 15, 1978, Reg; April 2, 2015, Susp.	.....do	Do.
Platte County, Unincorporated Areas	290475	March 25, 1974, Emerg; December 18, 1979, Reg; April 2, 2015, Susp.	.....do	Do.
Riverside, City of, Platte County	290296	May 29, 1973, Emerg; September 30, 1977, Reg; April 2, 2015, Susp.	.....do	Do.
Tracy, City of, Platte County	290297	July 25, 1974, Emerg; June 15, 1979, Reg; April 2, 2015, Susp.	.....do	Do.

*-do- = Ditto. Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: February 27, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–05095 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–8375]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this

rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Bret Gates, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia: Richmond County, Unincorporated Areas.	510310	January 20, 1975, Emerg; March 16, 1989, Reg; April 16, 2015, Susp.	April 16, 2015 ...	April 16, 2015.

*-do- = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: February 27, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–05084 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140218151–5171–02]

RIN 0648–BD98

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Off Alaska

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 100 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 91 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). This final rule adds regulations to improve reporting of grenadiers, limit retention of grenadiers, and prevent direct fishing for grenadiers by federally permitted groundfish fishermen. This final rule is necessary to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law.

DATES: Effective April 6, 2015.

ADDRESSES: Electronic copies of Amendment 100 to the BSAI FMP, Amendment 91 to the GOA FMP, and the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (IRFA) (collectively, Analysis) prepared for this action are available from *www.regulations.gov* or from the NMFS Alaska Region Web site at *alaskafisheries.noaa.gov.* The 2012 Assessment of the Grenadier Stock Complex in the Gulf of Alaska, Eastern Bering Sea, and Aleutian Islands (2012 stock assessment) is available on the NMFS Web site at *http://www.afsc.noaa.gov/REFM/Docs/2012/GOAgrenadier.pdf.* The 2014 Assessment of the Grenadier Stock Complex in the Gulf of Alaska, Eastern Bering Sea, and Aleutian Islands (2014 stock assessment) is available on the NMFS Web site at *http://www.afsc.noaa.gov/REFM/Docs/2014/BSAIgrenadier.pdf.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; 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: This final rule implements Amendment 100 to the BSAI FMP and Amendment 91 to the GOA FMP, collectively Amendments 100/91. NMFS published a notice of availability for Amendments 100/91 on May 5, 2014 (79 FR 25558). The comment period on Amendments 100/91 ended on July 7, 2014. NMFS published a proposed rule to implement Amendments 100/91 on May 14, 2014 (79 FR 27557). The comment period on the proposed rule ended on June 13, 2014. NMFS approved Amendments 100/91 on August 4, 2014. Additional detail on this action is provided in the notice of availability for Amendment 100/91 (79 FR 25558, May 5, 2014) and the proposed rule (79 FR 27557, May 14, 2014). NMFS received three comment letters on Amendments 100/91 and the proposed rule.

NMFS manages groundfish fisheries in the exclusive economic zone off Alaska under the BSAI FMP and GOA FMP. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Background

The groundfish fisheries in the BSAI and GOA incidentally catch grenadiers (family *Macrouridae*) while harvesting other groundfish species. Grenadiers caught off Alaska are comprised of three species: Giant grenadiers (*Albatrossia pectoralis*), Pacific grenadiers (*Coryphaenoides acrolepis*), and popeye greandiers (*Coryphaenoides cinereus*). More than 90 percent of all grenadiers incidentally caught or obtained in surveys are giant grenadiers. Pacific grenadiers and popeye grenadiers typically occur at depths greater than most commercial fisheries or surveys and are rarely encountered (see Section 3.2 of the Analysis for additional detail).

For many years, the Council has considered how best to classify grenadiers in the FMPs. As explained in Section 1.2 of the Analysis (see **ADDRESSES**), from 1980 to 2010, grenadiers were included in the FMPs in the nonspecified species category. Nonspecified species were defined as a residual category of species and species groups which had no current or foreseeable economic value or ecological importance, which were taken in the groundfish fishery as incidental catch and were in no apparent danger of depletion, and for which virtually no data existed that would allow population assessments.

In 2010, the Council recommended and NMFS removed the nonspecified species category from the FMPs when the FMPs were revised to meet the requirements of the Magnuson-Stevens Act as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2007 (Pub. L. 109–479). The amended Magnuson-Stevens Act required NMFS and the Council to establish annual catch limits (ACLs) and accountability measures (AMs) for fisheries in the FMP. The Council recommended and NMFS implemented Amendment 96 to the BSAI FMP and Amendment 87 to the GOA FMP to meet these requirements (Amendments 96/87, 75 FR 61639, October 6, 2010). The nonspecified species, including grenadiers, were removed from the FMPs because these species were too poorly understood to set ACLs and AMs or to develop a management regime.

Amendments 96/87 also amended the FMPs to organize the species remaining in the FMPs according to the National Standard 1 guidelines (§ 600.310). In the National Standard 1 guidelines, NMFS recommends two categories for species in an FMP: ''Stocks in the fishery'' and ''ecosystem component (EC) species.''

''Stocks in the fishery'' are defined in the National Standard 1 guidelines (§ 600.310(d)(2)). ''Stocks in the fishery'' include (1) stocks that are targeted, and retained for sale or personal use; (2) stocks that are not directly targeted but are taken incidentally in other directed fisheries, and are retained for sale or personal use; and (3) stocks not targeted or retained but are taken as incidental

catch and for which overfishing or overfished status may be a concern.

NMFS created the EC species category to encourage ecosystem approaches to management and to incorporate ecosystem considerations for species that are not ''stocks in the fishery'' (74 FR 3178, January 16, 2009). EC species are defined in the National Standard 1 guidelines (§ 600.310(d)(5)). In order to be designated an EC species, the species or species group should be: (1) A non-target species or species group; (2) not subject to overfishing, overfished, or approaching an overfished condition; (3) not likely to become subject to overfishing or overfished in the absence of conservation and management measures; and (4) not generally retained for sale or personal use.

Amendments 96/87 established the EC category in the FMPs, and designated prohibited species (which include salmon, steelhead trout, crab, halibut, and herring) and forage fish (as defined in Table 2c to part 679 and § 679.20(i)) as EC species in the FMPs. For EC species, NMFS maintained conservation regulations applicable to the specific EC species. These include prohibiting the retention of prohibited species, prohibiting directed fishing for forage fish, and establishing a limit on the incidental harvest of forage fish while directed fishing for other groundfish species, known as a maximum retainable amount (MRA), of 2 percent. Regulations at § 679.2 define the term ''directed fishing.'' Regulations at § 679.20(e) describe the application and calculation of MRAs.

When the Council recommended Amendments 96/87, it recognized that as information on a nonspecified species improves, it would consider moving that species back into the FMP, either as a ''stock in the fishery'' or as an EC species. In 2010, the Council initiated an analysis to consider moving grenadiers back into the FMPs. The Council determined that sufficient information exists for grenadiers to address them in the FMPs, as reflected in the Analysis prepared for this action (see **ADDRESSES**). The Analysis provides the best available information on grenadiers and considers two action alternatives: Include grenadiers in the FMP as an EC species, or include grenadiers in the FMP as ''stocks in the fishery.''

Amendments 100/91

In February 2014, the Council voted unanimously to recommend Amendments 100/91 to the FMPs to add grenadiers to the EC category in the FMPs. The Council and NMFS recognized that adding grenadiers to the FMPs in the EC category acknowledges their role in the ecosystem and limits the groundfish fisheries' potential impact on grenadiers. Adding grenadiers to the EC category allows for improved data collection and catch monitoring appropriate for grenadiers given their abundance, distribution, and catch.

The Council considered the requirements of the Magnuson-Stevens Act and the National Standard 1 guidelines in making its recommendation. The preamble to the proposed rule (79 FR 27557, May 14, 2014) and the Analysis prepared for this action (see **ADDRESSES**) describe how grenadiers meet the four factors for inclusion into the EC category rather than as a ''stock in the fishery.'' That description is briefly summarized here.

Grenadiers are not a targeted species group and are not generally retained for sale or personal use. Grenadiers have no current or foreseeable economic value. Section 3.4 of the Analysis explains that grenadiers are incidentally caught in deep water trawl and hook-and-line fisheries, but are not actively targeted or retained. Thus, there is no evidence that grenadiers are presently being targeted or purposely retained.

Grenadiers are not generally retained for sale or personal consumption. As explained in Section 3.4.4 of the Analysis, attempts to create a marketable product from giant grenadiers caught off Alaska have been unsuccessful given the poor quality of the resulting product. No current market exists for grenadiers, and it is unlikely that one will be developed in the foreseeable future.

Grenadiers are not generally retained for personal use. As explained in Section 3.4 of the Analysis, a small portion of the total catch of grenadiers is known to be retained for use as bait (*e.g.,* 3 metric tons (mt) (6,614 lb.) in the GOA in 2013). Currently, reporting requirements on the retention of grenadiers for bait is not required, but is recorded voluntarily. This information is the best available, and it indicates that grenadiers are not generally retained for bait.

Grenadiers are not subject to overfishing, overfished, or approaching an overfished condition, and are not likely to become subject to overfishing or overfished in the absence of conservation and management measures. As explained in Section 3.3 of the Analysis, NMFS has been conducting a stock assessment for grenadiers since 2006. Since 2010, the stock assessment has been used to estimate grenadier biomass, an overfishing level (OFL), and an acceptable biological catch (ABC). NMFS estimates the incidental catch of grenadiers in the groundfish fisheries using observer data collected under the North Pacific Groundfish and Halibut Observer Program (see regulations at § 679.50).

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that grenadier biomass in the BSAI is 1,286,734 mt (2.8 billion lb.), the OFL is 100,365 mt (211 million lb.), the ABC is 75,274 mt (165 million lb.), and the estimated catch is 5,320 mt (11.7 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the BSAI represents approximately 0.4 percent of the estimated biomass, approximately 5 percent of the estimated OFL, and approximately 7 percent of the estimated ABC.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that grenadier biomass in the GOA is 524,624 mt (1.2 billion lb.), the OFL is 40,921 mt (90 million lb.), the ABC is 30,691 mt (68 million lb.), and the estimated catch is 8,769 mt (19 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the GOA represents approximately 1 percent of the estimated biomass, approximately 21 percent of the estimated OFL, and approximately 28 percent of the estimated ABC.

Final Rule

In addition to adding grenadiers to the EC category in the FMPs under Amendments 100/91, the Council recommended NMFS implement regulations for groundfish fishery participants to limit and monitor the catch of grenadiers. This final rule will:

- Require recordkeeping and reporting of grenadiers in the BSAI and GOA groundfish fisheries;
- Add two grenadier species codes;
- Add grenadier product recovery rates (PRRs);
- Prohibit directed fishing for grenadiers; and
- Establish a grenadier MRA of 8 percent.

To require recordkeeping and reporting of grenadiers, this final rule adds a definition for grenadiers and revises the definition for non-allocated or nonspecified species at § 679.2. This final rule also modifies regulations at § 679.5 to require a vessel operator or manager in a BSAI or GOA groundfish fishery to record and report retained and discarded grenadier catch. NMFS notes that this regulation is expected to improve the collection of information on the catch and retention of grenadiers. Specifically, this regulation improves

the ability for NMFS to monitor the retention of grenadiers for use as bait, or in the unlikely event that grenadiers are retained for sale.

This final rule modifies regulations in Table 2c to part 679 to add two grenadier species codes so that NMFS can track the retention of giant grenadiers and other grenadier species. This final rule removes grenadiers from Table 2d to part 679. Section 2 of the Analysis notes that nearly all grenadiers encountered in the groundfish fisheries are giant grenadiers; therefore, it is not necessary to establish more than two species codes for grenadiers (one for giant grenadiers and one for all other grenadier species) to provide the information necessary to adequately monitor grenadier catch.

This final rule modifies Table 3 to part 679 to include PRRs for grenadiers of 100 percent for whole fish, 50 percent for headed and gutted fish, and 24.3 percent for fillets. These PRRs are established based on food science studies of grenadiers that estimated product recovery rates (see Section 2.2 of the Analysis for additional detail). In this final rule, NMFS also adds the standard PRRs to Table 3 of 17 percent for meal, zero percent for infested or decomposed fish, and 100 percent for discards for grenadiers. NMFS uses a standard PRR of 17 percent for meal, zero percent for infested or decomposed fish, and 100 percent for discards for all groundfish species. The proposed rule inadvertently omitted a row in Table 3 to part 679 that assigns these standard PRRs to grenadiers. This final rule corrects that administrative error in the proposed rule.

These regulatory changes enable NMFS to collect data on the harvest and use of grenadier catch retained in the groundfish fisheries. The changes in recordkeeping and reporting, definition of grenadier species codes, and grenadier PRRs aid NMFS in determining if grenadiers become generally retained for sale or personal use, and provide the information needed in any potential future consideration to modify the designation of grenadiers in the FMPs as a ''stock in the fishery'' should a fishery for grenadiers develop.

This final rule revises regulations at § 679.20(i) and § 679.22(i) to prohibit directed fishing for grenadiers at all times in the BSAI and GOA groundfish fisheries. NMFS is prohibiting directed fishing as a precautionary measure to prevent groundfish fishermen from directed fishing for grenadiers without a clear and conscious decision by the Council and NMFS to provide that opportunity. This prohibition is consistent with the regulations for other EC species. NMFS prohibits directed fishing for forage fish and prohibits retaining or possessing prohibited species, except as provided under the Prohibited Species Donation Program. Prohibiting directed fishing prevents the development of an uncontrolled fishery on grenadiers in the absence of management measures.

This final rule adds a grenadier incidental catch species MRA of 8 percent to Table 10 to part 679 and Table 11 to part 679. The MRA is the percentage of the retained catch of a species closed for directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species). An 8 percent MRA would allow vessels fishing for groundfish to retain a quantity of grenadiers equal to but no more than 8 percent of the round weight or round weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. The requirement to not exceed MRA proportions at any time during a trip limits the vessel operators' ability to maximize incidental catch of grenadiers.

Changes From the Proposed Rule

NMFS made one change to Table 3 to part 679 to include standard PRRs for meal, infested or decomposed fish, and discarded fish. As explained above, these standard PRRs were inadvertently excluded from the proposed rule. NMFS made no changes to the final rule in response to comments.

Response to Public Comments

NMFS received three letters of public comment during the public comment periods for Amendments 100/91 and the proposed rule. NMFS received letters from environmental organizations and a member of the public. NMFS summarized these letters into 17 separate comments, and responds to them below.

Comment 1: Disapprove Amendments 100/91 because they violate the statutory requirements of the Magnuson-Stevens Act. The Magnuson-Stevens Act states that the agency must prepare an FMP for each fishery that requires conservation and management. The EC species classification for grenadiers is not consistent with the Magnuson-Stevens Act conservation and management requirements. Categorizing grenadiers as ''stocks in the fishery'' would better minimize bycatch.

Disapprove Amendments 100/91 because they do not contain measures to minimize grenadier bycatch in the groundfish fisheries. Include a prohibited species catch (PSC) limit for grenadiers to limit groundfish fishing once that PSC limit is reached.

Response: In approving Amendments 100/91, NMFS determined that these amendments comply with the statutory requirements of the Magnuson-Stevens Act. As explained in the preamble to the proposed rule, the Council and NMFS reviewed the available information and determined that grenadiers should not be classified as ''stocks in the fishery'' and that they do not require conservation and management under section 303(a) of the Magnuson-Stevens Act. As noted in this preamble, and the preamble to the proposed rule, the Council and NMFS determined that grenadiers meet all of the criteria for classification as an EC species consistent with National Standard 1 guidelines (§ 600.310).

NMFS notes that the Council can analyze and recommend, and NMFS can implement, any measures appropriate to address grenadier bycatch at any time and regardless of whether grenadiers are classified as ''stocks in the fishery'' or in the EC category. PSC limits are used to limit the total amount of incidental catch of BSAI crab, Chinook salmon, halibut, and herring in the groundfish fisheries. BSAI crab, Chinook salmon, halibut, and herring are in the EC category under the BSAI FMP and GOA FMP. PSC limits have been established for these species because they are economically and culturally valuable species that are harvested in other directed fisheries besides the groundfish fishery. PSC limits ensure that catch in the groundfish fisheries do not limit harvest opportunities in other fisheries, or risk conditions that could result in total catch exceeding established limits. These conditions do not apply to grenadiers. Grenadiers are not harvested in any directed fishery, and total catch is well below the estimated OFLs and ABCs, as noted earlier in this preamble. Amendments 100/91 and this final rule implement measures appropriate to limit the impact of groundfish fisheries on grenadiers and collect the fishery data necessary for the Council to assess whether additional measures to minimize bycatch are warranted.

Comment 2: The Council and NMFS have not demonstrated and cannot demonstrate that the requisite factors for EC classification of grenadiers have been met.

Response: Grenadiers meet the National Standard 1 guidelines factors that should be considered for EC classification (§ 600.310(d)(5)). This preamble, the preamble to the proposed rule (79 FR 27557, May 14, 2014), and Section 2 of the Analysis describe how

grenadiers meet the specific criteria for EC classification in the National Standard 1 guidelines.

In summary, even though there are no restrictions on the catch of grenadiers now, grenadiers are not a targeted species group and are not generally retained for sale. No current market exists for grenadiers, and it is unlikely that one will be developed in the foreseeable future. Grenadiers are not generally retained for personal use, although a small portion of the total catch of grenadiers is known to be retained for use as bait in hook-and-line fisheries. The best available information indicates that grenadiers are not subject to overfishing, overfished, or approaching an overfished condition, and are not likely to become subject to overfishing or overfished in the absence of conservation and management measures. See response to Comment 4 for a more detailed response to the concern that grenadiers may be overfished. See response to Comment 5 for a more detailed response to the concern that grenadiers are experiencing overfishing.

Comment 3: The Council did not heed expert advice when deciding not to include grenadiers as ''stocks in the fishery.'' The grenadier stock assessment authors, the Council's Scientific and Statistical Committee (SSC), the BSAI and GOA Groundfish Plan Teams, and members of the public made clear and repeated appeals that the grenadier stocks in Alaska require conservation and management. Managing grenadiers as ''stocks in the fishery'' is consistent with those requests.

Response: The Council and NMFS considered the recommendations in the grenadier stock assessment, and from the BSAI and GOA Groundfish Plan Teams, the SSC, and the public in developing Amendments 100/91 and this final rule. These recommendations are summarized below.

The 2012 stock assessment (see **ADDRESSES**) recommended that grenadiers be categorized as ''stocks in the fishery'' because (1) giant grenadier are taken in large amounts as bycatch in commercial fisheries; (2) the potential exists for the future development of a targeted fishery on giant grenadier; and (3) they are slow growing and late to mature and therefore vulnerable to overfishing. The 2012 stock assessment also explains that an EC classification for grenadiers in the BSAI may be acceptable from a biological and management standpoint because giant grenadiers are very abundant in this area and catches have been relatively small relative to biomass, OFL, and ABC limits calculated in the stock assessment. Thus, the 2012 stock assessment concluded that overfishing of grenadiers in the BSAI is unlikely in the foreseeable future. The 2012 stock assessment also notes that catches could increase without endangering the stocks, and the recommended OFLs and ABCs appear to be sufficiently conservative to protect the stocks.

The Council addressed the management concerns expressed in the 2012 stock assessment in recommending Amendments 100/91 and this final rule. Importantly, the Council and NMFS recognize that the potential exists for the future development of a targeted fishery on grenadiers. Therefore, the Council recommended, and this final rule implements, a prohibition of directed fishing to prevent a target fishery on grenadiers. Prohibiting directed fishing on grenadiers also prevents overfishing because, under status quo, a directed fishery could occur at any time without any catch limits. The Council also addressed the analysis of grenadiers' vulnerability to overfishing. As shown in the 2012 stock assessment, the amount of grenadier bycatch was far below the estimated OFL. Overfishing could only occur if catch increased dramatically with a directed fishery. The final rule's prohibition on a directed fishery addresses the potential vulnerability of grenadiers to overfishing.

Further, the 2012 stock assessment identifies problems with leaving grenadiers as a nonspecified species. The 2012 stock assessment notes that under current management ''. . . there are no limitations on catch or retention, no reporting requirements, and no official tracking of grenadier catch by management.'' This final rule limits grenadier catch and limits grenadier retention, implements reporting requirements for grenadiers, and officially tracks grenadier catch by requiring the reporting of grenadier catch and the use of any retained grenadiers.

In September 2013, NMFS staff presented a summary of a preliminary analysis to include grenadiers in the groundfish FMPs to the BSAI and GOA Groundfish Plan Teams. The BSAI and GOA Groundfish Plan Teams discussed whether any action is needed because grenadiers appear to lack any conservation concerns presently and there is no directed fishery or market for grenadiers. Minutes from the BSAI and GOA Groundfish Plan Teams are available on the Council's Web site at *http://www.npfmc.org/wp-content/PDF documents/membership/PlanTeam/ Groundfish/JOINT913minutes.pdf.*

Amendments 100/91 and this final rule are consistent with the BSAI Groundfish Plan Team's recommendation. The BSAI Groundfish Plan Team recommended that the Council consider adding grenadiers to the EC category under the BSAI FMP. The BSAI Groundfish Team's recommendation was based on the lack of a clear justification for inclusion as a ''stock in the fishery'' (and subsequent inclusion under the 2 million mt optimal yield cap) given the economic costs to the BSAI groundfish fisheries (and the Nation) of foregone harvests in other, more valuable fisheries. The BSAI Groundfish Plan Team acknowledged that including grenadiers in the EC category and requiring the reporting of catch would be one way to improve data on retained catch and enhance fishery monitoring

The GOA Groundfish Plan Team did recommend that the Council consider adding grenadiers to the GOA FMP as ''stocks in the fishery.'' The GOA Groundfish Plan Team's recommendation was based on the lack of required catch accounting and monitoring of the GOA grenadier catch under the status quo and lack of economic costs to the GOA groundfish fisheries by including grenadiers as ''stocks in the fishery.'' The GOA Groundfish Plan Team concluded that management as ''stocks in the fishery'' would allow grenadiers to be targeted if a market develops without the need for a further FMP amendment. Note that the lack of a potential economic cost to include grenadiers as ''stocks in the fishery'' in the FMP is not one of the factors that the Council or NMFS uses to determine if a stock requires conservation and management.

Catch information on grenadiers is currently collected under the North Pacific Groundfish and Halibut Observer Program. This final rule would improve the data collection on grenadiers by requiring the reporting of grenadier catch from vessels that are not observed and requiring the reporting on the use of any retained grenadiers (*e.g.,* retained as bait, or used as fish meal). Section 3.4.1 of the Analysis provides more detail on grenadier catch estimation.

Amendments 100/91 and this final rule establish more precautionary management in the GOA than would result from the GOA Groundfish Plan Team's recommendation to manage grenadiers as ''stocks in the fishery'' in the GOA because this final rule prohibits directed fishing and the Council would need to amend the FMP before grenadiers could be targeted in a commercial fishery. If grenadiers were

managed as ''stocks in the fishery,'' a directed fishery could occur, and total catch could be greater than that possible under this final rule. NMFS notes that grenadiers would need to be managed as ''stocks in the fishery'' if they were generally retained for sale. However, there is no indication that a market for grenadiers exists now, or will develop in the foreseeable future. Therefore, managing grenadiers in the GOA as ''stocks in the fishery'' is not required at this time (see Section 3.4.4 of the Analysis for additional detail).

In December 2013, the SSC reviewed the Analysis and made many recommendations that analysts addressed before Council final action in February 2014. The SSC did not recommend that grenadiers in either the BSAI or GOA be managed as ''stocks in the fishery.'' Amendment 100/91 and this final rule are consistent with the SSC's expert advice. The SSC recommended that grenadiers not be added to the forage fish category because the life history of grenadiers (long life span, late maturation, slow growth rate) and their trophic position in the food web are not similar to species included in the forage fish category. Amendment 100/91 and this final rule do not add grenadiers to the forage fish category. The SSC minutes are available on the Council's Web site at *http://www.npfmc.org/meeting-minutes/.*

Comment 4: NMFS cannot justify a conclusion, based on existing data, that grenadiers are not overfished or approaching an overfished condition. In the North Pacific groundfish fishery, overfished status for a specific stock is determined using that stock's minimum stock size threshold (MSST), which is defined as the level of biomass below which the stock or stock complex is considered to be overfished. In the Analysis, NMFS stated that it cannot establish an MSST for grenadiers, a Tier 5 stock. Without an estimate of MSST or reliable proxy measurement, it is impossible for NMFS to state with any confidence that the grenadier stock is not overfished or approaching an overfished status. Nonetheless, NMFS makes this claim and uses the claim to support the EC classification for grenadiers. Because this determination is not supported by sufficient data, this required factor for EC classification is not met.

Response: National Standard 1 guidelines for status determination criteria, such as MSST, only apply to ''stocks in the fishery.'' Therefore, NMFS is not required to set an MSST for grenadiers as EC stocks. While NMFS does not have the information to define MSST for grenadiers, the conclusion that the stock is not overfished or approaching an overfished condition is supported by the available information.

The Analysis uses the best available information to assess whether grenadiers are overfished or approaching an overfished condition. A stock is overfished when it is at low abundance. NMFS has abundance estimates for grenadiers using trawl survey data beginning in 1979 for the BSAI and beginning in 1984 for the GOA. NMFS also has abundance estimates from longline survey data beginning in 1996/1997 for the BSAI and beginning in 1992 for the GOA. Abundance estimates for grenadier are available in the 2014 stock assessment (see **ADDRESSES**). No evidence indicates that grenadiers in the BSAI or GOA are currently at low abundance compared to previous abundance estimates. In fact, in the BSAI, grenadier abundance estimates for 2015 are above the mean abundance estimated for the time series using the trawl and longline survey data. In the GOA, abundance estimates for 2015 are slightly below the mean abundance estimated for the time series.

The SSC evaluates the amount of information available on each groundfish stock and assigns each stock to one of six fishery stock assessment tiers based on the quantity and quality of information available. Fisheries in the higher ranking tiers (*e.g.,* Tiers 1, 2, and 3) have more reliable and more complete information. Stocks with less reliable and less complete information are assigned to lower ranking tiers (*e.g.,* Tiers 4 and 5), and stocks with only catch estimates are assigned to lowest ranking tier (Tier 6). Additional detail on the stock assessment process is provided in the annual Stock Assessment and Fishery Evaluation Reports prepared for the BSAI and GOA groundfish fisheries, available at: *http://www.afsc.noaa.gov/refm/stocks/assessments.htm.*

The 2014 stock assessment suggests placing grenadiers in Tier 5 based on the information available (see **ADDRESSES**). According to the FMPs, for Tiers 4 through 6, neither direct estimates of B_{MSY} (biomass level necessary to support the maximum sustainable yield) nor reliable estimates of B_{MSY} proxies are available. A reliable estimate of B_{MSY} or a reliable estimate of a B_{MSY} proxy is required in order to determine the MSST for a stock. Therefore, the MSST of stocks and stock complexes managed under Tiers 4 through 6 is undefined. Under the FMPs, 23 ''stocks in the fishery'' are also in Tiers 4 through 6. Classifying grenadiers as ''stocks in the fishery'' would not change the fact that neither direct estimates of B_{MSY} nor reliable estimates of B_{MSY} proxies are available and MSST would remain undefined.

Comment 5: Conservation and management measures are required to prevent overfishing of grenadiers. Grenadier stocks are especially vulnerable to deleterious fishing effects due to their longevity and slow rate of reproduction. NMFS' determination that grenadiers are not currently subject to overfishing is unsupported by reliable information or data. The Council evaluates whether a stock in the groundfish fishery is subject to overfishing by evaluating whether catch exceeds the OFL.

Grenadiers are a Tier 5 stock due to the lack of biological information. For Tier 5 stocks, the Council's SSC sets OFL using estimates of the current biomass based on the average of the last three trawl surveys conducted. A Center for Independent Experts (CIE) review evaluated the methods for assessing Tier 5 stocks and concluded that current methods of implementing a Tier 5 assessment for non-target species are poor (Cieri, M., et al., 2013 CIE Review of Non-Target Species Stock Assessments in the BSAI and GOA). This conclusion is based in large part on the use of trawl survey biomass to estimate absolute abundance: These surveys may not cover the entire distribution of a stock, and reviewers were particularly concerned with the extrapolation of trawl survey densities to untrawlable ground. With regard to grenadiers specifically, one reviewer stated that the grenadier biomass estimates are unreliable, as they assume that trawl-survey biomass indices are absolute biomass estimates (and the Aleutian Islands estimates are based on an unreliable extrapolation). Another reviewer found it was not realistic to estimate absolute biomass for grenadiers with reasonable accuracy.

Because the current biomass estimates for grenadiers are not defensible, any OFL calculated based on these estimates is similarly unreliable. As a result, NMFS' determination that grenadiers are not subject to overfishing is not grounded in reliable information, and the agency's use of this determination to support the EC classification is inappropriate.

Response: NMFS' conclusion that overfishing of grenadiers is not occurring is supported by the best scientific information available, as explained in Section 3.3 of the Analysis. NMFS has been conducting a stock assessment for grenadiers since 2006. At present, stock assessment information

for giant grenadier is relatively good compared to many other non-target species in Federal waters off Alaska. Since 2010, the stock assessment has been used to estimate an ABC and an OFL, using the best available estimates of biomass and natural mortality. The stock assessment uses giant grenadier as a proxy for the other grenadier species, and the estimated ABC and estimated OFL are based on giant grenadier because relatively few other grenadier species are caught in the groundfish fisheries or are taken in NMFS surveys. NMFS estimates the incidental catch of grenadiers in the groundfish fisheries using observer data.

Total catch of grenadiers is far below the estimated grenadier OFL in both the BSAI and the GOA and NMFS is confident that grenadiers are not subject to overfishing. Overfishing occurs when catch exceeds the OFL.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that the BSAI grenadier OFL is 100,365 mt (211 million lb.) and grenadier catch is 5,320 mt (11.7 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the BSAI represents approximately 5 percent of the estimated OFL.

According to the 2014 stock assessment (see **ADDRESSES**), NMFS estimates that the GOA grenadier OFL is 40,921 mt (90 million lb.) and grenadier catch is 8,769 mt (19 million lb., mean catch for 2003 through 2013). Estimated catch of grenadiers in the GOA represents approximately 21 percent of the estimated OFL.

The issues raised by the CIE review and noted by the comment are applicable to all Tier 5 stocks and are being addressed by stock assessment authors through the annual BSAI and GOA Groundfish Plan Teams and the annual groundfish harvest specifications process. While NMFS and the Council continually work to improve the quality of the stock assessments, NMFS and the Council use the best scientific available information to assess the status of stocks. Under the FMPs, 14 stocks are in Tier 5 and 9 stocks are in Tier 6 (Tier 6 is for stocks with less biological information than Tier 5). These Tier 5 and Tier 6 stocks are all ''stocks in the fishery,'' and the SSC uses the Tier 5 and Tier 6 stock assessment information to set OFLs and ABCs for these stocks. If grenadiers were placed as ''stocks in the fishery,'' the Tier 5 stock assessment would continue to be used to set a grenadier OFL until a Tier 4 stock assessment is approved by the SSC.

The problems with estimating grenadier biomass cited in the comment indicate that the stock assessments for Tier 5 stocks could either overestimate the OFL or underestimate the OFL. The CIE review also concluded that NMFS was overly precautionary in determining model parameters in the face of uncertainty for all Tier 5 stocks. In other words, NMFS' estimates of model parameters are more conservative than necessary based on available data and likely result in an underestimate of abundance.

Comment 6: NMFS stated in the notice of availability that grenadiers are not likely to become subject to overfishing or overfished in the absence of conservation and management. The Analysis, however, indicates that NMFS never evaluated the likelihood of grenadiers to be overfished or subject to overfishing but, instead, reserved that analysis for future studies. NMFS likely cannot justify a conclusion that grenadiers are not likely to become subject to overfishing or overfished in the absence of conservation and management. Various life history characteristics of grenadiers make the stock particularly vulnerable to existing fisheries. If conservation and management measures are not taken to reduce fishing pressure on grenadiers, it is likely the species will become overfished or subject to overfishing.

Response: The best available scientific information does not suggest that grenadier catch levels are likely to cause grenadiers to become overfished or subject to overfishing. Section 3.5 of the Analysis uses the best available information to analyze whether grenadiers are likely to become subject to overfishing or overfished, in the absence of conservation and management measures.

The comment seems to refer to a footnote in Section 2.2 of the Analysis that addressed a comment made by the SSC that requested analysts to better explain the term ''likely'' with respect to the future potential for an EC species to be found subject to overfishing or overfished. A more complete discussion of the SSC's comment and changes made to the Analysis to address the comment are in Section 2.4 of the Analysis. Section 2.4 of the Analysis explains that, in the future, the Council can assess whether to re-classify grenadiers and manage them as ''stocks in the fishery.'' The National Standard 1 guidelines explain that a fishery management council should monitor the catch on a regular basis to determine if the stock is appropriately classified in the FMP (50 CFR 600.310(d)(6)). This final rule implements the reporting requirements necessary to monitor the catch and retention of grenadiers. Section 2.4 of the Analysis explains that future analyses could compare the trend of grenadier catch with trends in biomass estimates to determine whether grenadier catch is increasing relative to biomass in a way that suggests that catch may be exceeding the OFL estimate. If overfishing appeared ''likely,'' based on these trends, then this criterion for listing grenadiers as an EC species in the FMPs may no longer be met and reclassification may be appropriate.

Comment 7: Stock assessment scientists from the Alaska Fisheries Science Center have analyzed the potential vulnerability of Alaska grenadiers to overfishing. The vulnerability scores for grenadiers based on productivity and susceptibility to fishery impacts are similar to species that are currently managed in the fishery, such as Pacific cod and pollock. As a result, the scientists recommended that grenadiers be included as a ''stock in the fishery.''

A more recent study found that grenadiers were susceptible to fishery impacts and may be even more vulnerable than previous results indicate. For example, if a species is not targeted by the fishery but taken as bycatch, the relevant susceptibility attribute is ranked lightly exploited. This ranking is obviously inappropriate for species like grenadiers that are not targeted but experience high bycatch and nearly 100 percent bycatch mortality. These analyses illustrate the potential of grenadiers to become overfished if current fishing practices continue.

Response: Potential vulnerability to overfishing and scientific uncertainty is the primary reason the Council and NMFS considered adding grenadiers to the FMPs. Amendments 100/91 and this final rule include grenadiers in Federal groundfish management and provide management measures necessary to ameliorate the potential vulnerability of grenadiers to overfishing. The recordkeeping and reporting requirements established by this final rule will improve data collection on grenadiers. The prohibition on directed fishing and the MRA for grenadiers as an incidental catch species in this final rule will limit grenadier catch. Grenadiers will be less susceptible to overfishing because incidental catch will be restricted and directed catch will be prohibited. These measures are in sharp contrast to the status quo conditions that do not preclude a directed fishery and do not limit the amount of allowable retained incidental catch. In addition, this final rule will improve catch estimation by requiring the reporting of grenadier catch that is

retained. This information can aid managers in determining whether grenadiers are being retained and if a market is being developed. The regulations implemented by this final rule will help improve information about grenadier harvests and prevent unmanaged directed fisheries for grenadiers.

The vulnerability analysis cited in this comment was prepared by NMFS in 2009 for a number of Alaska stocks and stock complexes, including giant grenadier, and presented the results in Appendix 3 to the 2009 SAFE report (available at *http://www.afsc.noaa.gov/refm/stocks/2009_assessments.htm*). The vulnerability analysis does not indicate the potential of grenadiers to become overfished if current fishing practices continue. The vulnerability analysis compares two main features of a stock that influence its vulnerability to fishing: Productivity, which determines a population's natural capacity for growth and its resilience to fishery impacts; and susceptibility, which indicates how severe those fishery impacts are likely to be for the population. This analysis does not look at whether overfishing is occurring or likely to occur given the current harvest amounts relative to estimated biomass. When total catch of grenadiers is compared to total biomass, the estimated OFL, or the estimated ABC, it is clear that grenadiers are not currently subject to catch rates that require conservation and management.

Nevertheless, with this action, the Council and NMFS have adopted a precautionary approach to management. The potential vulnerability to overfishing if an unregulated fishery for grenadiers develops was one of the reasons the Council recommended, and this final rule implements, a prohibition on directed fishing. A prohibition on directed fishing is designed to prevent unregulated harvest from increasing to the point that could result in overfishing.

NMFS notes that the primary recommendation in the second study cited by the comment was to monitor and report bycatch and discard amounts because knowledge of bycatch and discard is essential for understanding the nature of the fishery impacts on grenadiers and for assessing populations in the future. This final rule meets the objective of that recommendation.

Comment 8: Regular stock assessments for grenadiers are necessary and required in order to determine whether overfishing is occurring or the stock is overfished. The proposed rule provides no assurance that NMFS will assess the status of the grenadier stock to determine whether overfishing is occurring on the stock or whether the stock is overfished. While the Council recommendation provided encouragement to conduct informal stock assessments, there is nothing compelling NMFS to do so. NMFS' lack of investment in the data that would help define key stock assessment parameters relegates grenadiers to a Tier 5 stock. There appears to be little incentive for NMFS to improve stock assessments for grenadiers, or for that matter, any Tier 5 stocks in the FMPs. The proposed rule must also include a requirement and a timeline with which to regularly assess the risk of overfishing and overfished status of the grenadier stock.

Response: The National Standard 1 guidelines explain that a fishery management council should monitor catch on a regular basis to determine if a stock is appropriately classified in the FMP (50 CFR 600.310(d)(6)). Section 2.2 of the Analysis explains that NMFS and the Council will monitor grenadiers as new, pertinent scientific information becomes available. If information indicates that grenadiers should be reclassified, an FMP amendment would be required to move grenadiers to ''stocks in the fishery.''

The Council and NMFS do not prioritize stock assessment work through regulations. This final rule implements regulations for participants in the groundfish fisheries. The Council and NMFS are continually assessing the data and scientific methods used for stock assessment. The SSC places stocks in tiers based on the best available scientific information using the tier system in Section 3.2.3.2 of the FMPs. Twenty three ''stocks in the fishery'' are in Tier 5 in the FMPs. Classifying grenadiers as ''stocks in the fishery'' would not move the stocks out of Tier 5.

Comment 9: A failure to classify grenadiers as ''stocks in the fishery'' would be contrary to obligations under the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement). Inclusion of grenadiers as ''stocks in the fishery'' is necessary to ensure the long-term sustainability of grenadiers in the North Pacific, to maintain and restore the deep-sea ecosystem, to preserve future potential uses for those deep-sea resources, and to minimize waste from bycatch. Further, because of the important ecological role of grenadiers in the deep-sea ecosystem, conservation and management measures must be put in place to protect biodiversity in the marine environment. The EC classification is contrary to the precautionary approach required in the Agreement. NMFS must be more cautious with regard to management because there is so little reliable information regarding the status of grenadier stocks. Using the precautionary approach would mean implementing measures that could effectively conserve and maintain grenadier populations to ensure long-term sustainability.

Response: Classifying grenadiers as ''stocks in the fishery'' is not more precautionary than classifying grenadiers in the EC category. ''Stocks in the fishery'' are target stocks subject to directed fisheries that can harvest up to the total allowable catch (TAC) established for that stock. For stocks in the EC category, NMFS prohibits directed fishing. Prohibiting directed fishing is more precautionary than establishing a TAC and allowing directed fishing. Therefore, Amendments 100/91 and this final rule are necessary to ensure the long-term sustainability of grenadiers in the North Pacific.

Classifying grenadiers as ''stocks in the fishery,'' as suggested in the comment, would not, on its own, ensure the long-term sustainability of grenadiers in the North Pacific, maintain or restore the deep-sea ecosystem, preserve future potential uses for those deep-sea resources, or minimize waste from bycatch. Any specific management measures to address these concerns would be measures for the groundfish fisheries to reduce their impacts on grenadiers. The comment did not provide any specific measures that would be more precautionary than those implemented in this final rule.

Additionally, the Council and NMFS considered grenadier's role in the ecosystem. Section 3.7 of the Analysis describes the current state of research and understanding about the ecological importance of grenadiers. For example, giant grenadiers have an important ecological role as apex predators. Apex predators reside at the top of their food chain and have few to no predators of their own. In bottom trawl surveys conducted by NMFS in the Bering Sea and the GOA, giant grenadiers are the most abundant fish, in terms of weight, in depths from 600 to 3,000 feet (183 to 914 meters). Giant grenadiers extend much deeper than 3,000 feet (914 meters). While grenadiers have been caught deeper than 6,000 feet (1,829 meters), little is known about their

abundance in waters deeper than 3,000 feet, because neither the NMFS surveys nor fishing effort presently extend below this depth. However, the best scientific information available clearly indicates that catch of grenadiers represents only a small portion of the total estimated biomass, and a small proportion of the estimated ABCs and OFLs.

Comment 10: While there is not currently a target market for grenadiers in the North Pacific, it is quite possible such a market could develop in the future. Grenadier meat is high in protein and lipids, which makes it desirable as a potential dietetic food. Further, grenadier livers have a large relative weight and contain many vitamins and fat, and their eggs are large, with a bright orange color and good gustatory quality. As a result of these qualities and the high amounts of grenadier catch, research to develop marketable products from this species is ongoing, and it is likely Alaskan fishermen will continue their efforts at utilizing this species. If a target market were to develop for grenadiers, the problems associated with overfishing would be greatly exacerbated.

Response: NMFS agrees that a market for grenadiers in the North Pacific could develop in the future. Concern over the potential for an unregulated fishery for grenadiers was one of the main reasons the Council recommended and NMFS is implementing Amendments 100/91 and this final rule as a precautionary management measure. With this action, NMFS is prohibiting directed fishing for grenadiers and limiting the amount of grenadiers that can be retained as incidental catch in groundfish fisheries through implementation of an 8 percent MRA. Additionally, the recordkeeping and reporting requirements implemented with this final rule will provide the data necessary to determine if fishermen retain grenadiers for bait or processing for sale. Without this action, there would be no constraints on any potential future grenadier fishery.

Comment 11: NMFS and the Council set PSC limits in the groundfish fishery for other species in the EC category, such as Chinook salmon and Pacific herring. At a minimum, the proposed rule must establish substantive measures, like PSC limits, that will minimize the current levels of grenadier bycatch occurring in the groundfish fishery.

Response: Under the GOA FMP and BSAI FMP, PSC limits are a management tool for species in the EC category. PSC limits are not set for stocks classified as ''stocks in the fishery'' in the FMP. See response to Comment 1 for more detail on PSC limits.

Additionally, the comment requests NMFS add new regulations that have not been analyzed or recommended by the Council. NMFS cannot add regulations to a final rule that will have substantive impacts on fisheries without following National Environmental Policy Act, Executive Order 12866, the Regulatory Flexibility Act, and the Administrative Procedure Act. Nothing in the final rule conflicts with or precludes development and analysis of additional regulations in a subsequent future action. The increased recordkeeping and reporting requirements in this final rule will provide more information to decision makers on grenadier bycatch. If additional information indicates that additional management measures would be appropriate, the Council would assess PSC limits or other appropriate management measures.

Comment 12: Amendments 100/91 and the proposed rule will do nothing to limit fishery impacts because they do not address or reduce the current bycatch levels to the extent practicable. Prohibiting directed fishing of a species for which, at present, there is no directed fishery in the waters off Alaska does nothing to address the current source of mortality, which is bycatch. Limiting the amount of grenadiers that may be retained after they are caught has no effect on bycatch, especially when the MRA exceeds the current rate of retention. In fact, the MRA under the proposed rule is set at 8 percent, which will allow groundfish fisheries to retain up to 440 million pounds of grenadier, an order of magnitude more than current annual bycatch levels of 34 million pounds.

Response: Amendments 100/91 and this final rule are necessary to limit the impacts of the groundfish fisheries on grenadiers. Amendment 100/91 and this final rule accomplish the purpose and need for this action and additional measures are not necessary at this time to meet the purpose and need. The purpose and need for Amendment 100/91 and this final rule are as follows:

> Grenadiers are not included in the BSAI or GOA groundfish FMPs. There are no limits on their catch or retention, and no reporting requirements. However, grenadiers are taken as bycatch, especially in longline fisheries; no other Alaskan groundfish has similar levels of catches that is not included in the FMPs. Inclusion in the groundfish FMPs would provide for precautionary management of the groundfish fisheries by, at a minimum, recording the harvest of grenadiers and placing limits on their harvest.

Currently, there are no restrictions on how many grenadiers can be retained in the groundfish fisheries. This final rule prohibits directed fishing to limit grenadier catch and implements an MRA of 8 percent for groundfish fishing vessels to constrain incidental harvests. NMFS has no indication that grenadier retention through incidental harvests is likely to increase beyond current levels, given the lack of any market for grenadiers, and therefore no economic incentive to retain grenadiers.

NMFS disagrees with the comment's assertion that up to 440 million pounds of grenadiers could be retained under this final rule. It appears that the comment calculated that up to 440 million pounds of grenadiers could be retained by summing the TACs of all groundfish species in the BSAI and GOA and multiplying that amount by 8 percent. This is inaccurate for several reasons. First, grenadiers are not caught in all groundfish fisheries. Grenadiers occur in deep water and are not encountered in many fisheries. In the GOA, grenadiers are primarily caught in the deep-water trawl (*i.e.,* arrowtooth flounder and rex sole trawl fisheries) and some hook-and-line groundfish fisheries (*i.e.,* sablefish). In the Aleutian Islands, grenadiers are primarily caught in the sablefish fishery. In the Bering Sea, grenadiers are primarily caught in the Greenland turbot fishery. Calculating 8 percent of the total BSAI and GOA groundfish TACs and assuming that all vessels in all fisheries will harvest up to that amount of grenadiers is not realistic. See Sections 3.4.2 and 3.4.3 of the Analysis for a complete discussion of the bycatch of grenadiers in the different groundfish fisheries (see **ADDRESSES**).

Second, MRAs apply at the vessel and fishing trip level. The 8 percent MRA allows a vessel operator fishing for groundfish to retain a quantity of grenadiers equal to but no more than 8 percent of the round weight or round weight equivalent of groundfish species open to directed fishing that are retained on board the vessel during a fishing trip. The requirement to not exceed MRA proportions at any time during a fishing trip limits the vessel operator's ability to maximize catch of grenadiers. The estimate provided in the comment assumes that all vessels, on each fishing trip, catch grenadiers and will retain up to the maximum amount of grenadier catch. For the reasons described, this will not occur.

The Council considered a MRA range of 2 percent to 20 percent, ultimately choosing an 8 percent grenadier MRA. The 8 percent MRA is not likely to substantially increase the incentive for

vessels to retain grenadiers relative to a lower MRA percentage (*e.g.,* 2 percent), but would limit the amount of incidental catch more conservatively than a higher MRA percentage (*e.g.,* 20 percent). The Council selected an 8 percent MRA to accommodate the current amount of grenadiers incidentally caught by individual vessels. Section 2.2 of the Analysis notes that a *de minimus* amount of grenadiers are retained in the BSAI, and only 0.1 percent of all groundfish fishing trips in the GOA would be expected to meet or exceed an MRA of 8 percent. Retention of grenadiers in the BSAI is less than 0.1 percent of all groundfish fishing trips. Therefore, an MRA of 8 percent would be expected to accommodate all current fishing practices and, if a market should develop, this MRA would limit the potential retention of grenadiers until the Council and NMFS could develop measures to manage a grenadier fishery.

Finally, it is highly unlikely that vessels would catch the maximum MRA on more than 0.1 percent of all groundfish fishing trips. It is not economical for vessel operators to do so because it would take valuable time and effort for vessels to find grenadiers to ''top off'' their catch.

This final rule also increases monitoring of grenadier catch, and NMFS will add grenadiers to weekly catch reports posted on the NMFS Alaska Region Web page at *http://alaskafisheries.noaa.gov/sustainablefisheries/catchstats.htm.* This information will provide the Council, NMFS, and the public the information needed to determine if increased retention of grenadiers is occurring. The Council and NMFS will review this information and consider additional management measures, if appropriate.

Comment 13: Including grenadiers as ''stocks in the fishery'' would necessitate the establishment of an OFL, ABC, and TAC each year in the annual harvest specifications process. If a grenadier TAC was set below the current bycatch level, bycatch would be reduced. The grenadier TAC would count in the calculation of total TAC under the optimum yield (OY) cap.

The OY cap is a binding constraint on the BSAI groundfish fisheries that limits the total TACs of all groundfish fisheries in the BSAI managed as ''stocks in the fishery'' to no more than 2 million mt. In most years, the total TACs of all groundfish fisheries in the BSAI sum to 2 million mt. This means that the Council and NMFS would need to ''fund'' a grenadier TAC in the BSAI by reducing the TAC in one or more BSAI groundfish fisheries so that the 2 million mt limit is not exceeded. The potential reduction of a TAC for one or more BSAI groundfish fisheries will incentivize reduction of grenadier bycatch in the BSAI so that the grenadier TAC can be set as low as possible and not limit the TACs set for other fisheries.

Response: NMFS agrees that the BSAI OY cap requires that the sum of the groundfish TACs in the BSAI cannot exceed 2 million mt (see 50 CFR 679.20(a)(1)). The response to Comment 2 explains that the Council and NMFS determined that grenadiers meet the criteria for the EC category, and assigning grenadiers to the EC category would preclude the development of a directed fishery that could increase catch of grenadiers. The comment's suggested approach would be less conservative and could result in an increase in grenadier catch in a directed fishery with a TAC.

The comment seems to suggest that, in the BSAI, grenadiers should be classified as ''stocks in the fishery'' so that a grenadier TAC would be set at a level below the current grenadier catch as a way to constrain bycatch. This is inconsistent with the management of fisheries classified as ''stocks in the fishery'' and the TAC setting process for Tier 5 stocks. According to the BSAI FMP, a specific TAC is established annually for each target species or species assemblage. The FMP defines target species as those species that support either a single species or mixed species target fishery, are commercially important, and for which a sufficient data base exists that allows each to be managed on its own biological merits. Grenadiers are not a target fishery. As a Tier 5 stock, the grenadier TAC would be set following the harvest specifications process, and, given the stock's ABC, the TAC could be set much higher than current bycatch. Managing grenadiers as ''stocks in the fishery'' and establishing a TAC for grenadiers would provide for a directed fishery. As long as the TAC has not been, or is not likely to be exceeded, NMFS would not constrain catch of grenadiers whether retained or discarded. This would not result in a reduction of grenadier catch as suggested in the comment.

NMFS disagrees with the comment's assumption that managing grenadiers as ''stocks in the fishery'' will ''force'' harvesters to minimize their catch of grenadiers so that a lower TAC for grenadiers may be established and provide more TAC for non-grenadier species within the 2 million mt OY cap. As stated in response to Comment 12, grenadiers are not encountered in many fisheries and are encountered in very limited amounts in some fisheries (*e.g.,* Bering Sea pollock). Therefore, NMFS expects that limiting the TAC of most groundfish fisheries would not result in a reduction of grenadier catch or in the amount of grenadier catch that is discarded because there is no market. NMFS expects that constraining the TAC of other groundfish fisheries would not minimize grenadier bycatch to the extent practicable as required by the Magnuson-Stevens Act.

Comment 14: The Council's decision to classify grenadiers as an EC species appears to be motivated by a desire to avoid consequences for existing fisheries subject to the 2 million mt OY cap in the BSAI. Originally, the effort to evaluate grenadier stocks was motivated by a desire to address conservation concerns in the grenadier fishery. Beginning in 2008, the BSAI and GOA Groundfish Plan Teams and the SSC strongly encouraged the Council to manage grenadiers as ''stocks in the fishery,'' stressing the issue should be a priority, based largely on concerns over bycatch and vulnerability of the species. Initial preliminary assessments prepared by NMFS also emphasized the conservation and management concerns associated with grenadier stocks. However, after analyzing the potential consequences to the existing groundfish fisheries, the Council deemphasized conservation concerns, and instead focused on classifying grenadiers as an EC species. This conclusion is unlawful. National Standards 1 and 9 require that necessary and practicable bycatch measures must be implemented, even if that results in a downward adjustment of OY.

When read together, National Standards 1 and 9 in the Magnuson-Stevens Act require that necessary and practicable bycatch measures must be implemented, even if that results in a downward adjustment of OY. As spelled out in the Magnuson-Stevens Act, yield is optimal when it takes into account protection of marine ecosystems and any relevant ecological factor. These same considerations require reducing grenadier bycatch because they have an important ecological role.

Response: NMFS disagrees with the comment for the following reasons. First, there is no grenadier fishery. As noted in the preamble to this rule, markets for grenadiers have not developed and the available data do not indicate significant retention of grenadiers for personal use as bait.

Second, comments made prior to 2009 did not consider the amendments to the Magnuson-Stevens Act establishing ACLs and AMs, or the National Standard 1 guidelines establishing the

EC category published in 2009 (74 FR 3178, January 16, 2009). See the response to Comment 3 for a summary of the recommendations of the Groundfish Plan Teams and SSC for Amendments 100/91.

Third, in 2010, the Council recommended and NMFS removed the nonspecified species category from the FMPs when the FMPs were revised to meet Magnuson-Stevens Act requirements for ACLs and AMs under Amendments 96/87 to the FMPs (75 FR 61639, October 6, 2010). The nonspecified species, including grenadiers, were removed from the FMPs because these species were too poorly understood to set ACLs and AMs or to develop a management regime. The Council also initiated an analysis to consider moving grenadiers back into the FMPs in 2010. In June 2012, the Council reviewed the first discussion paper that explored two alternatives for grenadiers, classifying them either as ''stocks in the fishery'' or as an ''ecosystem component.'' That discussion paper also identified the primary concerns that apply to grenadiers; grenadiers have no limits on their catch or retention, no reporting requirements, and no official record of their catch. These concerns were reiterated when the Analysis was revised and improved between 2012 and February 2014 when the Council took final action. The Analysis analyzes potential economic impacts to fishery participants in compliance with Executive Order 12866 and the Regulatory Flexibility Act.

Fourth, when the Council recommended Amendments 100/91, the Council emphasized conservation concerns in classifying grenadiers as an EC species. Amendments 100/91 and this final rule directly address concerns of groundfish fishery impacts on grenadiers. Amendments 100/91 and this final rule limit grenadier catch and retention and require reporting for an official record of grenadier catch.

Fifth, NMFS considered the potential vulnerability of grenadiers from the groundfish fisheries as it developed this action as described in response to Comment 7.

Finally, Amendments 100/91 and this final rule comply with the Magnuson-Stevens Act, including the 10 National Standards. The Council and NMFS considered the best available information on the total biomass of grenadiers as well as the total catch of grenadiers. As described in this preamble and the Analysis, total catch of grenadiers represents only a small proportion of the estimated biomass of grenadiers, OFLs, and ABCs in the BSAI and GOA. This final rule prohibits the directed fishing for grenadiers and improves the monitoring of grenadier catch to ensure that total catch of grenadiers will not adversely affect grenadiers. Additional measures to limit the total catch of grenadiers are not required at this time to comply with the requirements of National Standard 1 or National Standard 9.

Comment 15: Conservation and management measures are needed in order to maintain the grenadier stock and the deep-sea environment. Grenadier bycatch threatens to cause irreversible or long-term adverse effects both on grenadier resources and the marine ecosystem. The environmental effects of this bycatch may change the ocean environment in ways that would decrease the options available with respect to future uses of deep-sea or other marine resources. Thus, grenadier stocks are in need of conservation and management and should be managed in the fishery, as required by the Magnuson-Stevens Act. Grenadier bycatch constitutes a major input of dead organic material to the ecosystem that would not otherwise be there and could have unintended consequences for the environment.

Response: As stated in previous responses to comments, including grenadiers as ''stocks in the fishery'' would not be expected to result in less catch than the amount currently occurring, and could result in more catch than is permitted under this final rule because this final rule prohibits directed fishing for grenadiers. Section 3.7.2 of the Analysis discusses the impacts of the alternatives on the ecosystem and notes that total catch of grenadiers represents a small proportion of the total grenadier biomass and that most commercial fisheries do not occur at depths where grenadiers are known to occur. The comment does not provide any specific comments on how managing grenadiers as ''stocks in the fishery'' would reduce potential impacts on the deep sea ecosystem more than the management measures implemented under this final rule. Section 3.7.2 of the Analysis also discusses the impacts of the input of dead organic material.

Comment 16: By weight, bycatch of grenadiers is among the worst problems in Alaska. The average catch of grenadiers is nearly 20 percent of the total bycatch in Alaska. In 2010, out of a total of 573 fish stocks nation-wide with reported bycatch estimates, there were only three other species that suffered more bycatch than grenadiers: Arrowtooth flounder in Alaska, Atlantic croaker in the Southeast, and sea scallops in the Northeast. All of these species, except for grenadier, are actively managed in a fishery through a fishery management plan.

Response: NMFS disagrees. Grenadier bycatch is not one of the worst problems in the fisheries off Alaska. As explained earlier in this preamble, catch of grenadiers, including the bycatch of grenadiers, represents a small proportion of the known biomass of grenadiers. Grenadiers are not subject to a directed fishery. A large proportion of the grenadier catch is discarded as bycatch because the flesh is unpalatable and no market for grenadiers exists.

Bottom trawl surveys have shown giant grenadier to be the most abundant species at depths 200 m to 1,000 m on the continental slope of the GOA, eastern Bering Sea, and Aleutian Islands (see Section 3.7.1 of the Analysis). The average biomass from the last three surveys is 553,557 mt in the eastern Bering Sea, 598,727 mt in the Aleutian Islands, and 597,884 mt in the GOA. And, as explained in Section 3.3.2 of the Analysis, NMFS likely underestimates grenadier biomass for a number of reasons, including that grenadiers are abundant in waters deeper than where NMFS surveys are conducted and grenadiers may be unavailable to bottom trawls during feeding because they move into the water column.

Average catch of grenadiers from 2003 through 2013 in the BSAI constitutes only 0.4 percent of the estimated grenadier biomass. Average catch of grenadiers from 2003 through 2013 in the GOA constitutes only 1 percent of the estimated grenadier biomass. Although the total tonnage of grenadiers caught and discarded as bycatch is higher than other species, it represents only a small proportion of the total biomass of grenadiers. Managing grenadiers as ''stocks in the fishery'' would not address the primary reason that grenadiers are discarded as bycatch—the fish is unpalatable and no market exists.

Comment 17: Grenadier bycatch in the sablefish fishery greatly exceeds 5 percent of the catch, and in some years, even exceeds the catch of sablefish. The Marine Stewardship Council certification of sablefish may be in jeopardy during the next annual audit. In order to retain Marine Stewardship Council certification, the sablefish fishery may have to develop and execute an action plan to address the bycatch problem in the fishery. Changing the definition of grenadier from bycatch to ecosystem component within the FMP does not change the obligation of the sablefish fishery to reduce bycatch under the Marine Stewardship Council.

Response: Including grenadiers in the EC category in the FMPs does not change the fact that grenadiers are bycatch in the sablefish fishery. The process that the Marine Stewardship Council uses to certify the sablefish fishery is an activity undertaken by a private entity and is outside the scope of this action. Nothing in Amendments 100/91 or this final rule prevents participants in the sablefish fishery from developing operational guidelines or other voluntary measures that may result in reduced grenadier bycatch in that fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Administrator, Alaska Region, NMFS, has determined this final rule is necessary for the conservation and management of the groundfish fisheries and that it is consistent with Amendments 100/91, the FMPs, the National Standards, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NMFS prepared an environmental assessment (EA) for Amendments 100/91 and this final rule and the Administrator, Alaska Region, NMFS, concluded that there will be no significant impact on the human environment as a result of this rule. The impact of this action is to limit and monitor the incidental catch of grenadiers in the groundfish fisheries. A copy of the EA is available from NMFS (see **ADDRESSES**).

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

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 an 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 in 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 to implement Amendments 100/91 on May 14, 2014 (79 FR 27557). An IRFA was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The comment period closed on June 13, 2014. NMFS received 3 letters of public comment on Amendments 100/91 and the proposed rule. No comments were received on the IRFA or the small entity impacts of the 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

In the GOA, NMFS estimates that there are a total of 1,114 small catcher vessels and 5 small catcher/processors in the groundfish fisheries. The majority of these (581) are catcher vessels in the hook-and-line gear sector. In the BSAI, NMFS estimates that there are 118 small catcher vessels and 7 small catcher/processors in the groundfish fisheries. NMFS estimates that 72 small shoreside processors are directly regulated by this action. This number includes entities located in both the BSAI and GOA. Thus, NMFS estimates that this action directly regulates 1,316 small entities (1,232 catcher vessels, 12 catcher/processors, 72 shoreside processors) because the reporting requirements and MRAs apply to all participants in the groundfish fisheries.

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 and that affect the impact on small entities was rejected. ''Significant alternatives'' are those that achieve the stated objectives for the action, consistent with prevailing law, with potentially lesser adverse economic impacts on small entities, as a whole.

The two aspects of this final rule that directly regulate small entities are the requirement to report grenadier catch under regulations at § 679.5(a)(3) and the requirement that vessels not exceed an MRA of 8 percent, under regulations at Tables 10 and 11 to part 679. These requirements have a *de minimus* economic impact on small entities, as explained in Section 5.7 of the Analysis. The reporting requirements were the same under all of the action alternatives.

The Council considered an MRA range of 2 percent to 20 percent, ultimately choosing an 8 percent MRA. The Council selected an 8 percent MRA to accommodate the current amount of grenadiers incidentally caught. The Council considered that there are very few instances when grenadier retention exceeds 8 percent; however, allowing a higher MRA of as much as 20 percent may not meet the objectives of providing precautionary management and placing limits on harvest, as identified in the purpose and need for the action.

Thus, there are no significant alternatives that accomplish the objectives of accounting for grenadier catch or MRA management and minimize adverse economic impacts on small entities.

Recordkeeping and Reporting Requirements

The final rule modifies the recordkeeping and reporting requirements of the vessels and processors participating in the BSAI and GOA groundfish fisheries.

Presently, NMFS requires catcher vessel operators, catcher/processor operators, buying station operators, mothership operators, shoreside processor managers, and stationary floating processor managers to record and report all FMP species in logbooks, forms, eLandings, and eLogbooks. Recording is optional for non-FMP species. Grenadiers are currently listed as non-FMP species.

The final rule amends regulations to change the status of grenadiers (giant grenadiers and other grenadiers) from non-FMP species to FMP species and require operators to record and report grenadier species in logbooks, forms, eLandings, and eLogbooks. If operators retain and land grenadiers, then landings and the use of retained catch must be reported on fish tickets and production reports.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. The preamble to the proposed rule and the preamble to this final rule serve as the small entity compliance guide. This rule does not require any additional compliance from small entities that is not described in the preambles to the proposed and final rules. Copies of this final rule are available on request from the NMFS Alaska Region Office (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 Office of Management and Budget (OMB) under OMB Control Number 0648–0213 (paper recordkeeping and reporting) and OMB Control Number 0648–0515 (electronic recordkeeping and reporting). However, this rule only mentions these collections and does not change either collection-of-information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

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 in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 26, 2015.

Samuel D. Rauch III,

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

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR 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; Pub. L. 111–281.

■ 2. In § 679.2, add a definition for ''Grenadiers'' in alphabetical order and revise the definition for ''Non-allocated or nonspecified species'' to read as follows:

§ 679.2 Definitions.

* * * * *

Grenadiers (see Table 2c to this part and § 679.20(i)).

* * * * *

Non-allocated or nonspecified species means those fish species, other than prohibited species, for which TAC has not been specified (*e.g.,* prowfish and lingcod).

* * * * *

■ 3. In § 679.5, revise paragraph (a)(3) introductory text, and paragraphs (c)(3)(vi)(F) and (c)(4)(vi)(E) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) * * *

(3) *Fish to be recorded and reported.* The operator or manager must record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator or manager may record and report the following information (see paragraphs (a)(3)(i) through (iv) of this section) for non-groundfish (see Table 2d to this part):

* * * * *

(c) * * *

(3) * * *

(vi) * * *

(F) *Species codes.* The operator must record and report required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator may record and report information for non-groundfish (see Table 2d to this part).

* * * * *

(4) * * *

(vi) * * *

(E) *Species codes.* The operator must record and report the required information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), forage fish (see Table 2c to this part), and grenadiers (see Table 2c to this part). The operator may also record and report the required information for non-groundfish (see Table 2d to this part).

* * * * *

■ 4. In § 679.20, revise paragraph (i) to read as follows:

§ 679.20 General limitations.

* * * * *

(i) *Forage fish and grenadiers*—(1) *Definition.* See Table 2c to this part.

(2) *Applicability.* The provisions of § 679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing.* Directed fishing for forage fish and grenadiers is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing.* The sale, barter, trade, or processing of forage fish or grenadiers is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production.* Retained catch of forage fish or grenadiers not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

* * * * *

■ 5. In § 679.22, add paragraph (i) to read as follows:

§ 679.22 Closures.

* * * * *

(i) *Forage fish and grenadiers closures.* See § 679.20(i)(3).

■ 6. Revise Table 2c to part 679 to read as follows:

TABLE 2c TO PART 679—SPECIES CODES: FMP FORAGE FISH SPECIES (ALL SPECIES OF THE FOLLOWING FAMILIES) AND GRENADIER SPECIES

Species Identification	Code
FORAGE FISH	
Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
Capelin smelt (family *Osmeridae*)	516
Deep-sea smelts (family *Bathylagidae*)	773
Eulachon smelt (family *Osmeridae*)	511
Gunnels (family *Pholidae*)	207
Krill (order *Euphausiacea*)	800
Lanternfishes (family *Myctophidae*)	772
Pacific Sand fish (family *Trichodontidae*)	206
Pacific Sand lance (family *Ammodytidae*)	774
Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
Surf smelt (family *Osmeridae*)	515
GRENADIERS	
Giant Grenadiers (*Albatrossia pectoralis*)	214
Other Grenadiers	213

■ 7. Revise Table 2d to part 679 to read as follows:

TABLE 2d TO PART 679—SPECIES CODES: NON-FMP SPECIES

Species description	Code
GENERAL USE	
Arctic char, anadromous	521
Dolly varden, anadromous	531
Eels or eel-like fish	210
Eel, wolf	217
GREENLING:	
Kelp	194
Rock	191
Whitespot	192
Jellyfish (unspecified)	625
Lamprey, pacific	600
Lingcod	130
Lumpsucker	216
Pacific flatnose	260
Pacific hagfish	212
Pacific hake	112
Pacific lamprey	600
Pacific saury	220
Pacific tomcod	250
Poacher (Family Algonidae)	219
Prowfish	215
Ratfish	714
Rockfish, black (GOA)	142
Rockfish, blue (GOA)	167
Rockfish, dark	173
Sardine, Pacific (pilchard)	170
Sea cucumber, red	895
Shad	180
Skilfish	715
Snailfish, general (genus *Liparis* and genus *Careproctus*)	218
Sturgeon, general	680
Wrymouths	211
Shellfish:	
Abalone, northern (pinto)	860
Clams:	
Arctic surf	812
Cockle	820
Eastern softshell	842
Pacific geoduck	815
Pacific littleneck	840
Pacific razor	830
Washington butter	810

TABLE 2d TO PART 679—SPECIES CODES: NON-FMP SPECIES—Continued

Species description	Code
Coral	899
Mussel, blue	855
Oyster, Pacific	880
Scallop, weathervane	850
Scallop, pink (or calico)	851
SHRIMP:	
Coonstripe	864
Humpy	963
Northern (pink)	961
Sidestripe	962
Spot	965
Snails	890
Urchin, green sea	893
Urchin, red sea	892

■ 8. Revise Table 3 to part 679 to read as follows:

BILLING CODE 3510–22–P

Table 3 to Part 679--Product Recovery Rates for Groundfish Species and Conversion Rates for Pacific Halibut

Species Code	FMP Species	Product Code											
		1, 41, 86,92, 93, 95 Whole fish	3 Bled	4 Gutted head on	5 Gutted head off	6 H&G with roe	7 H&G west cut	8 H&G east cut	10 H&G w/o tail	11 Kirimi	12 Salted & Split	13 Wings	14 Roe
110	Pacific Cod	1.00	0.98	0.85	---	0.63	0.57	0.47	0.44	---	0.45	---	0.05
	Flatfish other than Pacific Halibut	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
143	Thornyhead Rockfish	1.00	0.98	0.88	---	0.55	0.60	0.50	---	---	---	---	---
160	Sculpins	1.00	0.98	0.87	---	---	0.50	0.40	---	---	---	---	---
193	Atka Mackerel	1.00	0.98	0.87	---	0.67	0.64	0.61	---	---	---	---	---
214	Giant grenadiers	1.00	---	---	---	---	0.50	0.50	---	---	---	---	---
270	Pollock	1.00	0.98	0.80	---	0.70	0.65	0.56	0.50	0.25	---	---	0.07
510	Smelts	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---
511	Eulachon	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---
516	Capelin	1.00	0.98	0.89	---	---	0.78	---	---	---	---	---	---
	Sharks	1.00	0.98	0.83	---	---	0.72	---	---	---	---	---	---
	Skates	1.00	0.98	0.90	---	---	---	0.32	---	---	---	0.32	---
710	Sablefish	1.00	0.98	0.89	---	---	0.68	0.63	0.50	---	---	---	---
870	Octopus	1.00	0.98	0.81	---	---	---	---	---	---	---	---	---
875	Squid	1.00	0.98	0.69	---	---	---	---	---	---	---	---	---
	Rockfish	1.00	0.98	0.88	---	---	0.60	0.50	---	---	---	---	---
200	PACIFIC HALIBUT Conversion rates to Net Weight.	---	---	0.90	1.0	---	---	---	---	---	---	---	---

Species Code	FMP Species	Product Code											
		15 Pectoral Girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets with skin & ribs	21 Fillets with skin no ribs	22 Fillets with ribs no skin	23 Fillets skinless boneless	24 Fillets deep skin	30 Surimi	31 Mince
110	Pacific Cod	0.05	---	0.05	---	0.01	0.45	0.35	0.25	0.25	---	0.15	0.5
	Flatfish other than Pacific Halibut	---	---	---	---	---	0.32	0.27	0.27	0.22	---	0.18	---
143	Thornyhead Rockfish	---	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	---	---	---
160	Sculpins	---	---	---	---	---	---	---	---	---	---	---	---
193	Atka Mackerel	---	---	---	---	---	---	---	---	---	---	0.15	---
214	Giant Grenadiers	---	---	---	---	---	---	24.3	---	---	---	---	---
270	Pollock	---	0.15	---	---	---	0.35	0.30	0.30	0.21	0.16	0.16[1] 0.17[2]	0.22
510	Smelts	---	---	---	---	---	---	0.38	---	---	---	---	---
511	Eulachon	---	---	---	---	---	---	---	---	---	---	---	---
516	Capelin	---	---	---	---	---	---	---	---	---	---	---	---
	Sharks	---	---	---	---	---	---	0.30	0.30	0.25	---	---	---
	Skates	---	---	---	---	---	---	---	---	---	---	---	---
710	Sablefish	---	---	0.05	---	---	0.35	0.30	0.30	0.25	---	---	---
870	Octopus	---	---	---	---	---	---	---	---	---	---	---	---
875	Squid	---	---	---	---	---	---	---	---	---	---	---	---
	Rockfish	---	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	---	---	---
200	PACIFIC HALIBUT Conversion rates to Net Weight.	---	—	—	---	---	---	---	---	---	---	---	---

[1]Standard pollock surimi rate during January through June.
[2]Standard pollock surimi rate during July through December.

Species Code	FMP Species	Product Code							
		32 Meal	33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly Backbone Removed	88, 89 Infested or Decomposed Fish	98, 99 Discards
110	Pacific Cod	0.17	---	---	---	---	0.43	0.00	1.00
	Flatfish other than Pacific Halibut	0.17	---	---	---	---	---	0.00	1.00
122	Flathead Sole	0.17	---	---	---	---	---	0.00	1.00
123	Rock Sole	0.17	---	---	---	---	---	0.00	1.00
124	Dover Sole	0.17	---	---	---	---	---	0.00	1.00
125	Rex Sole	0.17	---	---	---	---	---	0.00	1.00
127	Yellowfin Sole	0.17	---	---	---	---	---	0.00	1.00
134	Greenland Turbot	0.17	---	---	---	---	---	0.00	1.00
143	Thornyhead Rockfish	0.17	---	---	---	---	---	0.00	1.00
160	Sculpins	0.17	---	---	---	---	---	0.00	1.00
193	Atka Mackerel	0.17	---	---	---	---	---	0.00	1.00
214	Giant grenadiers	0.17	---	---	---	---	---	0.00	1.00
270	Pollock	0.17	---	---	---	---	0.43	0.00	1.00
510	Smelts	0.17	---	---	---	---	---	0.00	1.00
511	Eulachon	0.17	---	---	---	---	---	0.00	1.00
516	Capelin	0.17	---	---	---	---	---	0.00	1.00
	Sharks	0.17	---	---	---	---	---	0.00	1.00
	Skates	0.17	---	---	---	---	---	0.00	1.00
710	Sablefish	0.17	---	---	---	---	---	0.00	1.00
870	Octopus	0.17	---	---	---	0.85	---	0.00	1.00
875	Squid	0.17	---	---	---	0.75	---	0.00	1.00
---	Rockfish	---	---	---	---	---	---	0.00	1.00
200	PACIFIC HALIBUT Conversion rates to Net Weight	---	---	---	---	---	---	0.00	0.75

Notes: To obtain round weight of groundfish, divide the product weight of groundfish by the table PRR.
To obtain IFQ net weight of Pacific halibut, multiply the product weight of halibut by the table conversion rate.
To obtain round weight from net weight of Pacific halibut, divide net weight by 0.75 or multiply by 1.33333.

■ 9. Revise Table 10 to part 679 to read as follows:

Table 10 to Part 679—Gulf of Alaska Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6])															
Code	Species	Pollock	Pacific Cod	DW Flat (2)	Rex sole	Flathead sole	SW Flat (3)	Arrow-tooth	Sable-fish	Aggregated Rockfish (8)	SR/RE ERA (1)	DSR SEO (C/Ps only) (6)	Atka mackerel	Aggregated forage fish(10)	Skates (11)	Other species (7)	Grenadiers (13)
110	Pacific cod	20	n/a(9)	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
121	Arrowtooth	5	5	20	20	20	20	n/a	1	5	0	0	20	2	20	20	8
122	Flathead sole	20	20	20	20	n/a	20	35	7	15	7	1	20	2	20	20	8
125	Rex sole	20	20	20	n/a	20	20	35	7	15	7	1	20	2	20	20	8
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
152/151	Shortraker/rougheye (1)	20	20	20	20	20	20	35	7	15	n/a	1	20	2	20	20	8
193	Atka mackerel	20	20	20	20	20	20	35	1	5	(1)	10	n/a	2	20	20	8
270	Pollock	n/a	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8
710	Sablefish	20	20	20	20	20	20	35	n/a	15	7	1	20	2	20	20	8
Flatfish, deep-water(2)		20	20	n/a	20	20	20	35	7	15	7	1	20	2	20	20	8
Flatfish, shallow-water(3)		20	20	20	20	20	n/a	35	1	5	(1)	10	20	2	20	20	8
Rockfish, other (4)		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, pelagic (5)		20	20	20	20	20	20	35	7	15	7	1	20	2	20	20	8
Rockfish, DSR-SEO (6)		20	20	20	20	20	20	35	7	15	7	n/a	20	2	20	20	8
Skates(11)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	n/a	20	8
Other species (7)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	n/a	8
Aggregated amount of non-groundfish species(12)		20	20	20	20	20	20	35	1	5	(1)	10	20	2	20	20	8

Notes to Table 10 to Part 679					
1	Shortraker/rougheye rockfish				
		SR/RE	Shortraker rockfish (152)		
			Rougheye rockfish (151)		
		SR/RE ERA	Shortraker/rougheye rockfish in the Eastern Regulatory Area (ERA).		
	Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish				
2	Deep-water flatfish	Dover sole, Greenland turbot, and deep-sea sole			
3	Shallow-water flatfish	Flatfish not including deep-water flatfish, flathead sole, rex sole, or arrowtooth flounder			
4	Other rockfish	Western Regulatory Area	means slope rockfish and demersal shelf rockfish		
		Central Regulatory Area			
		West Yakutat District			
		Southeast Outside District	means slope rockfish		
		Slope rockfish			
		S. aurora (aurora)	*S. variegates* (harlequin)	*S. brevispinis* (silvergrey)	
		S. melanostomus (blackgill)	*S. wilsoni* (pygmy)	*S. diploproa* (splitnose)	
		S. paucispinis (bocaccio)	*S. babcocki* (redbanded)	*S. saxicola* (stripetail)	
		S. goodei (chilipepper)	*S. proriger* (redstripe)	*S. miniatus* (vermilion)	
		S. crameri (darkblotch)	*S. zacentrus* (sharpchin)	*S. reedi* (yellowmouth)	
		S. elongatus (greenstriped)	*S. jordani* (shortbelly)		
		In the Eastern GOA only, Slope rockfish also includes *S. polyspinis* (northern)			
5	Pelagic shelf rockfish	*S. variabilis* (dusky)	*S. entomelas* (widow)	*S. flavidus* (yellowtail)	
6	Demersal shelf rockfish (DSR)	*S. pinniger* (canary)	*S. maliger* (quillback)	*S. ruberrimus* (yelloweye)	
		S. nebulosus (china)	*S. helvomaculatus* (rosethorn)		
		S. caurinus (copper)	*S. nigrocinctus* (tiger)		
		DSR-SEO = Demersal shelf rockfish in the Southeast Outside District (SEO)(see § 679.7(b)(4) and § 679.20(j)).			
7	Other species	Sculpins	Octopus	Sharks	Squid
8	Aggregated rockfish	Means rockfish as defined at § 679.2 except in:			
		Southeast Outside District	where DSR is a separate category for those species marked with a numerical percentage		
		Eastern Regulatory Area	where SR/RE is a separate category for those species marked with a numerical percentage		

Notes to Table 10 to Part 679			
9	n/a	Not applicable	
10	Aggregated forage fish (all species of the following taxa)		
		Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)	209
		Capelin smelt (family *Osmeridae*)	516
		Deep-sea smelts (family *Bathylagidae*)	773
		Eulachon smelt (family *Osmeridae*)	511
		Gunnels (family *Pholidae*)	207
		Krill (order *Euphausiacea*)	800
		Lanternfishes (family *Myctophidae*)	772
		Pacific Sand fish (family *Trichodontidae*)	206
		Pacific Sand lance (family *Ammodytidae*)	774
		Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)	208
		Surf smelt (family *Osmeridae*)	515
11	Skates Species and Groups	Big Skates (*Raja binoculata*)	702
		Longnose Skates (*R. rhina*)	701
		Other Skates (all skates that are not Big Skate or Longnose Skate)	700
12	Aggregated non-groundfish	All legally retained species of fish and shellfish, including IFQ halibut, that are not listed as FMP groundfish in Tables 2a and 2c to this part.	
13	Grenadiers	Giant grenadiers (*Albatrossia pectoralis*)	214
		Other grenadiers	213

■ 10. Revise Table 11 to part 679 to read as follows:

Table 11 to Part 679–BSAI Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES																	
Code	Species	Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrow-tooth	Kam-chatka	Yellow fin sole	Other flatfish[2]	Rock sole	Flat-head sole	Green-land turbot	Sable-fish[1]	Short-raker/ rougheye	Agg. Rock-fish[6]	Squid	Agg. forage fish[7]	Other species[4]	Grenadiers[9]
110	Pacific cod	20	na[5]	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
121	Arrowtooth	20	20	20	20	na	20	20	20	20	20	7	1	2	5	20	2	3	8
117	Kamchatka	20	20	20	20	20	na	20	20	20	20	7	1	2	5	20	2	3	8
122	Flathead sole	20	20	20	35	35	35	35	35	35	na	35	15	7	15	20	2	20	8
123	Rock sole	20	20	20	35	35	35	35	35	na	35	1	1	2	15	20	2	20	8
127	Yellowfin sole	20	20	20	35	35	35	na	35	35	35	1	1	2	5	20	2	20	8
133	Alaska Plaice	20	20	20	na	35	35	35	35	35	35	1	1	2	5	20	2	20	8
134	Greenland turbot	20	20	20	20	35	35	20	20	20	20	na	15	7	15	20	2	20	8
136	Northern	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
141	Pacific Ocean perch	20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
152/ 151	Shortraker/ Rougheye	20	20	20	20	35	35	20	20	20	20	35	15	na	5	20	2	20	8
193	Atka mackerel	20	20	na	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
270	Pollock	na	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8
710	Sablefish[1]	20	20	20	20	35	35	20	20	20	20	35	na	7	15	20	2	20	8
875	Squid	20	20	20	20	35	35	20	20	20	20	1	1	2	5	na	2	20	8
Other flatfish[2]		20	20	20	35	35	35	35	na	35	35	1	1	2	5	20	2	20	8
Other rockfish[3]		20	20	20	20	35	35	20	20	20	20	35	15	7	15	20	2	20	8
Other species[4]		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	na	8
Aggregated amount non-groundfish species[8]		20	20	20	20	35	35	20	20	20	20	1	1	2	5	20	2	20	8

[1] **Sablefish**: for fixed gear restrictions, see § 679.7(f)(3)(ii) and (f)(11).
[2] **Other flatfish** includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, arrowtooth flounder and Kamchatka flounder.
[3] **Other rockfish** includes all "rockfish" as defined at § 679.2, except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish.
[4] The **Other species** includes sculpins, sharks, skates and octopus.
[5] **na** = not applicable
[6] **Aggregated rockfish** includes all "rockfish" as defined at § 679.2, except shortraker and rougheye rockfish.
[7] **Forage fish** are defined at Table 2c to this part.
[8] All legally retained species of fish and shellfish, including CDQ halibut and IFQ halibut that are not listed as FMP groundfish in Tables 2a and 2c to this part.
[9] **Grenadiers** are defined in Table 2c to this part.

[FR Doc. 2015–05049 Filed 3–4–15; 8:45 am]
BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

Docket No. 140117052–4402–02]

RIN 0648–XD799

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2015 commercial summer flounder quota to the Commonwealth of Massachusetts. These quota adjustments are necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provision. This announcement is intended to inform the public of the revised commercial quota for each state involved.

DATES: Effective March 2, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Reid Lichwell, Fishery Management Specialist, 978–281–9112.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are in 50 CFR 648.100–110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.10(c)(1)(i).

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan provided a mechanism for summer flounder quota to be transferred from one state to another (December 17, 1993; 58 FR 65936). Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i) when evaluating requests for quota transfers or combinations.

North Carolina has agreed to transfer 10,860 lb (4,926 kg) of its 2015 commercial quota to Massachusetts. This transfer was prompted by landings of the F/V *Poseidon,* a North Carolina vessel that was granted safe harbor in Massachusetts due to a medical emergency, on February 8, 2015. As a result of these landings, a quota transfer is necessary to account for an increase in Massachusetts landings that would have otherwise accrued against the North Carolina quota.

The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. These transfers are consistent with the criteria because they will not preclude the overall annual quota from being fully harvested, the transfers address an unforeseen variation or contingency in the fishery, and the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act. The revised summer flounder commercial quotas for calendar year 2015 are: Massachusetts, 760,795 lb (345,091 kg); and North Carolina, 2,994,691 lb (1,358,368 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: March 2, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–05118 Filed 3–2–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791–4999–02]

RIN 0648–XD800

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Jig Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2015 Pacific cod total allowable catch apportioned to vessels using jig gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 2, 2015, through 1200 hours, A.l.t., June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2015 Pacific cod total allowable catch (TAC) apportioned to vessels using jig gear in the Central Regulatory Area of the GOA is 276 metric tons (mt), as established by the final 2015 and 2016 harvest specifications for groundfish of the GOA (80 FR 10250, February 25, 2015).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2015 Pacific cod TAC apportioned to vessels using jig gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 271 mt and is setting aside the remaining 5 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is

impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for vessels using jig gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 27, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 2, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–05063 Filed 3–2–15; 04:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XD587

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2015 and 2016 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2015 and 2016 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2015 and 2016 fishing years, and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the BSAI (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective from 1200 hrs, Alaska local time (A.l.t.), March 5, 2015, through 2400 hrs, A.l.t., December 31, 2016.

ADDRESSES: Electronic copies of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from *http://alaskafisheries.noaa.gov.* The final 2014 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2014, as well as the SAFE reports for previous years, are available from the North Pacific Fishery Management Council (Council) at 605 West 4th Avenue, Suite 306, Anchorage, AK, 99510–2252, (phone) 907–271–2809, or from the Council's Web site at *http://www.npfmc.org/.*

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The Council prepared the FMP, and NMFS approved it under the Magnuson-Stevens Act. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species category. The sum TAC for all groundfish species must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). This final rule specifies the TAC at 2.0 million mt for both 2015 and 2016. NMFS also must specify apportionments of TAC, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserves established by § 679.21; seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC; Amendment 80 allocations; and Community Development Quota (CDQ) reserve amounts established by § 679.20(b)(1)(ii). The final harvest specifications set forth in Tables 1 through 22 of this action satisfy these requirements.

Section 679.20(c)(3)(i) further requires NMFS to consider public comment on the proposed annual TACs (and apportionments thereof) and PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2015 and 2016 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 8, 2014 (79 FR 72571). Comments were invited and accepted through January 7, 2015. NMFS received five letters with 13 comments on the proposed harvest specifications. These comments are summarized and responded to in the ''Response to Comments'' section of this rule. NMFS consulted with the Council on the final 2015 and 2016 harvest specifications during the December 2014 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the final 2015 and 2016 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels for Alaska groundfish are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations. The FMP specifies a series of six tiers to define OFL and ABC amounts based on the level of reliable information available to fishery scientists. Tier 1 represents the highest level of information quality available while Tier 6 represents the lowest.

In December 2014, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological and harvest information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the final 2014 SAFE report for the BSAI groundfish fisheries, dated November 2014 (see **ADDRESSES**). The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. NMFS notified the public and asked for review of the SAFE report in the notice of proposed harvest specifications. From these data and analyses, the Plan Team recommended an OFL and ABC for each species or

species category at the November 2014 Plan Team meeting.

In December 2014, the SSC, AP, and Council reviewed the Plan Team's recommendations. The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. As required by annual catch limit rules for all fisheries (74 FR 3178, January 16, 2009), none of the Council's recommended TACs for 2015 or 2016 exceeds the final 2015 or 2016 ABCs for any species category. The Secretary of Commerce approves the final 2015 and 2016 harvest specifications as recommended by the Council. NMFS finds that the Council's recommended OFLs, ABCs, and TACs are consistent with the preferred harvest strategy and the biological condition of groundfish stocks as described in the 2014 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2015 and 2016 Harvest Specifications

A final rule implementing Steller sea lion protection measures in the BSAI became effective on December 26, 2014 (79 FR 70286, November 25, 2014). These regulations insure that the western distinct population segment of Steller sea lions' continued existence is not jeopardized or its critical habitat is not destroyed or adversely modified. These regulations alter areas open for directed fishing in the Aleutian Islands subarea of the BSAI. They also alter the harvest limitation in these harvest specifications for pollock, Atka mackerel, and Pacific cod primarily in the Aleutian Islands subarea of the BSAI. The proposed harvest specifications notified the public of possible changes to the harvest specification limits. Changes to the pollock, Atka mackerel, and Pacific cod harvest specifications that are required by the rule implementing the protection measures are described in the section for each of these target species.

For 2015, the Board of Fisheries (BOF) for the State of Alaska (State) established a Pacific cod guideline harvest level (GHL) in State waters between 164 and 167 degrees west longitude in the Bering Sea (BS) subarea. The Pacific cod GHL in this area is equal to 3 percent of the sum of the Pacific cod ABCs for the Aleutian Islands (AI) and the BS. To account for the State GHL fishery in 2015 and 2016, the Council reduced the final BS subarea TAC by 3 percent of the combined BS and AI subarea ABCs. The combined BS subarea TAC and GHL (248,178 mt) are less than the final BS subarea ABC.

For 2015, the BOF for the State established a Pacific cod GHL in State waters in the AI subarea. The Pacific cod GHL in this area is equal to 3 percent of the sum of the Pacific cod ABCs for the AI and the BS. To account for the State GHL fishery in 2015 and 2016, the Council reduced the final AI subarea TAC by 3 percent of the combined BS and AI subarea ABCs. The combined AI TAC and GHL (17,600 mt) equal the final AI subarea ABC.

Changes From the Proposed 2015 and 2016 Harvest Specifications for the BSAI

In October 2014, the Council proposed its recommendations for the 2015 and 2016 harvest specifications (which were proposed by NMFS, 79 FR 72571, December 8, 2014), based largely on information contained in the 2013 SAFE report for the BSAI groundfish fisheries. Through the proposed harvest specifications, NMFS notified the public that these harvest specifications could change, as the Council would consider information contained in the final 2014 SAFE report, recommendations from the Plan Team, SSC, and AP committees, and public testimony when making its recommendations for final harvest specifications at the December Council meeting. NMFS further notified the public that, as required by the FMP and its implementing regulations, the sum of the TACs must be within the OY range of 1.4 million and 2.0 million mt.

Information contained in the 2014 SAFE reports indicates biomass changes for several groundfish species from the 2013 SAFE reports. At the December 2014 Council meeting, the SSC recommended the 2015 and 2016 ABCs for many species based on the best and most recent information contained in the 2014 SAFE reports. This recommendation resulted in an ABC sum total for all BSAI groundfish species in excess of 2 million mt for both 2015 and 2016. Based on the SSC ABC recommendations and the 2014 SAFE reports, the Council recommends increasing Bering Sea pollock by 52,000 mt. In terms of percentage, the largest increases in TACs were for Central Aleutian district (CAI) Atka mackerel and Western Aleutian district (WAI) Atka mackerel, octopuses, and Aleutian Island Pacific cod. The Atka mackerel fisheries are valuable and likely to be harvested to the full TAC available. The Council increased these TACs due to changes in Steller sea lion conservation measures. The octopuses increase was due to anticipated higher catches in 2015 and 2016, and the increase in Aleutian Islands Pacific cod was due to larger biomass estimates. Conversely, the largest decrease in TAC in terms of tonnage is 38,000 mt for yellowfin sole and 15,750 for rock sole. In terms of percentage change from the proposed TACs, Aleutian Island Greenland turbot and shortraker rockfish had the largest decreases in TAC. The Council decreased TACs for these species because they were not fully harvested in 2014. The changes to TAC between the proposed and final harvest specifications are based on the most recent scientific and economic information and are consistent with the FMP, regulatory obligations, and harvest strategy as described in the proposed harvest specifications. These changes are compared in Table 1A. Table 1 lists the Council's recommended final 2015 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve amounts of the BSAI groundfish; and Table 2 lists the Council's recommended final 2016 OFL, ABC, TAC, initial TAC, and CDQ reserve amounts of the BSAI groundfish. NMFS concurs in these recommendations. The final 2015 and 2016 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed the ABC for any species or species group. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1—FINAL 2015 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2015				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	3,330,000	1,637,000	1,310,000	1,179,000	131,000

TABLE 1—FINAL 2015 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]—Continued

[Amounts are in metric tons]

Species	Area	2015				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
	AI	36,005	29,659	19,000	17,100	1,900
	Bogoslof	21,200	15,900	100	100	0
Pacific cod [5]	BS	346,000	255,000	240,000	214,320	25,680
	AI	23,400	17,600	9,422	8,414	1,008
Sablefish	BS	1,575	1,333	1,333	567	183
	AI	2,128	1,802	1,802	383	304
Yellowfin sole	BSAI	266,400	248,800	149,000	133,057	15,943
Greenland turbot	BSAI	3,903	3,172	2,648	2,251	n/a
	BS	n/a	2,448	2,448	2,081	262
	AI	n/a	724	200	170	0
Arrowtooth flounder	BSAI	93,856	80,547	22,000	18,700	2,354
Kamchatka flounder	BSAI	10,500	9,000	6,500	5,525	0
Rock sole	BSAI	187,600	181,700	69,250	61,840	7,410
Flathead sole [6]	BSAI	79,419	66,130	24,250	21,655	2,595
Alaska plaice	BSAI	54,000	44,900	18,500	15,725	0
Other flatfish [7]	BSAI	17,700	13,250	3,620	3,077	0
Pacific ocean perch	BSAI	42,558	34,988	32,021	28,250	n/a
	BS	n/a	8,771	8,021	6,818	0
	EAI	n/a	8,312	8,000	7,144	856
	CAI	n/a	7,723	7,000	6,251	749
	WAI	n/a	10,182	9,000	8,037	963
Northern rockfish	BSAI	15,337	12,488	3,250	2,763	0
Rougheye rockfish [8]	BSAI	560	453	349	297	0
	BS/EAI	n/a	149	149	127	0
	CAI/WAI	n/a	304	200	170	0
Shortraker rockfish	BSAI	690	518	250	213	0
Other rockfish [9]	BSAI	1,667	1,250	880	748	0
	BS	n/a	695	325	276	0
	AI	n/a	555	555	472	0
Atka mackerel	BSAI	125,297	106,000	54,500	48,669	5,832
	BS/EAI	n/a	38,492	27,000	24,111	2,889
	CAI	n/a	33,108	17,000	15,181	1,819
	WAI	n/a	34,400	10,500	9,377	1,124
Skates	BSAI	49,575	41,658	25,700	21,845	0
Sculpins	BSAI	52,365	39,725	4,700	3,995	0
Sharks	BSAI	1,363	1,022	125	106	0
Squids	BSAI	2,624	1,970	400	340	0
Octopuses	BSAI	3,452	2,589	400	340	0
Total	4,769,174	2,848,454	2,000,000	1,789,278	197,038	

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 5).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, squids, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A)(*1*), the annual BS subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (4.0 percent), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt) is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Bering Sea subarea. The AI Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State guideline harvest level in State waters of the Aleutian Islands subarea.

[6] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[7] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[8] ''Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[9] ''Other rockfish'' includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.**Note:** Regulatory areas and districts are defined at § 679.2 (BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district.)

TABLE 1A—COMPARISON OF FINAL 2015 AND 2016 WITH PROPOSED 2015 AND 2016 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area [1]	2015 Final TAC	2015 Proposed TAC	2015 Difference from proposed	2016 Final TAC	2016 Proposed TAC	2016 Difference from proposed
Pollock	BS	1,310,000	1,258,000	52,000	1,310,000	1,258,000	52,000
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	100	75	25	100	75	25
Pacific cod	BS	240,000	251,712	−11,712	240,000	251,712	−11,712
	AI	9,422	6,487	2,935	9,422	6,487	2,935
Sablefish	BS	1,333	1,210	123	1,211	1,210	1
	AI	1,802	1,636	166	1,637	1,636	1
Yellowfin sole	BSAI	149,000	187,000	−38,000	149,000	187,000	−38,000
Greenland turbot	BS	2,448	2,478	−30	2,448	2,478	−30
	AI	200	695	−495	200	695	−495
Arrowtooth flounder	BSAI	22,000	25,000	−3,000	22,000	25,000	−3,000
Kamchatka flounder	BSAI	6,500	7,300	−800	6,500	7,300	−800
Rock sole	BSAI	69,250	85,000	−15,750	69,250	85,000	−15,750
Flathead sole	BSAI	24,250	25,129	−879	24,250	25,129	−879
Alaska plaice	BSAI	18,500	25,000	−6,500	18,500	25,000	−6,500
Other flatfish	BSAI	3,620	3,000	620	3,620	3,000	620
Pacific ocean perch	BS	8,021	7,340	681	8,021	7,340	681
	EAI	8,000	8,833	−833	7,970	8,833	−863
	CAI	7,000	6,299	701	7,000	6,299	701
	WAI	9,000	9,169	−169	9,000	9,169	−169
Northern rockfish	BSAI	3,250	3,000	250	3,250	3,000	250
Rougheye rockfish	BS/EAI	149	201	−52	149	201	−52
	CAI/WAI	200	277	−77	200	277	−77
Shortraker rockfish	BSAI	250	370	−120	250	370	−120
Other rockfish	BS	325	400	−75	325	400	−75
	AI	555	473	82	555	473	82
Atka mackerel	EAI/BS	27,000	21,769	5,231	27,317	21,769	5,548
	CAI	17,000	9,722	7,278	17,000	9,722	7,278
	WAI	10,500	1,000	9,500	10,500	1,000	9,500
Skates	BSAI	25,700	26,000	−300	25,700	26,000	−300
Sculpins	BSAI	4,700	5,750	−1,050	4,700	5,750	−1,050
Sharks	BSAI	125	125	0	125	125	0
Squid	BSAI	400	325	75	400	325	75
Octopuses	BSAI	400	225	175	400	225	175
Total	BSAI	2,000,000	2,000,000	0	2,000,000	2,000,000	0

[1] Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands management area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

TABLE 2—FINAL 2016 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2016				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS	3,490,000	1,554,000	1,310,000	1,179,000	131,000
	AI	38,699	31,900	19,000	17,100	1,900
	Bogoslof	21,200	15,900	100	100	0
Pacific cod [5]	BS	389,000	255,000	240,000	214,320	25,680
	AI	23,400	17,600	9,422	8,414	1,008
Sablefish	BS	1,431	1,211	1,211	515	45
	AI	1,934	1,637	1,637	348	31
Yellowfin sole	BSAI	262,900	245,500	149,000	133,057	15,943
	BSAI	6,453	5,248	2,648	2,251	n/a
Greenland turbot	BS	n/a	4,050	2,448	2,081	262
	AI	n/a	1,198	200	170	0
Arrowtooth flounder	BSAI	91,663	78,661	22,000	18,700	2,354
Kamchatka flounder	BSAI	11,000	9,500	6,500	5,525	0
Rock sole	BSAI	170,100	164,800	69,250	61,840	7,410
Flathead sole [6]	BSAI	76,504	63,711	24,250	21,655	2,595
Alaska plaice	BSAI	51,600	42,900	18,500	15,725	0
Other flatfish [7]	BSAI	17,700	13,250	3,620	3,077	0
	BSAI	40,809	33,550	31,991	28,223	n/a
	BS	n/a	8,411	8,021	6,818	0
Pacific ocean perch	EAI	n/a	7,970	7,970	7,117	853

TABLE 2—FINAL 2016 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]—Continued

[Amounts are in metric tons]

Species	Area	2016				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]
	CAI	n/a	7,406	7,000	6,251	749
	WAI	n/a	9,763	9,000	8,037	963
Northern rockfish	BSAI	15,100	12,295	3,250	2,763	0
	BSAI	688	555	349	297	0
Rougheye rockfish [8]	EBS/EAI	n/a	178	149	127	0
	CAI/WAI	n/a	377	200	170	0
Shortraker rockfish	BSAI	690	518	250	213	0
	BSAI	1,667	1,250	880	748	0
Other rockfish [9]	BS	n/a	695	325	276	0
	AI	n/a	555	555	472	0
	BSAI	115,908	98,137	54,817	48,952	5,865
Atka mackerel	EAI/BS	n/a	35,637	27,317	24,394	2,923
	CAI	n/a	30,652	17,000	15,181	1,819
	WAI	n/a	31,848	10,500	9,377	1,124
Skates	BSAI	47,035	39,468	25,700	21,845	0
Sculpins	BSAI	52,365	39,725	4,700	3,995	0
Sharks	BSAI	1,363	1,022	125	106	0
Squids	BSAI	2,624	1,970	400	340	0
Octopuses	BSAI	3,452	2,589	400	340	0
Total		4,935,285	2,731,897	2,000,000	1,789,447	196,658

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 5).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, ''other rockfish,'' skates, sculpins, sharks, squids, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A)(*1*), the annual BS subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (4.0 percent), is further allocated by sector for a pollock directed fishery as follows: Inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,400 mt) is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Bering Sea subarea. The AI Pacific cod TAC is reduced by 3 percent from the combined BSAI ABC to account for the State guideline harvest level in State waters of the Aleutian Islands subarea.

[6] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[7] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, Kamchatka flounder, and Alaska plaice.

[8] ''Rougheye rockfish'' includes *Sebastes aleutianus* (rougheye) and *Sebastes melanostictus* (blackspotted).

[9] ''Other rockfish'' includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Note: Regulatory areas and districts are defined at § 679.2 (BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district.)

Groundfish Reserves and the Incidental Catch Allowance (ICA) for Pollock, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires NMFS to reserve 15 percent of the TAC for each target species, except for pollock, hook-and-line and pot gear allocation of sablefish, and Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that NMFS allocate 20 percent of the hook-and-line and pot gear allocation of sablefish for the fixed-gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires that NMFS allocate 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires that NMFS allocate 10.7 percent of the TAC for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A) and 679.31(a) also require that 10 percent of the BSAI pollock TACs be allocated to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see § 679.20(a)(5)(ii)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 4.0 percent of the BS subarea pollock TAC after subtracting the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2000 through 2014. During this 15-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 4.8 percent in 2014, with a

15-year average of 3.2 percent. Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), NMFS establishes a pollock ICA of 2,400 mt of the AI subarea TAC after subtracting the 10-percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2014. During this 12-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 17 percent in 2014, with an 11-year average of 8 percent.

Pursuant to § 679.20(a)(8) and (10), NMFS allocates ICAs of 5,000 mt of flathead sole, 8,000 mt of rock sole, 5,000 mt of yellowfin sole, 10 mt of WAI Pacific ocean perch, 75 mt of CAI Pacific ocean perch, 100 mt of EAI Pacific ocean perch, 40 mt of WAI Atka mackerel, 75 mt of CAI Atka mackerel, and 1,000 mt of EAI and BS subarea Atka mackerel TAC after subtracting the 10.7 percent CDQ reserve. These ICA allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2014.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species category that contributed to the non-specified reserves during the year, provided that such apportionments do not result in overfishing (see § 679.20(b)(1)(i)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 1 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 3 from the non-specified reserve to increase the ITAC for shortraker rockfish, rougheye rockfish, ''other rockfish,'' sharks, and octopuses by 15 percent of the TAC in 2015 and 2016.

TABLE 3—FINAL 2015 AND 2016 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species-area or subarea	2015 ITAC	2015 reserve amount	2015 final ITAC	2016 ITAC	2016 reserve amount	2016 final ITAC
Shortraker rockfish-BSAI	213	37	250	213	37	250
Rougheye rockfish-BS/EAI	127	22	149	127	22	149
Rougheye rockfish-CAI/WAI	170	30	200	170	30	200
Other rockfish-Bering Sea subarea	276	49	325	276	49	325
Other rockfish-Aleutian Islands subarea	472	83	555	472	83	555
Sharks	106	19	125	106	19	125
Octopuses	340	60	400	340	60	400
Total	1,704	300	2,004	1,704	300	2,004

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the BS subarea pollock TAC be apportioned, after subtracting 10 percent for the CDQ program and 4.0 percent for the ICA, as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor (C/P) sector, and 10 percent to the mothership sector. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10–November 1) (§ 679.20(a)(5)(i)(A)). The AI-directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 2,400 mt for the ICA (§ 679.20(a)(5)(iii)(B)(*2*)(*ii*)). In the AI subarea, the total A season apportionment of the TAC is less than or equal to 40 percent of the ABC and the remainder of the TAC is allocated to the B season. Tables 4 and 5 list these 2015 and 2016 amounts.

The Steller sea lion protection measure final rule (79 FR 70286, November 25, 2014), sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541, see § 679.20(a)(5)(iii)(B)(*6*). 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.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements regarding BS subarea pollock allocations. First, it requires that 8.5 percent of the pollock allocated to the C/P sector be available for harvest by AFA catcher vessels (CVs) with C/P sector endorsements, unless the Regional Administrator receives a cooperative contract that allows the distribution of harvest among AFA C/Ps and AFA CVs in a manner agreed to by all members. Second, AFA C/Ps not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the C/P sector. Tables 4 and 5 list the 2015 and 2016 allocations of pollock TAC. Tables 21 through 26 list the AFA C/P and CV harvesting sideboard limits. The tables for the pollock allocations to the BS subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Tables 4 and 5 also list seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to no more than 28 percent of the annual DFA before 12:00 noon, April 1, as provided in § 679.20(a)(5)(i)(C). The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Tables 4 and 5 list these 2015 and 2016 amounts by sector.

TABLE 4—FINAL 2015 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2015 Allocations	2015 A season [1]		2015 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,310,000	n/a	n/a	n/a
CDQ DFA	131,000	52,400	36,680	78,600
ICA [1]	47,160	n/a	n/a	n/a
AFA Inshore	565,920	226,368	158,458	339,552
AFA Catcher/Processors [3]	452,736	181,094	126,766	271,642
Catch by C/Ps	414,253	165,701	n/a	248,552
Catch by CVs [3]	38,483	15,393	n/a	23,090
Unlisted C/P Limit [4]	2,264	905	n/a	1,358
AFA Motherships	113,184	45,274	31,692	67,910
Excessive Harvesting Limit [5]	198,072	n/a	n/a	n/a
Excessive Processing Limit [6]	339,552	n/a	n/a	n/a
Total Bering Sea DFA	1,131,840	452,736	316,915	679,104
Aleutian Islands subarea ABC	29,659	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	9,904	n/a	4,796
Area harvest limit:				
541	8,898	n/a	n/a	n/a
542	4,449	n/a	n/a	n/a
543	1,483	n/a	n/a	n/a
Bogoslof District ICA [7]	100	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(*A*)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(*A*)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 5—FINAL 2016 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2016 Allocations	2016 A season [1]		2016 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,310,000	n/a	n/a	n/a
CDQ DFA	131,000	52,400	36,680	78,600
ICA [1]	47,160	n/a	n/a	n/a
AFA Inshore	565,920	226,368	158,458	339,552
AFA Catcher/Processors [3]	452,736	181,094	126,766	271,642
Catch by C/Ps	414,253	165,701	n/a	248,552
Catch by CVs [3]	38,483	15,393	n/a	23,090
Unlisted C/P Limit [4]	2,264	905	n/a	1,358
AFA Motherships	113,184	45,274	31,692	67,910
Excessive Harvesting Limit [5]	198,072	n/a	n/a	n/a
Excessive Processing Limit [6]	339,552	n/a	n/a	n/a
Total Bering Sea DFA	1,131,840	452,736	316,915	679,104
Aleutian Islands subarea ABC	31,900	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a

TABLE 5—FINAL 2016 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2016 Allocations	2016 A season [1]		2016 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	10,800	n/a	3,900
Area harvest limit: [7]				
541	9,570	n/a	n/a	n/a
542	4,785	n/a	n/a	n/a
543	1,595	n/a	n/a	n/a
Bogoslof District ICA [8]	100	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20-June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(*A*)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(*A*)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8) allocates the Atka mackerel TACs to the Amendment 80 and BSAI trawl limited access sectors, after subtracting the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear sector (Tables 6 and 7). The percentage of the ITAC for Atka mackerel allocated to the Amendment 80 and BSAI trawl limited access sectors is listed in Table 33 to part 679 and in § 679.91. Pursuant to § 679.20(a)(8)(i), up to 2 percent of the EAI and the BS subarea Atka mackerel ITAC may be allocated to vessels using jig gear. The percent of this allocation is recommended annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the EAI and BS subarea to the jig gear sector in 2015 and 2016. This percentage is applied to the Atka mackerel TAC after subtracting the CDQ reserve and the ICA.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel TAC into two equal seasonal allowances. Section 679.23(e)(3) sets the first seasonal allowance for directed fishing with trawl gear from January 20 through June 10 (A season), and the second seasonal allowance from June 10 through December 31 (B season). Section 679.23(e)(4)(iii) applies Atka mackerel seasons to CDQ Atka mackerel fishing. The ICA and jig gear allocations are not apportioned by season.

Sections 679.20(a)(8)(ii)(C)(*1*)(*i*) and (*ii*) limits 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 to no more than 60 percent of the annual TACs in Areas 542 and 543; and equally divides the annual TAC between the A and B seasons as defined at § 679.23(e)(3). Section 679.20(a)(8)(ii)(C)(*2*) requires the annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543. Section 679.20(a)(8)(ii)(D) requires that any unharvested Atka mackerel A season allowance that is added to the B season be 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.

Tables 6 and 7 list these 2015 and 2016 Atka mackerel seasons, area allowances, and the sector allocations. The 2016 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015.

TABLE 6—FINAL 2015 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2015 allocation by area		
		Eastern Aleutian District/ Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	27,000	17,000	10,500
CDQ reserve	Total	2,889	1,819	1,124
	A	1,445	910	562
	Critical Habitat	n/a	546	337
	B	1,445	910	562
	Critical Habitat	n/a	546	337
ICA	Total	1,000	75	40
Jig [6]	Total	116	0	0
BSAI trawl limited access	Total	2,300	1,511	0
	A	1,150	755	0
	Critical Habitat	n/a	453	0
	B	1,150	755	0
	Critical Habitat	n/a	453	0
Amendment 80 sectors	Total	20,696	13,595	9,337
	A	10,348	6,798	4,668
	B	10,348	6,798	4,668
Alaska Groundfish Cooperative	Total [6]	11,616	8,116	5,742
	A	5,808	4,058	2,871
	Critical Habitat	n/a	2,435	1,723
	B	5,808	4,058	2,871
	Critical Habitat	n/a	2,435	1,723
Alaska Seafood Cooperative	Total [6]	9,080	5,479	3,594
	A	4,540	2,740	1,797
	Critical Habitat	n/a	1,644	1,078
	B	4,540	2,740	1,797
	Critical Habitat	n/a	1,644	1,078

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC 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] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; (a)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and (a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

[6] 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. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 7—FINAL 2016 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2016 allocation by area		
		Eastern Aleutian District/ Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
TAC	n/a	27,317	17,000	10,500
CDQ reserve	Total	2,923	1,819	1,124
	A	1,461	910	562
	Critical Habitat	n/a	546	337
	B	1,461	910	562
	Critical Habitat	n/a	546	337
ICA	Total	1,000	75	40
Jig [6]	Total	117	0	0
BSAI trawl limited access	Total	2,328	1,511	0
	A	1,164	755	0
	Critical Habitat	n/a	453	0
	B	1,164	755	0
	Critical Habitat	n/a	453	0

TABLE 7—FINAL 2016 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATION OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2016 allocation by area		
		Eastern Aleutian District/ Bering Sea [5]	Central Aleutian District [5]	Western Aleutian District [5]
Amendment 80 sectors	Total	20,949	13,595	9,337
	A	10,475	6,798	4,668
	B	10,475	6,798	4,668

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC 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] Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; (a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and (a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

[6] 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. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

[7] The 2016 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015. NMFS will post 2016 Amendment 80 allocations when they become available in December 2015.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Allocation of the Pacific Cod TAC

The Council separated BS and AI subarea OFLs, ABCs, and TACs for Pacific cod. Section 679.20(b)(1)(ii)(C) allocates 10.7 percent of the BS TAC and AI TAC to the CDQ program. After CDQ allocations have been deducted from the respective BS and AI Pacific cod TACs, the remaining BS and AI Pacific cod TACs are combined for calculating further BSAI Pacific cod sector allocations. However, if the non-CDQ Pacific cod TAC is or will be reached in either the BS or AI subareas, NMFS will prohibit non-CDQ directed fishing for Pacific cod in that subarea as provided in § 679.20(d)(1)(iii).

Sections 679.20(a)(7)(i) and (ii) allocate the Pacific cod TAC in the combined BSAI TAC, after subtracting 10.7 percent for the CDQ program, as follows: 1.4 percent to vessels using jig gear; 2.0 percent to hook-and-line and pot CVs less than 60 ft (18.3 m) length overall (LOA); 0.2 percent to hook-and-line CVs greater than or equal to 60 ft (18.3 m) LOA; 48.7 percent to hook-and-line C/P; 8.4 percent to pot CVs greater than or equal to 60 ft (18.3 m) LOA; 1.5 percent to pot C/Ps; 2.3 percent to AFA trawl C/Ps; 13.4 percent to non-AFA trawl C/Ps; and 22.1 percent to trawl CVs. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2015 and 2016, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries.

The ITAC allocation of Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and § 679.91. The 2016 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015.

The Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7) and 679.23(e)(5)). In accordance with § 679.20(a)(7)(iv)(B) and (C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

Section 679.20(a)(7)(vii) requires the Regional Administrator to establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543. Based on the 2014 stock assessment, the Regional Administrator determined the Area 543 Pacific cod harvest limit to be 26.3 percent of the AI Pacific cod TAC for 2015 and 2016. 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. Based on these calculations, the Area 543 harvest limit is 2,478 mt.

The CDQ and non-CDQ season allowances by gear based on the 2015 and 2016 Pacific cod TACs are listed in Tables 8 and 9, and are based on the sector allocation percentages of Pacific cod set forth at §§ 679.20(a)(7)(i)(B) and 679.20(a)(7)(iv)(A) and the seasonal allowances of Pacific cod set forth at § 679.23(e)(5).

TABLE 8—FINAL 2015 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2015 Share of gear sector total	2015 Share of sector total	2015 Seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	240,000	n/a	n/a	n/a
BS CDQ	n/a	25,680	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	214,320	n/a	n/a	n/a

TABLE 8—FINAL 2015 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2015 Share of gear sector total	2015 Share of sector total	2015 Seasonal apportionment	
				Seasons	Amount
AI TAC	n/a	9,422	n/a	n/a	n/a
AI CDQ	n/a	1,008	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	8,414	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	2,478	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	222,734	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	135,422	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	134,922	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	108,071	Jan 1-Jun 10	55,116
				Jun 10–Dec 31	52,955
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	444	Jan 1–Jun 10	226
				Jun 10–Dec 31	217
Pot catcher/processor	1.5	n/a	3,329	Jan 1–Jun 10	1,698
				Sept 1–Dec 31	1,631
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	18,641	Jan 1–Jun 10	9,507
				Sept 1–Dec 31	9,134
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,438	n/a	n/a
Trawl catcher vessel	22.1	49,224	n/a	Jan 20–Apr 1	36,426
				Apr 1–Jun 10	5,415
				Jun 10–Nov 1	7,384
AFA trawl catcher/processor	2.3	5,123	n/a	Jan 20–Apr 1	3,842
				Apr 1–Jun 10	1,281
				Jun 10–Nov 1	0
Amendment 80	13.4	29,846	n/a	Jan 20–Apr 1	22,385
				Apr 1–Jun 10	7,462
				Jun 10–Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	4,711	Jan 20–Apr 1	3,533
				Apr 1–Jun 10	1,178
				Jun 10–Dec 31	0
Alaska Seafood Cooperative	n/a	n/a	25,135	Jan 20–Apr 1	18,851
				Apr 1–Jun 10	6,284
				Jun 10–Dec 31	0
Jig	1.4	3,118	n/a	Jan 1–Apr 30	1,871
				Apr 30–Aug 31	624
				Aug 31–Dec 31	624

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2015 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 9—FINAL 2016 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2016 Share of gear sector total	2016 Share of sector total	2016 Seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	240,000	n/a	n/a	n/a
BS CDQ	n/a	25,680	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	214,320	n/a	n/a	n/a
AI TAC	n/a	9,422	n/a	n/a	n/a
AI CDQ	n/a	1,008	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	8,414	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	2,478	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	n/a	222,734	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	135,422	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	134,922	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	108,071	Jan 1–Jun 10	55,116
				Jun 10–Dec 31	52,955
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	444	Jan 1–Jun 10	226
				Jun 10–Dec 31	217
Pot catcher/processor	1.5	n/a	3,329	Jan 1–Jun 10	1,698
				Sept 1–Dec 31	1,631
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	18,641	Jan 1–Jun 10	9,507

TABLE 9—FINAL 2016 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2016 Share of gear sector total	2016 Share of sector total	2016 Seasonal apportionment	
				Seasons	Amount
				Sept 1–Dec 31	9,134
Catcher vessel < 60 ft LOA using hook-and-line or pot gear.	2	n/a	4,438	n/a	n/a
Trawl catcher vessel	22.1	49,224	n/a	Jan 20–Apr 1	36,426
				Apr 1–Jun 10	5,415
				Jun 10–Nov 1	7,384
AFA trawl catcher/processor	2.3	5,123	n/a	Jan 20–Apr 1	3,842
				Apr 1–Jun 10	1,281
				Jun 10–Nov 1	0
Amendment 80	13.4	29,846	n/a	Jan 20–Apr 1	22,385
				Apr 1–Jun 10	7,462
				Jun 10–Dec 31	0
Jig	1.4	3,118	n/a	Jan 1–Apr 30	1,871
				Apr 30–Aug 31	624
				Aug 31–Dec 31	624

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2016 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require allocation of the sablefish TAC for the BS and AI subareas between trawl and hook-and-line or pot gear sectors. Gear allocations of the TAC for the BS subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear. Gear allocations of the TACs for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(ii)(B) requires NMFS to apportion 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. Additionally, § 679.20(b)(1)(ii)(D)(*1*) requires that 7.5 percent of the trawl gear allocation of sablefish from the non-specified reserves, established under § 679.20(b)(1)(i), be assigned to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2015 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries will reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final harvest specifications for the sablefish IFQ fisheries are in effect. Table 10 lists the 2015 and 2016 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 10—FINAL 2015 AND 2016 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2015 Share of TAC	2015 ITAC	2015 CDQ Reserve	2016 Share of TAC	2016 ITAC	2016 CDQ Reserve
Bering Sea:							
Trawl [1]	50	667	567	50	606	515	45
Hook-and-line/pot gear [2]	50	667	533	133	n/a	n/a	
Total	100	1,333	1,100	183	606	515	45
Aleutian Islands:							
Trawl [1]	25	451	383	34	410	349	31
Hook-and-line/pot gear [2]	75	1,351	1,081	270	n/a	n/a	n/a
Total	100	1,802	1,464	304	410	349	31

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtracting these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to one year.

Note: Sector apportionments may not total precisely due to rounding.

Allocation of the AI Pacific Ocean Perch, and BSAI Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require that NMFS allocate AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TAC between the Amendment 80 sector and BSAI trawl limited access sector, after subtracting 10.7 percent for the CDQ reserve and an ICA for the BSAI trawl limited access sector and vessels using non-trawl gear. The allocation of the ITAC for AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in accordance with Tables 33 and 34 to part 679 and § 679.91.

The 2016 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015. Tables 11 and 12 list the 2015 and 2016 allocations of the AI Pacific ocean perch, and BSAI flathead sole, rock sole, and yellowfin sole TACs.

TABLE 11—FINAL 2015 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	8,000	7,000	9,000	24,250	69,250	149,000
CDQ	856	749	963	2,595	7,410	15,943
ICA	100	75	10	5,000	8,000	5,000
BSAI trawl limited access	704	618	161	0	0	16,165
Amendment 80	6,340	5,558	7,866	16,655	53,840	111,892
Alaska Groundfish Cooperative	3,362	2,947	4,171	1,708	13,318	44,455
Alaska Seafood Cooperative	2,978	2,611	3,695	14,947	40,522	67,437

Note: Sector apportionments may not total precisely due to rounding.

TABLE 12—FINAL 2016 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian District	Central Aleutian District	Western Aleutian District	BSAI	BSAI	BSAI
TAC	7,970	7,000	9,000	24,250	69,250	149,000
CDQ	853	749	963	2,595	7,410	15,943
ICA	100	75	10	5,000	8,000	5,000
BSAI trawl limited access	702	618	161	0	0	16,165
Amendment 80 [1]	6,315	5,558	7,866	16,655	53,840	111,892

[1] The 2016 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015. NMFS will publish 2016 Amendment 80 allocations when they become available in December 2015.

Note: Sector apportionments may not total precisely due to rounding.

Section 679.2 defines the ABC surplus for flathead sole, rock sole, and yellowfin sole as the difference between the annual ABC and TAC for each species. Section 679.20(b)(1)(iii) establishes ABC reserves for flathead sole, rock sole, and yellowfin sole. The ABC surpluses and the ABC reserves are necessary to mitigate the operational variability, environmental conditions, and economic factors that may constrain the CDQ groups and the Amendment 80 cooperatives from achieving, on a continuing basis, the optimum yield in the BSAI groundfish fisheries. NMFS, after consultation with the Council, may set the ABC reserve at or below the ABC surplus for each species thus maintaining the TAC below ABC limits. An amount equal to 10.7 percent of the ABC reserves will be allocated as CDQ reserves for flathead sole, rock sole, and yellowfin sole. The Amendment 80 ABC reserves shall be the ABC reserves minus the CDQ ABC reserves. Section 679.91(i)(2) establishes each Amendment 80 cooperative ABC reserve to be the ratio of each cooperatives' quota share (QS) units and the total Amendment 80 QS units, multiplied by the Amendment 80 ABC reserve for each respective species. Table 13 lists the 2015 and 2016 ABC surplus and ABC reserves for BSAI flathead sole, rock sole, and yellowfin sole.

TABLE 13—FINAL 2015 AND 2016 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2015 Flathead sole	2015 Rock sole	2015 Yellowfin sole	2016 Flathead sole	2016 Rock sole	2016 Yellowfin sole
ABC	66,130	181,700	248,800	63,711	164,800	245,500
TAC	24,250	69,250	149,000	24,250	69,250	149,000
ABC surplus	41,880	112,450	99,800	39,461	95,550	96,500
ABC reserve	41,880	112,450	99,800	39,461	95,550	96,500
CDQ ABC reserve	4,481	12,032	10,679	4,222	10,224	10,326
Amendment 80 ABC reserve	37,399	100,418	89,121	35,239	85,326	86,175
Alaska Groundfish Cooperative for 2015 [1]	3,836	24,840	35,408	n/a	n/a	n/a
Alaska Seafood Cooperative for 2015 [1]	33,563	75,578	53,713	n/a	n/a	n/a

[1] The 2016 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015.

PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(iv) and (e)(2), the 2015 and 2016 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Sections 679.21(e)(3)(i)(A)(*2*) and 679.21(e)(4)(i)(A) allocate 326 mt of the trawl halibut mortality limit and 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program.

Section 679.21(e)(4)(i) authorizes apportioning the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Tables 15 and 16 list the fishery bycatch allowances for the trawl fisheries, and Table 17 lists the fishery bycatch allowances for the non-trawl fisheries.

Pursuant to Section 3.6 of the FMP, the Council recommends, and NMFS agrees, that certain specified non-trawl fisheries be exempt from the halibut PSC limit. As in past years, after consulting with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions for the following reasons: (1) The pot gear fisheries have low halibut bycatch mortality; (2) NMFS estimates halibut mortality for the jig gear fleet to be negligible because of the small size of the fishery and the selectivity of the gear; and (3) the IFQ program requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2014, total groundfish catch for the pot gear fishery in the BSAI was approximately 43,225 mt, with an associated halibut bycatch mortality of about 4 mt.

The 2014 jig gear fishery harvested about 3 mt of groundfish. Most vessels in the jig gear fleet are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, as mentioned above, NMFS estimates the jig gear sector will have a negligible amount of halibut bycatch mortality because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(f)(2) annually allocates portions of either 47,591 or 60,000 Chinook salmon PSC limits among the AFA sectors, depending on past catch performance and on whether Chinook salmon bycatch incentive plan agreements are formed. If an AFA sector participates in an approved Chinook salmon bycatch incentive plan agreement, then NMFS will allocate a portion of the 60,000 PSC limit to that sector as specified in § 679.21(f)(3)(iii)(A). If no Chinook salmon bycatch incentive plan agreement is approved, or if the sector has exceeded its performance standard under § 679.21(f)(6), then NMFS will allocate a portion of the 47,591 Chinook salmon PSC limit to that sector, as specified in § 679.21(f)(3)(iii)(B). In 2015, the Chinook salmon PSC limit is 60,000 and the AFA sector Chinook salmon allocations are seasonally allocated with 70 percent of the allocation for the A season pollock fishery, and 30 percent of the allocation for the B season pollock fishery as stated in § 679.21(f)(3)(iii)(A). The basis for these PSC limits is described in detail in the final rule implementing management measures for Amendment 91 (75 FR 53026, August 30, 2010). NMFS publishes the approved Chinook salmon bycatch incentive plan agreements, 2014 allocations, and reports at: *http://alaskafisheries.noaa.gov/sustainablefisheries/bycatch/default.htm.*

Section 679.21(e)(1)(viii) specifies 700 fish as the 2015 and 2016 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(*3*)(*i*) allocates 7.5 percent, or 53 Chinook salmon, to the AI subarea PSQ for the CDQ program, and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries.

Section 679.21(e)(1)(vii) specifies 42,000 fish as the 2015 and 2016 non-Chinook salmon PSC limit in the Catcher Vessel Operational Area (CVOA). Section 679.21(e)(3)(i)(A)(*3*)(*ii*) allocates 10.7 percent, or 4,494 non-Chinook salmon in the CVOA as the PSQ for the CDQ program, and allocates the remaining 37,506 non-Chinook salmon in the CVOA as the PSC limit for the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. Section 679.21(e)(3)(i)(A)(*1*) allocates 10.7 percent from each trawl gear PSC limit specified for crab as a PSQ reserve for use by the groundfish CDQ program.

Based on the 2014 survey data, the red king crab mature female abundance is estimated to be at 38.6 million red king crabs, which is above the threshold of 8.4 million red king crabs, and the effective spawning biomass is estimated at 51.3 million lb (23,362 mt). Based on the criteria set out at § 679.21(e)(1)(i), the 2015 and 2016 PSC limit of red king crab in Zone 1 for trawl gear is 97,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of less than 55 million lb (24,948 mt).

Section 679.21(e)(3)(ii)(B)(*2*) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS red king

crab bycatch limit to 25 percent of the red king crab PSC limit, based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2014, the Council recommended and NMFS concurs that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC limit within the RKCSS (Table 15).

Based on 2014 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 758 million animals. Pursuant to criteria set out at § 679.21(e)(1)(ii), the calculated 2015 and 2016 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits derive from the *C. bairdi* crab abundance estimate being in excess of the 400 million animals for both the Zone 1 and Zone 2 allocations.

Pursuant to § 679.21(e)(1)(iii), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the BS abundance index minus 150,000 crab. Based on the 2014 survey estimate of 9.852 billion animals, the calculated *C. opilio* crab PSC limit is 11,011,976 animals.

Pursuant to § 679.21(e)(1)(v), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern BS herring biomass. The best estimate of 2015 and 2016 herring biomass is 274,236 mt. This amount was developed by the Alaska Department of Fish and Game based on spawning location estimates. Therefore, the herring PSC limit for 2015 and 2016 is 2,742 mt for all trawl gear as listed in Tables 14 and 15.

Section 679.21(e)(3)(i)(A) requires PSQ reserves to be subtracted from the total trawl PSC limits. The 2014 PSC limits assigned to the Amendment 80 and BSAI trawl limited access sectors are specified in Table 35 to part 679. The resulting allocations of PSC limit to CDQ PSQ, the Amendment 80 sector, and the BSAI trawl limited access fisheries are listed in Table 10. Pursuant to § 679.21(e)(1)(iv) and § 679.91(d) through (f), crab and halibut trawl PSC limits assigned to the Amendment 80 sector are then further allocated to Amendment 80 cooperatives as PSC cooperative quota as listed in Table 18. PSC cooperative quota assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. In 2015, there are no vessels in the Amendment 80 limited access sector. The 2016 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2015. Section 679.21(e)(3)(i)(B) requires NMFS to apportion each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Section 679.21(e)(5) authorizes NMFS, after consulting with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species; (2) seasonal distribution of target groundfish species; (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass; (4) expected variations in bycatch rates throughout the year; (5) expected start of fishing effort; and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 15 and 16 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 14—FINAL 2015 AND 2016 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC Species and area [1]	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ [2]	Total trawl PSC	Trawl PSC remaining after CDQ PSQ [2]	CDQ PSQ Reserve [2]	Amendment 80 sector [3]	BSAI Trawl limited access fishery
Halibut mortality (mt) BSAI	900	832	3,675	3,349	393	2,325	875
Herring (mt) BSAI	n/a	n/a	2,742	n/a	n/a	n/a	n/a
Red king crab (animals) Zone 1	n/a	n/a	97,000	86,621	10,379	43,293	26,489
C. *opilio* (animals) COBLZ	n/a	n/a	11,011,976	9,833,695	1,178,281	4,833,261	3,160,549
C. *bairdi* crab (animals) Zone 1	n/a	n/a	980,000	875,140	104,860	368,521	411,228
C. *bairdi* crab (animals) Zone 2	n/a	n/a	2,970,000	2,652,210	317,790	627,778	1,241,500

[1] Refer to § 679.2 for definitions of zones.

[2] Section 679.21(e)(3)(i)(A)(*2*) allocates 326 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

[3] The Amendment 80 program reduced apportionment of the trawl PSC limits by 150 mt for halibut mortality and 20 percent for crab. These reductions are not apportioned to other gear types or sectors.

Note: Sector apportionments may not total precisely due to rounding.

TABLE 15—FINAL 2015 AND 2016 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	187	n/a
Rock sole/flathead sole/other flatfish [1]	30	n/a
Turbot/arrowtooth/sablefish [2]	20	n/a
Rockfish	14	n/a
Pacific cod	42	n/a
Midwater trawl pollock	2,242	n/a

TABLE 15—FINAL 2015 AND 2016 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS—Continued

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Pollock/Atka mackerel/other species [3 4]	207	n/a
Red king crab savings subarea non-pelagic trawl gear [5]	n/a	24,250
Total trawl PSC	2,742	97,000

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.
[2] "Arrowtooth flounder" for PSC monitoring includes Kamchatka flounder.
[3] Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.
[4] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
[5] In December 2014 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(*2*)).
Note: Species apportionments may not total precisely due to rounding.

TABLE 16—FINAL 2015 AND 2016 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR

BSAI Trawl limited access fisheries	Prohibited species and area [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	C. *opilio* (animals) COBLZ	C. *bairdi* (animals)	
				Zone 1	Zone 2
Yellowfin sole	167	23,338	2,979,410	346,228	1,185,500
Rock sole/flathead sole/other flatfish [2]	0	0	0	0	0
Turbot/arrowtooth/sablefish [3]	0	0	0	0	0
Rockfish April 15–December 31	5	0	4,922	0	1,000
Pacific cod	453	2,954	126,994	60,000	50,000
Pollock/Atka mackerel/other species [4]	250	197	49,223	5,000	5,000
Total BSAI trawl limited access PSC	875	26,489	3,160,549	411,228	1,241,500

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] Arrowtooth flounder for PSC monitoring includes Kamchatka flounder.
[4] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.
Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 17—FINAL 2015 AND 2016 HALIBUT PROHIBITED SPECIES BYCATCH ALLOWANCES FOR NON-TRAWL FISHERIES

Non-trawl fisheries	Catcher/ Processor	Catcher vessel
Pacific cod—Total:	760	15.
January 1–June 10	455	10.
June 10–August 15	190	3.
August 15–December 31	115	2.
Other non-trawl—Total:		58.
May 1–December 31		58.
Groundfish pot and jig		Exempt.
Sablefish hook-and-line		Exempt.
Total non-trawl PSC		833.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

TABLE 18—FINAL 2015 PROHIBITED SPECIES BYCATCH ALLOWANCE FOR THE BSAI AMENDMENT 80 COOPERATIVES

Cooperative	Prohibited species and zones [1]				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	*C. opilio* (animals) COBLZ	*C. bairdi* (animals)	
				Zone 1	Zone 2
Alaska Seafood Cooperative	1,693	30,834	3,311,730	271,542	465,879
Alaska Groundfish Cooperative	632	12,459	1,521,531	96,980	161,899

[1] Refer to § 679.2 for definitions of zones.
Note: Sector apportionments may not total precisely due to rounding.

Halibut Discard Mortality Rates (DMR)

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, DMRs, and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2015 and 2016 BSAI groundfish fisheries for use in monitoring the 2015 and 2016 halibut bycatch allowances (see Tables 14, 15, 16, 17, and 18). The IPHC developed these DMRs for the 2015 and 2016 BSAI fisheries using the 10-year mean DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMRs when a fishery DMR shows large variation from the mean. A discussion of the DMRs is available from the Council (see ADDRESSES). Table 19 lists the 2015 and 2016 DMRs.

TABLE 19—FINAL 2015 AND 2016 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line	Greenland turbot	13
	Other species [1]	9
	Pacific cod	9
	Rockfish	4
Non-CDQ trawl	Alaska plaice	71
	Arrowtooth flounder [2]	76
	Atka mackerel	77
	Flathead sole	73
	Greenland turbot	64
	Non-pelagic pollock	77
	Pelagic pollock	88
	Other flatfish [3]	71
	Other species [1]	71
	Pacific cod	71
	Rockfish	79
	Rock sole	85
	Sablefish	75
	Yellowfin sole	83
Non-CDQ Pot	Other species [1]	8
	Pacific cod	8
CDQ trawl	Atka mackerel	86
	Greenland turbot	89
	Flathead sole	79
	Non-pelagic pollock	83
	Pacific cod	90
	Pelagic pollock	90
	Rockfish	80
	Rock sole	88
	Yellowfin sole	86
CDQ hook-and-line	Greenland turbot	4
	Pacific cod	10
CDQ pot	Pacific cod	8
	Sablefish	34

[1] "Other species" includes skates, sculpins, sharks, squids, and octopuses.
[2] Arrowtooth flounder includes Kamchatka flounder.
[3] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see § 697.20(d)(1)(iii)). Similarly, pursuant to § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

Based on historic catch patterns and anticipated fishing activity, the Regional Administrator has determined that the groundfish allocation amounts in Table 20 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2015 and 2016 fishing years. Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 20 as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., March

5, 2015, through 2400 hrs, A.l.t., December 31, 2016. Also, for the BSAI trawl limited access sector, bycatch allowances of halibut, red king crab, *C. bairdi* crab, and *C. opilio* crab listed in Table 20 are insufficient to support directed fisheries. Therefore, in accordance with § 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., March 5, 2015, through 2400 hrs, A.l.t., December 31, 2016.

TABLE 20—2015 AND 2016 DIRECTED FISHING CLOSURES [1]

[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals]

Area	Sector	Species	2015 Incidental catch allowance	2016 Incidental catch allowance
Bogoslof District	All	Pollock	100	100
Aleutian Islands subarea	All	ICA pollock	2,400	2,400
		"Other rockfish" [2]	555	555
Eastern Aleutian District/Bering Sea.	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	1,000	1,000
Eastern Aleutian District/Bering Sea.	All	Rougheye rockfish	177	201
Eastern Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Pacific ocean perch	100	100
Central Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	75	75
		ICA Pacific ocean perch	75	75
Western Aleutian District	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	40	40
		ICA Pacific ocean perch	10	10
Central and Western Aleutian Districts.	All	Rougheye rockfish	239	277
Bering Sea subarea	All	Pacific ocean perch	6,818	6,818
		"Other rockfish" [2]	325	325
		ICA pollock	47,160	47,160
		Northern rockfish	2,763	2,763
		Shortraker rockfish	250	250
		Skates	21,845	21,845
	All	Sculpins	3,995	3,995
		Sharks	125	125
		Squids	340	340
		Octopuses	400	400
	Hook-and-line and pot gear	ICA Pacific cod	500	500
	Non-amendment 80	ICA flathead sole	5,000	5,000
		ICA rock sole	8,000	8,000
Bering Sea and Aleutian Islands	Non-amendment 80 and BSAI trawl limited access.	ICA yellowfin sole	5,000	5,000
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab Zone 1, *C. opilio* COBLZ, *C. bairdi* Zone 1 and 2.	0	0
		Rockfish—red king crab Zone 1	0	0

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

[2] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Closures implemented under the final 2014 and 2015 BSAI harvest specifications for groundfish (79 FR 12108, March 4, 2014) remain effective under authority of these final 2015 and 2016 harvest specifications, and are posted at the following Web sites: *http://alaskafisheries.noaa.gov/cm/info_bulletins/* and *http://alaskafisheries.noaa.gov/fisheries_reports/reports/*. While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA C/Ps to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. These restrictions are set out as ''sideboard'' limits on catch. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 21 lists the 2015 and 2016 C/P sideboard limits.

All harvest of groundfish sideboard species by listed AFA C/Ps, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 21. However, groundfish sideboard species that are delivered to listed AFA C/Ps by CVs will not be

deducted from the 2015 and 2016 sideboard limits for the listed AFA C/Ps.

TABLE 21—FINAL 2015 AND 2016 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area/Season	Retained catch	Total catch	Ratio of retained catch to total catch	2015 ITAC Available to trawl C/Ps[1]	2015 AFA C/P Sideboard limit	2016 ITAC Available to trawl C/Ps[1]	2016 AFA C/P Sideboard limit
		1995–1997						
Sablefish trawl	BS	8	497	0.016	567	9	515	8
	AI	0	145	0	383	0	348	0
Atka mackerel	Central AI A season[2]	n/a	n/a	0.115	7,591	873	7,591	873
	Central AI B season[2]	n/a	n/a	0.115	7,591	873	7,591	873
	Western AI A season[2]	n/a	n/a	0.2	4,689	938	4,689	938
	Western AI B season[2]	n/a	n/a	0.2	4,689	938	4,689	938
Rock sole	BSAI	6,317	169,362	0.037	61,840	2,288	61,840	2,288
Greenland turbot	BS	121	17,305	0.007	2,081	15	2,081	15
	AI	23	4,987	0.005	170	1	170	1
Arrowtooth flounder	BSAI	76	33,987	0.002	18,700	37	18,700	37
Kamchatka flounder	BSAI	76	33,987	0.002	5,525	11	5,525	11
Flathead sole	BSAI	1,925	52,755	0.036	21,655	780	21,655	780
Alaska plaice	BSAI	14	9,438	0.001	15,725	16	15,725	16
Other flatfish	BSAI	3,058	52,298	0.058	3,077	178	3,077	178
Pacific ocean perch	BS	12	4,879	0.002	6,818	14	6,818	14
	Eastern AI	125	6,179	0.02	7,144	143	7,117	142
	Central AI	3	5,698	0.001	6,251	6	6,251	6
	Western AI	54	13,598	0.004	8,037	32	8,037	32
Northern rockfish	BSAI	91	13,040	0.007	2,763	19	2,763	19
Shortraker rockfish	BSAI	50	2,811	0.018	250	5	250	5
Rougheye rockfish	EBS/EAI	50	2,811	0.018	149	3	149	3
	CAI/WAI	50	2,811	0.018	200	4	200	4
Other rockfish	BS	18	621	0.029	325	9	325	9
	AI	22	806	0.027	555	15	555	15
Skates	BSAI	553	68,672	0.008	21,845	175	21,845	175
Sculpins	BSAI	553	68,672	0.008	3,995	32	3,995	32
Sharks	BSAI	553	68,672	0.008	125	1	125	1
Squids	BSAI	73	3,328	0.022	340	7	340	7
Octopuses	BSAI	553	68,672	0.008	400	3	400	3

[1] Aleutian Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, rock sole, and yellowfin sole are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

[2] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA C/Ps. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 22 that are caught by listed AFA C/Ps participating in any groundfish fishery other than pollock will accrue against the 2015 and 2016 PSC sideboard limits for the listed AFA C/Ps. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA C/Ps once a 2015 or 2016 PSC sideboard limit listed in Table 22 is reached.

Crab or halibut PSC caught by listed AFA C/Ps while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 22—FINAL 2015 AND 2016 BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC Species and area[1]	Ratio of PSC catch to total PSC	2015 and 2016 PSC available to trawl vessels after subtraction of PSQ[2]	2015 and 2016 catcher/processor sideboard limit[2]
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	86,621	606
C. opilio (COBLZ)	0.153	9,833,695	1,504,555
C. bairdi Zone 1	0.14	875,140	122,520
C. bairdi Zone 2	0.05	2,652,210	132,611

[1] Refer to § 679.2 for definitions of areas.

[2] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA CVs to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the pollock directed fishery. Section 679.64(b) establishes a formula for setting AFA CV groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Tables 23 and 24 list the 2015 and 2016 AFA CV sideboard limits.

All catch of groundfish sideboard species made by non-exempt AFA CVs, whether as targeted catch or incidental catch, will be deducted from the 2015 and 2016 sideboard limits listed in Table 23.

TABLE 23—FINAL 2015 AND 2016 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Species/Gear	Fishery by area/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2015 Initial TAC [1]	2015 AFA Catcher vessel sideboard limits	2016 Initial TAC [1]	2016 AFA catcher vessel sideboard limits
Pacific cod/Jig gear	BSAI	0	n/a	0	n/a	0
Pacific cod/Hook-and-line CV ≥60 feet LOA.	BSAI Jan 1–Jun 10	0.0006	226	0	226	0
	BSAI Jun 10–Dec 31	0.0006	217	0	217	0
Pacific cod pot gear CV	BSAI Jan 1–Jun 10	0.0006	9,507	6	9,507	6
	BSAI Sept 1–Dec 31	0.0006	9,134	5	9,134	5
Pacific cod CV ≤60 feet LOA using hook-and-line or pot gear.	BSAI	0.0006	4,438	3	4,438	3
Pacific cod trawl gear CV	BSAI Jan 20–Apr 1	0.8609	36,426	31,359	36,426	31,359
	BSAI Apr 1–Jun 10	0.8609	5,415	4,662	5,415	4,662
	BSAI Jun 10–Nov 1	0.8609	7,384	6,357	7,384	6,357
Sablefish trawl gear	BS	0.0906	567	51	515	47
	AI	0.0645	383	25	348	22
Atka mackerel	Eastern AI/BS Jan 1–Jun 10.	0.0032	12,056	39	12,197	39
	Eastern AI/BS Jun 10–Nov 1.	0.0032	12,056	39	12,197	39
	Central AI Jan 1–Jun 10	0.0001	7,590	1	7,591	1
	Central AI Jun 10–Nov 1	0.0001	7,590	1	7,591	1
	Western AI Jan 1–Jun 10	0	4689	0	4689	0
	Western AI Jun 10–Nov 1	0	4689	0	4689	0
Rock sole	BSAI	0.0341	61,840	2,109	61,840	2,109
Greenland turbot	BS	0.0645	2,081	134	2,081	134
	AI	0.0205	170	3	170	3
Arrowtooth flounder	BSAI	0.069	18,700	1,290	18,700	1,290
Kamchatka flounder	BSAI	0.069	5,525	381	5,525	381
Alaska plaice	BSAI	0.0441	15,725	693	15,725	693
Other flatfish	BSAI	0.0441	3,077	136	3,077	136
Flathead sole	BS	0.0505	21,655	1,094	21,655	1,094
Pacific ocean perch	BS	0.1	6,818	682	6,818	682
	Eastern AI	0.0077	7,144	55	7,117	55
	Central AI	0.0025	6,251	16	6,251	16
	Western AI	0	8,037	0	8,037	0
Northern rockfish	BSAI	0.0084	2,763	23	2,763	23
Shortraker rockfish	BSAI	0.0037	250	1	250	1
Rougheye rockfish	EBS/EAI	0.0037	149	1	149	1
	CAI/WAI	0.0037	200	1	200	1
Other rockfish	BS	0.0048	325	2	325	2
	AI	0.0095	555	5	555	5
Skates	BSAI	0.0541	21,845	1,182	21,845	1,182
Sculpins	BSAI	0.0541	3,995	216	3,995	216
Sharks	BSAI	0.0541	125	7	125	7
Squids	BSAI	0.3827	340	130	340	130
Octopuses	BSAI	0.0541	400	22	400	22

[1] Aleutians Islands Pacific ocean perch, and BSAI Atka mackerel, flathead sole, and rock sole are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

Halibut and crab PSC limits listed in Table 24 that are caught by AFA CVs participating in any groundfish fishery for groundfish other than pollock will accrue against the 2015 and 2016 PSC sideboard limits for the AFA CVs. Sections 679.21(d)(7) and 679.21(e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA CVs once a 2015 or 2016 PSC sideboard limit listed in Table 24 is reached. The PSC that is caught by AFA CVs while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery

categories under regulations at § 679.21(e)(3)(iv).

TABLE 24—FINAL 2015 AND 2016 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

PSC Species and area [1]	Target fishery category [2]	AFA Catcher vessel PSC sideboard limit ratio	2015 and 2016 PSC limit after subtraction of PSQ reserves [3]	2015 and 2016 AFA catcher vessel PSC sideboard limit [3]
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish [4]	n/a	n/a	228
	Greenland turbot/arrowtooth/sablefish [5]	n/a	n/a	0
	Rockfish	n/a	n/a	2
	Pollock/Atka mackerel/other species [6]	n/a	n/a	5
Red king crab Zone 1	n/a	0.299	86,621	25,900
C. opilio COBLZ	n/a	0.168	9,833,695	1,652,061
C. bairdi Zone 1	n/a	0.33	875,140	288,796
C. bairdi Zone 2	n/a	0.186	2,652,210	493,311

[1] Refer to § 679.2 for definitions of areas.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[4] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[5] Arrowtooth for PSC monitoring includes Kamchatka flounder.
[6] "Other species" for PSC monitoring includes skates, sculpins, sharks, squids, and octopuses.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

Based on historical catch patterns, the Regional Administrator has determined that many of the AFA C/P and CV sideboard limits listed in Tables 25 and 26 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2015 and 2016 fishing years. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 25 and 26 as DFAs. Because many of these DFAs will be reached before the end of 2015, the Regional Administrator has determined, in accordance with § 679.20(d)(1)(iii), that NMFS is prohibiting directed fishing by listed AFA C/Ps for the species in the specified areas set out in Table 25, and directed fishing by non-exempt AFA CVs for the species in the specified areas set out in Table 26.

TABLE 25—FINAL 2015 AND 2016 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2015 Sideboard limit	2016 Sideboard limit
Sablefish trawl	BS	trawl	9	8
	AI	trawl	0	0
Rock sole	BSAI	all	2,288	2,288
Greenland turbot	BS	all	15	15
	AI	all	1	1
Arrowtooth flounder	BSAI	all	37	37
Kamchatka flounder	BSAI	all	11	11
Alaska plaice	BSAI	all	16	16
Other flatfish [2]	BSAI	all	178	178
Flathead sole	BSAI	all	780	780
Pacific ocean perch	BS	all	14	14
	Eastern AI	all	143	142
	Central AI	all	6	6
	Western AI	all	32	32
Northern rockfish	BSAI	all	19	19
Shortraker rockfish	BSAI	all	5	5
Rougheye rockfish	EBS/EAI	all	3	3
	CAI/WAI	all	4	4
Other rockfish [3]	BS	all	9	9
	AI	all	15	15
Skates	BSAI	all	175	175
Sculpins	BSAI	all	32	32
Sharks	BSAI	all	1	1
Squids	BSAI	all	7	7

TABLE 25—FINAL 2015 AND 2016 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]—Continued

[Amounts are in metric tons]

Species	Area	Gear types	2015 Sideboard limit	2016 Sideboard limit
Octopuses	BSAI	all	3	3

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.
[2] "Other flatfish" includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

TABLE 26—FINAL 2015 AND 2016 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2015 Sideboard limit	2016 Sideboard limit
Pacific cod	BSAI	hook-and-line CV ≥60 feet LOA	0	0
	BSAI	pot CV ≥60 feet LOA	11	11
	BSAI	hook-and-line or pot CV ≤60 feet LOA.	3	3
	BSAI	jig	0	0
Sablefish	BS	trawl	51	47
	AI	trawl	25	22
Atka mackerel	Eastern AI/BS	all	78	78
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	134	134
	AI	all	3	3
Arrowtooth flounder	BSAI	all	1,290	1,290
Kamchatka flounder	BSAI	all	381	381
Alaska plaice	BSAI	all	693	693
Other flatfish [2]	BSAI	all	136	136
Flathead sole	BSAI	all	1,094	1,094
Rock sole	BSAI	all	2,109	2,109
Pacific ocean perch	BS	all	682	682
	Eastern AI	all	55	55
	Central AI	all	16	16
	Western AI	all	0	0
Northern rockfish	BSAI	all	23	23
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BS/EAI	all	1	1
	CAI/WAI	all	1	1
Other rockfish [3]	BS	all	2	2
	AI	all	5	5
Skates	BSAI	all	1,182	1,182
Sculpins	BSAI	all	216	216
Sharks	BSAI	all	7	7
Squids	BSAI	all	130	130
Octopuses	BSAI	all	22	22

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.
[2] "Other flatfish" includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.
[3] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, dark rockfish, shortraker rockfish, and rougheye rockfish.

Response to Comments

NMFS received five letters with 13 comments.

Comment 1: The Pacific halibut population is in steep decline yet NMFS is proposing to authorize the removal of millions of pounds of halibut bycatch in the Bering Sea groundfish fishery.

Response: The final 2015 and 2016 harvest specifications for the BSAI publishes regulatory halibut PSC limits that are imposed on the federal groundfish fisheries in the BSAI. The halibut PSC limits for the BSAI groundfish fisheries are described in the FMP for Groundfish of the BSAI management area and the regulations at 50 CFR 679.21(e) implement the BSAI PSC limits. The Council and NMFS establish halibut PSC limits to constrain the amount of bycatch taken in the groundfish fisheries. The halibut PSC limits are not allowances for halibut bycatch in the groundfish fishery; rather, halibut PSC limits impose maximum limits on the amount of halibut bycatch mortality that may be taken by the groundfish fisheries. When a halibut PSC limit is reached, further groundfish fishing with specific types of gear and modes of operation is prohibited in that area. The Council and NMFS have initiated a separate action to

reduce halibut PSC limits in the BSAI to minimize halibut bycatch in the groundfish fishery to the extent practicable. See response to Comment 2.

Comment 2: The Magnuson-Stevens Act requires that NMFS, to the extent practicable: (A) Minimize bycatch; and (B), minimize the mortality of bycatch which cannot be avoided. Before finalizing the 2015 and 2016 harvest specifications for the BSAI, NMFS must minimize bycatch of halibut in the groundfish fisheries consistent with its statutory obligations.

Response: The Council and NMFS are committed to minimizing halibut bycatch in the BSAI to the extent practicable. Section 3.6.2.1.4 of the FMP states that annual BSAI-wide Pacific halibut bycatch mortality limits for trawl and non-trawl gear fisheries will be established in regulations and may be amended by regulatory amendment. Pursuant to § 679.21(e)(1)(iv), (e)(3), and (e)(2), the 2015 and 2016 BSAI halibut PSC limits are 3,525 mt for trawl fisheries and 900 mt for the non-trawl fisheries. The Council has initiated action to consider revising regulations to reduce halibut PSC limits in the BSAI groundfish fisheries consistent with Magnuson-Stevens Act obligations to minimize bycatch to the extent practicable and to achieve, on a continuing basis, optimum yield from the groundfish fisheries. Pursuant to section 3.6.2.1.4 of the FMP, the Secretary, after consultation with the Council, will consider the following information when evaluating measures to minimize halibut bycatch in the BSAI fisheries:

1. Estimated change in halibut biomass and stock condition;
2. potential impacts on halibut stocks and fisheries;
3. potential impacts on groundfish fisheries;
4. estimated bycatch mortality during prior years;
5. expected halibut bycatch mortality;
6. methods available to reduce halibut bycatch mortality;
7. the cost of reducing halibut bycatch mortality; and
8. other biological and socioeconomic factors that affect the appropriateness of a specific bycatch mortality limit in terms of FMP objectives.

The Council is scheduled to consider final action to reduce halibut PSC limits later in 2015.

Comment 3: In the BSAI, millions of pounds of Pacific halibut are killed and are not utilized.

Response: Consistent with National Standards 1 and 9, the Council and NMFS use halibut PSC mortality limits to minimize halibut bycatch in the groundfish fisheries to the extent practicable, while achieving, on a continuing basis, the optimum yield from the fisheries. The Council has designated Pacific halibut as ''prohibited species'' in the groundfish fisheries, which fishermen are required by regulation to discard.

NMFS acknowledges that recent declines in the exploitable biomass of halibut and recent decreases in the Pacific halibut catch limits set by the IPHC for the directed BSAI halibut fisheries have raised concerns about the levels of halibut PSC by the commercial groundfish trawl and hook-and-line sectors. The Council has initiated action to consider revising halibut PSC limits in the BSAI groundfish fisheries consistent with the Magnuson-Stevens Act obligations to minimize bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries. The Council will review a draft Environmental Assessment and Regulatory Impact Review at its February 2015 meeting and is scheduled to take final action on halibut PSC limit reductions later in 2015.

Comment 4: The catch limits of Pacific halibut in the North Pacific Ocean and the BSAI have been reduced in recent years by the IPHC due to low stock abundance. The IPHC 2015 preliminary directed halibut fishery catch limits are much less than the anticipated 2015 halibut PSC in the BSAI. Bycatch mortality will almost entirely preclude all directed fisheries in some areas.

Response: During the 2015 annual IPHC meeting, the IPHC adopted catch limits in area 4A that are increased from the 2014 catch limits in that area. The IPHC adopted catch limits in areas 4B, 4C, 4D, and 4E that are unchanged from 2014. Consistent with National Standards 1 and 9 of the Magnuson-Stevens Act, NMFS established halibut PSC limits in regulation to minimize halibut bycatch to the extent practicable while also permitting optimum yield from the groundfish fisheries. As described in response to Comments 2 and 3, the Council has initiated action to consider revising regulations to reduce halibut PSC limits in the BSAI groundfish fisheries consistent with Magnuson-Stevens Act obligations to minimize bycatch to the extent practicable and to achieve, on a continuing basis, optimum yield from the groundfish fisheries.

Comment 5: Under the Magnuson-Stevens Act, NMFS must conserve and manage the Pacific halibut stock and prevent the overfishing of Pacific halibut. This must be addressed in the FMP and in the final groundfish harvest specifications.

Response: NMFS and the Council manage Pacific halibut under the Halibut Act. Under the Magnuson-Stevens Act, NMFS and the Council manage the groundfish fisheries to minimize halibut bycatch to the extent practicable using the PSC limits established in Federal regulations. Pacific halibut are classified as a prohibited species in the FMP and not as a ''stock in the fishery.'' Therefore, Section 303(a) of the Magnuson-Stevens Act does not apply to Pacific halibut.

Comment 6: NMFS has not provided NEPA documents to address the environmental impacts of halibut bycatch on the marine environment or the environmental impact of reduced Pacific halibut stocks. NEPA compels Federal agencies to evaluate prospectively the environmental impacts of proposed actions that they carry out, fund, or authorize. NMFS has relied on an EIS it prepared in 2007. Since that time, the halibut stock has lost 50 percent of its spawning biomass and the commercial harvest of halibut has declined more than 60 percent. NMFS did not contemplate such circumstances in the 2007 EIS.

Response: NMFS agrees that there have been changes in halibut abundance and the halibut fisheries, as well as advancements in scientific understanding since the Harvest Specifications EIS. NMFS has provided NEPA documents to address the impacts of halibut bycatch on the marine environment. As explained in this preamble, section 679.21(e) sets forth the BSAI halibut PSC limits. NMFS set this halibut PSC limit under a separate action with a supporting Environmental Assessments that analyzed the impacts of halibut bycatch on halibut stocks and the human environment. The Council has initiated action to consider revising regulations to reduce halibut PSC limits in the BSAI for groundfish fisheries. The Council will review a draft Environmental Assessment and Regulatory Impact Review at its February 2015 meeting and is scheduled to take final action on halibut PSC reductions later in 2015. This EA will analyze the impacts of the halibut bycatch in the BSAI groundfish fishery on Pacific halibut stocks.

NMFS prepared a supplementary information report to evaluate the need to prepare a Supplemental EIS (SEIS) for the 2015/2016 groundfish harvest specifications. An SEIS should be prepared if—

1. the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or

2. significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)).

The 2007 Harvest Specifications EIS concluded that halibut mortality in the groundfish fisheries is taken into account when the IPHC sets commercial halibut quotas to prevent adverse impacts on the halibut stock. The 2015 supplementary information report further explains that the IPHC comprehensively assesses the impacts of fishing mortality on stock abundance on an annual basis in its stock assessment process. Each year, the IPHC assesses the status of the halibut stocks and sets the constant exploitation yield (CEY), which is the amount of halibut harvest that is determined to be sustainable in a year. The total CEY is calculated by multiplying a target harvest rate by the total exploitable biomass and represents the sum of all halibut removals. After deducting non-directed fishery removals (*e.g.,* halibut PSC in the groundfish fisheries, wastage in halibut fisheries, recreational harvest, and subsistence use), the remainder is allocated to the directed commercial hook-and-line fishery. The CEY therefore takes into account the change in halibut abundance. Therefore, the impacts of halibut PSC in the BSAI groundfish fisheries are unlikely to have effects on the halibut resource in a manner not previously considered in the 2007 Harvest Specifications EIS.

After reviewing the information in the supplementary information report (see **ADDRESSES**) and presented in the SAFE reports (see **ADDRESSES;** SAFE reports, and the information they contain that is used in the harvest specifications, is explained above in this preamble under the heading ''Acceptable Biological Catch (ABC) and TAC Harvest Specifications''), NMFS determined that (1) the 2015/2016 harvest specifications, which were set according to the preferred harvest strategy described in the 2007 EIS, do not constitute a change in the action; and (2) the information presented does not indicate that there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Additionally, the 2015/2016 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental NEPA documentation is not necessary to implement the 2015/2016 harvest specifications.

Comment 7: The BSAI halibut PSC limit has remained almost the same since the late 1980s.

Response: With the implementation of Amendment 57 (65 FR 31105, May 16, 2000) and Amendment 80 (72 FR 52668, September 14, 2007), the Pacific halibut PSC limit was reduced by 250 mt from the halibut PSC limits set in regulations. However, NMFS agrees that the Pacific halibut PSC limits have largely been unchanged in recent decades. The halibut PSC limits are for bycatch in groundfish fisheries, which have largely remained stable in recent decades. As described in response to Comment 2, the halibut PSC limits are established in regulation and may be changed through regulatory amendment. The Council has initiated action to consider revising halibut PSC limits in the BSAI, consistent with the National Standard 9 obligations to minimize bycatch to the extent practicable.

Comment 8: The 2015 groundfish harvest specifications do not address cultural, fisheries, ecological, and subsistence impacts of discarded halibut PSC.

Response: These harvest specifications specify halibut PSC limits among fisheries and by season. However, as described in response to Comment 2, the halibut PSC limits are established in regulation and may be changed through regulatory amendment. The Council has initiated action to consider revising halibut PSC limits in the BSAI, consistent with the National Standard 9 obligations to minimize bycatch to the extent practicable. NMFS expects the Council will address cultural, fisheries, ecological, and subsistence impacts through that action.

Comment 9: NMFS and fishery participants must work more diligently to reduce bycatch, prevent waste of fish, and protect fish stocks.

Response: As noted in response to Comment 2, NMFS and the Council are committed to minimizing halibut bycatch in the BSAI to the extent practicable. Current halibut PSC limits are established in regulation and may be changed by a regulatory amendment. The Council has initiated action to consider revising halibut PSC limits in the BSAI, consistent with the National Standard 9 obligation to minimize bycatch to the extent practicable.

Comment 10: NMFS has allowed almost every groundfish species in the BSAI to be overfished.

Response: NMFS disagrees. In the most recent fishing year, no species or species complex of groundfish in the BSAI reached an OFL, and no species or species complex of groundfish is in overfishing status; see SAFE reports.

Comment 11: Temporary closures should be put in place to prevent sea lions from being shot by commercial fishermen. A one million dollar fine should be imposed for every sea lion shot by commercial fishermen.

Response: Fishery closures and fines to protect sea lions are outside the scope of this action. NOAA has a Penalty Policy and Summary Settlement Schedules for the assessment of civil administrative penalties and permit sanctions under the statutes and regulations enforced by NOAA, including violations of the Marine Mammal Protection Act and the Endangered Species Act. See *http://www.gc.noaa.gov/enforce-office3.html.*

Comment 12: The BOF must produce downward quota adjustments for fisheries.

Response: The State and the BOF has jurisdiction to manage fisheries within Alaska state waters. In recommending harvest limits for the Federal commercial groundfish fisheries, the Council considers state GHL harvest limits when distribution and range of federally fished groundfish stocks extend between Federal and state waters. The Council recommends federal TACs for such stocks so that the sum of state and Federal harvest limits does not exceed ABC limits for such stocks. However, management measures implemented by the BOF in state waters are not within the jurisdiction of the Council.

Comment 13: The ICAs for several species should be reduced to prevent overfishing. Specifically, the Bering Sea pollock ICA should be reduced to 23,288 mt, the flathead sole ICA to 1,000 mt, the Pacific ocean perch ICA to ten mt, and the yellowfin sole ICA to one mt.

Response: NMFS disagrees. The Regional Administrator establishes incidental catch allowances to account for projected incidental catch of species and species complexes by vessels engaged in directed fishing in other groundfish fisheries. Sufficient ICAs are needed to prevent exceeding TACs, ABCs, and OFLs of groundfish species and species complexes. Reducing the ICAs would leave these stocks more vulnerable to overfishing.

Classification

NMFS has determined that these final harvest specifications are consistent with the FMP and with the Magnuson-Stevens Act and other applicable laws.

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Orders 12866 and 13563.

NMFS prepared an EIS that covers this action (see **ADDRESSES**) and made it available to the public on January 12, 2007 (72 FR 1512). On February 13,

2007, NMFS issued the Record of Decision (ROD) for the EIS. In January 2015, NMFS prepared a Supplemental Information Report (SIR) for this action. Copies of the EIS, ROD, and SIR for this action are available from NMFS (see **ADDRESSES**). The EIS analyzes the environmental consequences of the groundfish harvest specifications and alternative harvest strategies on resources in the action area. The EIS found no significant environmental consequences of this action and its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2015 and 2016 groundfish harvest specifications.

An SEIS should be prepared if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing the information contained in the SIR and SAFE reports, the Regional Administrator has determined that (1) approval of the 2015 and 2016 harvest specifications, which were set according to the preferred harvest strategy in the EIS, do not constitute a change in the action; and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Additionally, the 2015 and 2016 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental NEPA documentation is not necessary to implement the 2015 and 2016 harvest specifications.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.,* a FRFA was prepared for this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), and includes a summary of the significant issues raised by public comments in response to the IRFA, as well as NMFS' responses to those comments. A summary of the analyses completed to support the action is also included in the FRFA.

A copy of the FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**). A description of this action, its purpose, and its legal basis are contained at the beginning of the preamble to this final rule and are not repeated here.

NMFS published the proposed rule on December 8, 2014 (79 FR 72571). The rule was accompanied by an IRFA, which was summarized in the proposed rule. The comment period closed on January 7, 2015. No comments were received on the IRFA.

The entities directly regulated by this action are those that receive allocations of groundfish in the exclusive economic zone of the BSAI, and in parallel fisheries within State of Alaska waters, during the annual harvest specifications process. These directly regulated entities include the groundfish CVs and C/Ps active in these areas. Direct allocations of groundfish are also made to certain organizations, including the CDQ groups, AFA C/P and inshore CV sectors, Aleut Corporation, and Amendment 80 cooperatives. These entities are, therefore, also considered directly regulated.

On June 12, 2014, the Small Business Administration issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647, June 12, 2014). The rule increased the size standard for Finfish Fishing from $19.0 million to $20.5 million, Shellfish Fishing from $5.0 million to $5.5 million, and Other Marine Fishing from $7.0 million to $7.5 million. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than $25.0 million. In 2013, there were 353 individual C/Vs with total gross revenues less than or equal to $20.5 million. Some of these vessels are members of AFA inshore pollock cooperatives, GOA rockfish cooperatives, or crab rationalization cooperatives, and, since under the RFA it is the aggregate gross receipts of all participating members of the cooperative that must meet the ''under $20.5 million'' threshold, they are considered to be large entities within the meaning of the RFA. Thus, the estimate of 353 C/Vs may be an overstatement of the number of small entities. Average gross revenues were $320,000 for small hook-and-line vessels, $1.25 million for small pot vessels, and $3.56 million for small trawl vessels. Revenue data for catcher/processors is confidential; however, in 2013, NMFS estimates that there were four catcher/processor small entities with gross receipts less than $20.5.

Through the CDQ program, the Council and NMFS allocate a portion of the BSAI groundfish TACs, and halibut and crab PSC limits to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ groups, and are required to use the proceeds from the CDQ allocations to start or support activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ groups receive allocations through the harvest specifications process, and are directly regulated by this action, but the 65 communities are not directly regulated. Because they are nonprofit entities that are independently owned and operated, and are not dominant in their field, the CDQ groups are considered small entities for RFA purposes.

The AFA and Amendment 80 fisheries cooperatives are directly regulated because they receive allocations of TAC through the harvest specifications process. However, the Freezer Longliner Conservation Cooperative (FLCC), a voluntary private cooperative that became fully effective in 2010, is not considered to be directly regulated. The FLCC manages a catch share program among its members, but it does not receive an allocation under the harvest specifications. NMFS allocates TAC to the freezer longline sector, and the cooperative members voluntarily allocate this TAC among themselves via the FLCC. The AFA and Amendment 80 cooperatives are large entities, since they are affiliated with firms with joint revenues of more than $25 million.

The Aleut Corporation is an Alaska Native Corporation that receives an allocation of pollock in the Aleutian Islands. The Aleut Corporation is a holding company and evaluated according to the Small Business Administration criteria for Office or Other Holding Companies, at 13 CFR 121.201, which uses a threshold of $7.5 million gross annual receipts threshold for small entities. The Aleut Corporation revenues exceed this threshold, and the Aleut Corporation is considered to be a large entity. This determination follows the analysis in the RFA certification for BSAI FMP.

This action does not modify recordkeeping or reporting requirements.

The significant alternatives were those considered as alternative harvest strategies when the Council selected its preferred harvest strategy (Alternative 2) in December 2006. These included the following:

- Alternative 1: Set TAC to produce fishing mortality rates, *F,* that are equal to *maxFABC,* unless the sum of the TAC is constrained by the OY established in the FMPs. This is equivalent to setting TAC to produce harvest levels equal to the maximum permissible ABC, as constrained by OY. The term ''*maxFABC*'' refers to the maximum permissible value of *FABC* under Amendment 56 to the groundfish FMPs. Historically, the TAC has been set at or below the ABC; therefore, this

alternative represents a likely upper limit for setting the TAC within the OY and ABC limits.

- Alternative 3: For species in Tiers 1, 2, and 3, set TAC to produce F equal to the most recent 5-year average actual *F.* For species in Tiers 4, 5, and 6, set TAC equal to the most recent 5-year average actual catch. For stocks with a high level of scientific information, TAC would be set to produce harvest levels equal to the most recent 5-year average actual fishing mortality rates. For stocks with insufficient scientific information, TAC would be set equal to the most recent 5-year average actual catch. This alternative recognizes that for some stocks, catches may fall well below ABC, and recent average F may provide a better indicator of actual *F* than *FABC* does.
- Alternative 4: (1) Set TAC for rockfish species in Tier 3 at F75%. Set TAC for rockfish species in Tier 5 at F = 0.5M. Set spatially explicit TAC for shortraker and rougheye rockfish in the BSAI. (2) Taking the rockfish TAC as calculated above, reduce all other TAC by a proportion that does not vary across species, so that the sum of all TAC, including rockfish TAC, is equal to the lower bound of the area OY (1,400,000 mt in the BSAI). This alternative sets conservative and spatially explicit TAC for rockfish species that are long-lived and late to mature, and sets conservative TAC for the other groundfish species.
- Alternative 5: Set TAC at zero.

Alternative 2 is the preferred alternative chosen by the Council: Set TAC that fall within the range of ABC recommended through the Council harvest specifications process and TACs recommended by the Council. Under this scenario, *F* is set equal to a constant fraction of *maxFABC.* The recommended fractions of *maxFABC* may vary among species or stocks, based on other considerations unique to each. This is the method for determining TAC that has been used in the past.

Alternatives 1, 3, 4, and 5 do not meet the objectives of this action, although they have a smaller adverse economic impact on small entities than the preferred alternative. The Council rejected these alternatives as harvest strategies in 2006, and the Secretary of Commerce did so in 2007. Alternative 1 would lead to TAC limits whose sum exceeds the fishery OY, which is set out in statute and the FMP. As shown in Table 1 and Table 2, the sum of ABCs in 2015 and 2016 would be 2,848,454 and 2,731,897 million mt, respectively. Both of these are substantially in excess of the fishery OY for the BSAI. This result would be inconsistent with the objectives of this action, in that it would violate the Consolidated Appropriations Act of 2004, Pub. L. 108–199, Sec. 803(c), and the FMP for the BSAI groundfish fishery, which both set a 2 million mt maximum harvest for BSAI groundfish.

Alternative 3 selects harvest rates based on the most recent 5 years' worth of harvest rates (for species in Tiers 1 through 3) or for the most recent 5 years' worth of harvests (for species in Tiers 4 through 6). This alternative is also inconsistent with the objectives of this action, because it does not take into account the most recent biological information for this fishery.

Alternative 4 would lead to significantly lower harvests of all species to reduce TAC from the upper end of the OY range in the BSAI, to its lower end. This result would lead to significant reductions in harvests of species by small entities. While reductions of this size could be associated with offsetting price increases, the size of these increases is very uncertain, and NMFS has no confidence that they would be sufficient to offset the volume decreases and leave revenues unchanged. Thus, this action would have an adverse economic impact on small entities, compared to the preferred alternative.

Alternative 5, which sets all harvests equal to zero, may also address conservation issues, but would have a significant adverse economic impact on small entities.

Impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EIS (see **ADDRESSES**).

In December 2014, the Council adopted separate Pacific cod harvest specifications for the Aleutian Islands and the Bering Sea in the 2015 and 2016 fishing years. While separate OFLs, ABCs, and TACs, have been created for the Aleutian Islands and for the Bering Sea, the actual sector allocations (except CDQ allocations) remain BSAI-wide allocations. Sector allocations are calculated as a percent of the summed Aleutian Island and Bering Sea TACs, after adjustments are made to account for CDQ allocations. Because sector allocations (except CDQ allocations) continue to be defined BSAI-wide, sectors remain free to redeploy between the two areas. However, if the non-CDQ portion of the TAC in either sub-area is reached, NMFS will close directed fishing for Pacific cod in that subarea. Thus if the resources in one of the areas is fully utilized, one sector will not be able to increase its harvest, unless at the expense of another sector's harvest.

It is possible that in some years an Aleutian Island-specific Pacific cod TAC, in combination with a deduction from the ABC for a GHL fishery, and a deduction for an ICA, may leave the Aleutian Islands TAC too small to permit a directed fishery. The ultimate impact of the Pacific cod split will depend on policy decisions made by the Council and the Secretary of Commerce. In the 10 years since the first year of the baseline period for this analysis (2004), the BSAI Pacific cod TAC was only set equal to the ABC in 2 years. There may be flexibility for the Council to offset anticipated Aleutian Island production limits by setting the Aleutian Islands TAC less than the ABC, and the Bering Sea TAC equal to the ABC. The 2 million metric ton groundfish optimum yield is the sum of the BSAI TACs, so a decrease in the Aleutian Islands TAC, coupled with an equal increase in the Bering sea TAC, would leave the aggregate BSAI Pacific cod TAC unchanged, and would not require reductions in TACs for other species so as to comply with the 2 million metric ton optimum yield limit.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule, because delaying this rule is contrary to the public interest. Plan Team review occurred in November 2014, and Council consideration and recommendations occurred in December 2014. Accordingly, NMFS' review could not begin until after the December 2014 Council meeting, and after the public had time to comment on the proposed action. If this rule's effectiveness is delayed, fisheries that might otherwise remain open under these rules may prematurely close based on the lower TACs established in the final 2014 and 2015 harvest specifications (79 FR 12108, March 4, 2014). If implemented immediately, this rule would allow these fisheries to continue fishing without worrying about a potential closure because the new TAC limits are higher than the ones under which they are currently fishing. Certain fisheries, such as those for pollock and Pacific cod are intensive, fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish, skates, sculpins, sharks, and octopuses, are critical as directed fisheries and as incidental catch in other fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in these fisheries. Any delay in allocating the final TAC limits in these fisheries would cause confusion in the industry and potential economic harm through

unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

Additionally, in fisheries subject to declining sideboards, delaying this rule's effectiveness could allow some vessels to inadvertently reach or exceed their new sideboard levels. Because sideboards are intended to protect traditional fisheries in other sectors, allowing one sector to exceed its new sideboards by delaying this rule's effectiveness would effectively reduce the available catch for sectors without sideboard limits. Moreover, the new TAC and sideboard limits protect the fisheries from being overfished. Thus, the delay is contrary to the public interest in protecting traditional fisheries and fish stocks.

If the final harvest specifications are not effective by March 14, 2015, which is the start of the 2015 Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut IFQ season. Delayed effectiveness of this action would result in confusion for sablefish harvesters and economic harm from unnecessary discard of sablefish that are caught along with Pacific halibut, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2015 and 2016 harvest specifications will allow the sablefish IFQ fishery to begin concurrently with the Pacific halibut IFQ season. Also, immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information. This is particularly true of those species that have lower 2015 ABC and TAC limits than those established in the 2014 and 2015 harvest specifications (79 FR 12108, March 4, 2014). Immediate effectiveness also would give the fishing industry the earliest possible opportunity to plan and conduct its fishing operations with respect to new information about TAC limits. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

This final rule is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary purpose is to announce the final 2015 and 2016 harvest specifications and prohibited species bycatch allowances for the groundfish fisheries of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2015 and 2016 fishing years and to accomplish the goals and objectives of the FMP. This action directly affects all fishermen who participate in the BSAI fisheries. The specific amounts of OFL, ABC, TAC, and PSC are provided in tables to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Authority: 16 U.S.C. 773 *et seq.;* 16 U.S.C. 1540(f); 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479.

Dated: February 27, 2015.

Samuel D. Rauch III,

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

[FR Doc. 2015–05041 Filed 3–4–15; 08:45 am]

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Proposed Rules

Federal Register

Vol. 80, No. 43

Thursday, March 5, 2015

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2014–0099]

RIN 0579–AE06

Importation of Tomato Plantlets in Approved Growing Media From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of plants for planting to authorize the importation of tomato plantlets from Mexico in approved growing media, subject to a systems approach. The systems approach would consist of measures currently specified for tomato plants for planting not imported in growing media, as well as measures specific to all plants for planting imported into the United States in approved growing media. Additionally, the plantlets would have to be imported into greenhouses in the continental United States and the importers of the plantlets from Mexico or the owners of the greenhouses in the continental United States would have to enter into compliance agreements regarding the conditions under which the plants from Mexico must enter and be maintained within the greenhouses. This proposed rule would allow for the importation into the continental United States of tomato plantlets from Mexico in approved growing media, while providing protection against the introduction of plant pests. The proposed rule would also allow the imported greenhouse plantlets to produce tomato fruit for commercial sale within the United States.

DATES: We will consider all comments that we receive on or before May 4, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2014-0099.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0099, 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-2014-0099* 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: Ms. Lydia E. Colón, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2302.

SUPPLEMENTARY INFORMATION:

Background

Current Restrictions

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of quarantine plant pests. The regulations contained in ''Subpart—Plants for Planting,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation or planting.

The regulations differentiate between prohibited articles and restricted articles. Prohibited articles are plants for planting whose importation into the United States is not authorized due to the risk the articles present of introducing or disseminating plant pests. Restricted articles are articles authorized for importation into the United States, provided that the articles are subject to measures to address such risk.

Section 319.37–5 of the regulations lists restricted articles that may be imported into the United States only if they are accompanied by a phytosanitary certificate that contains an additional declaration either that the restricted articles are free of specified quarantine pests or that the restricted articles have been produced in accordance with certain mitigation requirements. Within the section, paragraph (r) contains requirements for the importation of restricted articles (except seeds) of *Pelargonium* or *Solanum* spp. into the United States. *Solanum* spp. restricted articles include tomato (Solanum lycopersicum) plantlets, in addition to other species and cultivars within the genus.

Paragraph (r)(1) of § 319.37–5 authorizes the importation into the United States of *Pelargonium* or *Solanum* spp. restricted articles from Canada under the provisions of a greenhouse-grown restricted plant program. Paragraph (r)(3) contains conditions for the importation into the United States of *Pelargonium* or *Solanum* spp. restricted articles that do not meet the conditions in paragraph (r)(1), and are from a country in which *R. solanacearum* race 3 biovar 2 is known to occur.

Paragraph (r)(3) specifies that the articles must be produced in accordance with a systems approach consisting of the following requirements:

- The national plant protection organization (NPPO) of the country in which the articles are produced must enter into a bilateral workplan with the Animal and Plant Health Inspection Service (APHIS) that specifies, among other things, the manner in which the NPPO will monitor and enforce the requirements of the systems approach.
- The production site where the articles intended for export are produced must be registered with and certified by both APHIS and the NPPO.
- The production site must conduct ongoing testing for *R. solanacearum* race 3 biovar 2 according to a testing procedure approved by APHIS, must only offer for export articles that have had negative test results for the disease, and must maintain records of the testing for at least 2 growing seasons.
- Each greenhouse on the production site must be constructed in a manner that ensures that runoff water from areas surrounding the production site cannot enter the production site, and must be surrounded by a 1-meter sloped buffer.
- Dicotylendonous weeds must be controlled within each greenhouse on the production site and around it.
- All equipment that comes in contact with articles of *Pelargonium* or

Solanum spp. at the production site must be adequately sanitized so that the equipment cannot transmit *R. solanacearum* race 3 biovar 2.

• Personnel must adequately sanitize their clothing and shoes and wash their hands before entering the production site.

• Growing media for articles of *Pelargonium* or *Solanum* spp. at the production site must be free of *R. solanacearum* race 3 biovar 2, and growing media and containers used for the articles must not come in contact in contact with growing media that could transmit *R. solanacearum* race 3 biovar 2.

• Water used in maintenance of the production site must be free of *R. solanacearum* race 3 biovar 2.

• Growing media used at the production site must not come in direct contact with a water source, and, if a drip irrigation system is used, backflow devices must be installed to prevent spread of *R. solanacearum* race 3 biovar 2 through the irrigation system.

• Production site personnel must be educated regarding the various pathways through which *R. solanacearum* race 3 biovar 2 could enter the production site, and must be trained to recognize symptoms of the disease.

• *Pelargonium* or *Solanum* spp. restricted articles produced for export to the United States must be handled and packed in a manner which precludes introduction of *R. solanacearum* race 3 biovar 2 to the articles and must be labeled with information indicating the production site from which the articles originated.

• If *R. solanacearum* race 3 biovar 2 is discovered in the production site or in consignments from the production site, the production site is ineligible to export articles of *Pelargonium* or *Solanum* spp. to the United States, and may only be reinstated if all problems at the production site have been addressed and corrected to the satisfaction of APHIS.

• A phytosanitary certificate must accompany the articles, and must contain an additional declaration that the articles were produced in accordance with the regulations.

• The government of the country in which the articles are produced must enter into a trust fund agreement with APHIS before each growing season, and must pay in advance for all costs incurred by APHIS in overseeing execution of the systems approach.

Section 319.37–5 authorizes the importation of certain restricted articles into the United States. However, it does not authorize the importation of restricted articles in growing media. Conditions for the importation into the United States of restricted articles in growing media are specifically found in § 319.37–8. Within that section, the introductory text of paragraph (e) lists taxa of restricted articles that may be imported into the United States in approved growing media, subject to the mandatory provisions of a systems approach. In § 319.37–8, paragraph (e)(1) lists the approved growing media, and paragraph (e)(2) contains the provisions of the systems approach. Within paragraph (e)(2), paragraphs (i) through (viii) contain provisions that are generally applicable to all the taxa listed in the introductory text of paragraph (e), and paragraphs (ix) through (xi) contain additional taxon-specific conditions.

Mexico is a country in which *R. solanacearum* race 3 biovar 2 is known to exist. Accordingly, the importation of *Pelargonium* and *Solanum* spp. restricted articles from Mexico into the United States is subject to the conditions in paragraph (r)(3) of § 319.37–5.[1] Additionally, under § 319.37–8, neither *Pelargonium* nor *Solanum* spp. restricted articles from Mexico are currently authorized for importation in growing media.

Request From the National Plant Protection Organization of Mexico

APHIS received a request from the NPPO of Mexico to authorize the importation of tomato (*Solanum lycopersicum*) plantlets in growing media into the continental United States for propagation in greenhouses within the continental United States. The request came at the behest of potential importers of the greenhouse plantlets, who wish to use such greenhouse plantlets to produce tomato fruit for commercial sale within the United States.

In its request, the NPPO of Mexico specified that the plantlets would be produced from certified seed, would be produced in greenhouses constructed and maintained to be pest-exclusionary, would be shipped in growing media maintained under similar conditions, and would be safeguarded during movement to the continental United States to prevent plant pests from being introduced to the plantlets. Finally, the request pertained only to tomato plantlets that would be imported into greenhouses in the continental United States and maintained within these greenhouses to aid in the commercial production of tomatoes within the United States. The NPPO did not request that we allow the imported plantlets to be commercially sold in the United States. Accordingly, as we discuss later in this document, we would prohibit the selling of the imported tomato plantlets grown in greenhouses in the United States. However, the NPPO did ask that we authorize the fruit from the plantlets grown in greenhouses in the United States to be sold commercially within the United States.

In evaluating Mexico's request, we prepared a pest risk assessment (PRA) and a risk management document (RMD). Copies of the PRA and the RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The PRA, titled ''Importation of Live Greenhouse-Grown Tomato Plantlets on Approved Growing Media from Mexico into the Continental United States; A Qualitative, Pathway-Initiated Pest Risk Assessment'' (USDA 2014), analyzed the potential pest risk associated with the importation of tomato plantlets in approved growing media into the continental United States from Mexico. The PRA finds that, if the plantlets are produced in accordance with the conditions specified by the NPPO, there is a negligible risk of quarantine pests being introduced into the continental United States through their importation in approved growing media.

Accordingly, the RMD recommends that APHIS require the plantlets to be produced in accordance with the conditions in paragraph (r)(3) of § 319.37–5 and (e)(2)(i) through (e)(2)(viii) of § 319.37–8, which jointly would cover the growing conditions specified by the NPPO in their request. Since the PRA assumed that the greenhouse plantlets would not be commercially distributed, however, the RMD also recommends that the owner or owners of the greenhouses into which the plantlets would be imported enter into a compliance agreement with

[1] Notwithstanding the provisions in § 319.37–5(r)(3), a notice published in the **Federal Register** on April 18, 2013 (78 FR 23209–23219, Docket No. APHIS–2011–0072) added *Solanum* spp. plants for planting from all countries other than Canada to a list of taxa of plants for planting that are not authorized importation into the United States unless a pest risk analysis is prepared that identifies measures that will mitigate the plant pest risk associated with such importation. *Solanum* spp. plants for planting from countries other than Canada were added to this list in order to prevent the plants for planting from disseminating tomato torrado virus and tomato severe leaf curl virus within the United States. Accordingly, the pest risk assessment and risk management document prepared for this proposal examined the risk that plantlets from Mexico grown under the conditions specified by the NPPO could become infected with these viruses, and determined the risk to be negligible based on those growing conditions.

APHIS that will prohibit the plantlets from leaving the greenhouses for commercial sale. The compliance agreement would specify the conditions under which the imported plantlets could enter the greenhouses in the continental United States, and would specify the conditions under which they must be maintained within those greenhouses. The compliance agreement would also prohibit the imported plantlets from being shipped or otherwise removed from the greenhouses following importation, except for the authorized removal of dead plantlets. The RMD notes that these conditions, jointly, will also help ensure that the imported greenhouse plantlets will produce tomato fruit that presents a negligible risk of disseminating plants pests and that the movement of tomato fruit derived from the greenhouse plantlets for commercial distribution will not result in the dissemination of plant pests.

Proposed Rule

Based on the findings of the PRA and the recommendations of the RMD, we are proposing to amend the regulations to authorize the importation of tomato plantlets in approved growing media from Mexico into the continental United States. Specifically, we are proposing to amend the introductory text of paragraph (e) of § 319.37–8 to add *Solanum lycopersicum* from Mexico as a restricted article that may be imported into the continental United States in approved growing media.

We are also proposing to add a new paragraph (e)(2)(xii) to § 319.37–8. This paragraph would authorize the importation of tomato plantlets in approved growing media from Mexico into the continental United States, if the plantlets meet all of the requirements in paragraphs (r)(3) of § 319.37–5 and paragraphs (e)(2)(i) through (e)(2)(viii) of § 319.37–8; and if the plantlets from Mexico are imported directly into a greenhouse in the continental United States, the owner or owners of which must have entered into a compliance agreement with APHIS. The required compliance agreement would specify the conditions under which the plantlets must enter and be maintained within the greenhouse and would prohibit the plantlets from being moved from the greenhouse following importation, other than for the appropriate disposal of dead plantlets.

We are also proposing that if all of the above requirements are correctly complied with, tomato fruit produced from the imported greenhouse plantlets may be shipped from the greenhouses for commercial sale within the United States. This proposed rule, through the conditions in paragraphs (r)(3) of § 319.37–5, paragraphs (e)(2)(i) through (e)(2)(viii) of § 319.37–8, and proposed (e)(2)(xii) of § 319.37–8, would thereby include the conditions specified by the NPPO of Mexico for the production of the plantlets in Mexico and allow for the importation of the plantlets in accordance with Mexico's request.

Finally, to clarify the intent and force of the compliance agreement, we are also proposing to add a definition of *compliance agreement* to the regulations. We would define *compliance agreement* to mean a written agreement between APHIS and a person (individual or corporate) engaged in the production, processing, handling, or moving of restricted articles imported pursuant to the regulations, in which the person agrees to comply with the regulations and the terms and conditions specified within the agreement itself.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information currently available to us, we have no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

The proposed rule would allow the importation of tomato plantlets in approved growing media from Mexico into the continental United States. Currently, only tomato plantlets in growing media from Canada can be imported into the United States. The tomato plantlets from Mexico would be allowed to be imported only to APHIS-approved greenhouse facilities under compliance agreement, and would be used only for fruit production, not for the selling of the imported plantlets themselves.

Data are not available on the production or trade for tomato plantlets. However, U.S. greenhouse (protected-culture) tomato production and import levels provide evidence of the expanding derived demand for tomato plantlets. In 2011, protected-culture tomatoes made up 40 percent of the U.S. tomato supply, up from less than 10 percent in 2004; they now dominate the retail industry. The value of protected-culture tomato imports by the United States grew by two-thirds between 2009 and 2013, in response to expanding consumer demand, from $795 million to $1.33 billion.

Protected-culture tomato producers are classified in the North American Industry Classification System within Other Vegetable (except Potato) and Melon Farming (NAICS 111219), for which the Small Business Administration small-entity standard is annual receipts of not more than $750,000. The average market value of agricultural products sold by operations in this industry in 2012 was about $314,000. While we are unable to determine the number of businesses that would be affected by the proposed rule, we can assume that most of them are small entities.

The proposed rule would enable U.S. producers of protected-culture tomatoes to draw upon Mexican plantlet suppliers in addition to Canadian and domestic suppliers. The NPPO of Mexico has stated that, if this rule were finalized, they would expect the exportation of approximately 4 million plantlets annually to the United States. It is unknown to what extent these tomato plantlets imported from Mexico will displace tomato plantlet imports from Canada and we therefore cannot project the net increase in imports. If there were no import displacement, we think that the tomato plantlet imports from Mexico could result in an increase in U.S. protected-culture tomato production of between 5 and 10 percent. However, we understand that the U.S. protected-culture tomato industry is in favor of having an additional source of tomato plantlets imports besides those from Canada.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with

this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of greenhouse tomato plantlets in approved growing media from Mexico into the continental United States, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room. (A link to Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2014–0099. Please send a copy of your comments to: (1) Docket No. APHIS–2014–0099, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, Room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

APHIS is proposing to amend the plants for planting regulations to allow the importation of greenhouse tomato plantlets in approved growing media from Mexico into the continental United States. As a condition of entry, the plantlets would have to be produced in accordance with the regulatory requirements of specific APHIS regulations which include a specific systems approach. This action would allow for the importation of tomato plantlets from Mexico into the continental United States while providing protection against the introduction of plant pests.

Allowing tomato plantlets from Mexico to be imported into the continental United States will require information collection activities, including phytosanitary certificates, greenhouse registration, commodity labeling, an operational workplan, and compliance agreements.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.02564 hours per response.

Respondents: The NPPO of Mexico, producers, and importers of tomato plantlets from Mexico in approved growing media.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 4,181.

Estimated annual number of responses: 12,543.

Estimated total annual burden on respondents: 319 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2727.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.37–1 is amended by adding, in alphabetical order, a definition for *compliance agreement* to read as follows:

§ 319.37–1 Definitions.

* * * * *

Compliance agreement. A written agreement between APHIS and a person (individual or corporate) engaged in the production, processing, handling, or moving of restricted articles imported pursuant to this subpart, in which the person agrees to comply with the subpart and the terms and conditions specified within the agreement itself.

* * * * *

■ 3. Section 319.37–8 is amended as follows:

■ a. In paragraph (e), introductory text, by removing the period after the entry for ''*Schlumberga* spp. from the Netherlands and Denmark'' and adding, in alphabetical order, an entry for ''*Solanum lycopersicum* from Mexico.''.

■ b. By adding paragraph (e)(2)(xii).

The addition reads as follows:

§ 319.37–8 Growing media.

* * * * *

(e) * * *

(2) * * *

(xii) Plantlets of *Solanum lycopersicum* from Mexico must also meet the following conditions:

(A) The plantlets must be produced in accordance with § 319.37–5(r)(3);

(B) The plantlets can only be imported into the continental United States, and may not be imported into Hawaii or the territories of the United States; and

(C) The plantlets must be imported from Mexico directly into a greenhouse in the continental United States, the owner or owners of which have entered into a compliance agreement with APHIS. The required compliance agreement will specify the conditions under which the plants must enter and be maintained within the greenhouse, and will prohibit the plantlets from being moved from the greenhouse following importation, other than for the appropriate disposal of dead plantlets.

(D) If all of the above requirements are correctly complied with, then the tomato fruit produced from the imported greenhouse plantlets may be shipped from the greenhouses for commercial sale within the United States.

* * * * *

Done in Washington, DC, this 2nd day of March 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–05058 Filed 3–4–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3555

RIN 0575–AD00

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service (RHS or Agency) proposes to amend the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subjects of lender indemnification, principal reduction, refinancing, and qualified mortgage requirements.

DATES: Written or email comments on the proposed rule must be received on or before May 4, 2015.

ADDRESSES: You may submit comments on this proposed rule by any one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Lilian Lipton, Loan Specialist, Single Family Housing Guaranteed Loan Division, STOP 0784, Room 2250, USDA Rural Development, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0784, telephone: (202) 260–8012, email is *lilian.lipton@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: RHS proposes to amend the current regulation for the Single Family Housing Guaranteed Loan Program (SFHGLP) on the subjects of lender indemnification, principal reduction, refinancing, and qualified mortgage requirements.

Indemnification: The Agency seeks to expand its lender indemnification authority for loss claims in the case of fraud, misrepresentation, or noncompliance with applicable loan origination requirements. This action is taken to continue the Agency's efforts to improve and expand the risk management of the SFHGLP. The proposed change is in accordance with the recommendations in the Office of Inspector General Report 04703–003–HY, from October 2012.

Principal Reduction: The Agency is proposing to amend its regulations at 7 CFR 3555.10 and 3555.304 to add a new special loan servicing option to the SFHGLP that lenders may utilize while still maintaining the SFHGLP loan guarantee. The Agency will allow lenders to reduce the principal balance on behalf of borrowers in amounts up to 30 percent of the unpaid principal balance of the loan as of the date of default, inclusive of any Mortgage Recovery Advance (MRA), after the lender has exhausted all other traditional loss mitigation options such as a loan modification or forbearance.

Refinance: The Agency is proposing to amend its refinancing provisions at 3555.101(d)(3) to remove the requirement that the new interest rate be at least 100 basis points below the original loan rate. The interest rate reduction requirement of 3555.101(d)(3)(i) is being revised to simply require that the new interest rate not exceed the interest rate on the original loan.

The Agency is also proposing to amend its regulations at 7 CFR 3555.101 to add a new refinance option, ''streamlined-assist,'' which was formerly the Rural Refinance Pilot (pilot), to the SFHGLP. The streamlined-assist refinance differs from the traditional refinance options in that there is no appraisal or credit report requirement in most instances, as long as the borrower has not defaulted on their first mortgage during the previous 12 months. Appraisals are still required for refinancing direct loans where the borrower has received a subsidy, for purposes of calculating subsidy recapture.

Qualified Mortgage: The agency intends to amend its regulation to indicate that a loan guaranteed by RHS is a Qualified Mortgage if it meets certain requirements set forth by the Consumer Protection Finance Bureau (CFPB). The CFPB published a Qualified Mortgage rule (12 CFR 1026) which implements in part the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (P.L. 111–203). The CFPB rule includes a sunset provision that presumes RHS guaranteed loans are Qualified Mortgages until January 10, 2021, or until USDA publishes its own Qualified Mortgage rule, whichever comes first.

Classification

This proposed rule has been determined to be non-significant by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements

entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

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

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 13132, Federalism

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

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RD in the development of regulatory policies that have Tribal implications or preempt tribal laws. RD has determined that the proposed rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If a Tribe determines that this rule has implications of which RD is not aware and would like to engage with RD on this rule, please contact RD's Native American Coordinator at (720) 544–2911 or *AIAN@wdc.usda.gov.*

Executive Order 12372, Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is XXXX–XXXX.

E-Government Act Compliance

The Rural Housing Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Non-Discrimination Policy

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Background Information

Indemnification: In the Office of Inspector General (OIG) Report 04703–003–HY, SFH GL Loss Claims, the Agency was requested to re-evaluate the timeframe in which the Government can seek indemnification for noncompliance with regulations in loan origination. Present language in 7 CFR 3555.108(d)(1) limits the indemnification to losses if the payment

under the guarantee was made within 24 months of loan closing. Origination defects which depart from Agency requirements, however, may cause defaults beyond 24 months from loan closing. Similarly, claims arising from defective originations may occur several years after loan closing. The proposed change will trigger indemnification if the default occurs within 5 years from origination, the Agency concludes the default arose because the originator did not underwrite the loan according to Agency standards and guidelines, and regardless of when the claim is paid. This is similar to how HUD and other federal agencies operate.

The Agency may also seek indemnification if the Agency determines that fraud or misrepresentation occurred in connection with the origination of the loan, regardless of when the loan closed. 7 CFR 3555.108(d)(2). This provision is being clarified to state that the Agency may seek indemnification in cases of fraud or misrepresentation regardless of when the loan closed or when the default occurred.

In addition, the definition of ''default'' has been added to section 3555.10 to clarify that default is when an account is more than 30 days overdue. This is consistent with how the term is used in the mortgage industry.

Principal Reduction Advance (PRA): The Helping Families Save Their Homes Act of 2009 was signed into law on May 20, 2009. Section 101 of this law amended section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)), which authorizes the SFHGLP. The amendments gave RHS the authority to establish a program for the payment of partial claims to approved guaranteed lenders who agree to apply the claim amount to the payment of a loan in default or facing imminent default under Section 502(h)(14) of the Housing Act. RHS published a final rule under this authority on August 26, 2010 (*see* 75 FR 52429).

Under this authority, the Agency proposes to add paragraph 7 CFR 3555.304(e) to reimburse lenders for PRAs made on behalf of borrowers in default or facing imminent default. The lender must consider all other traditional loan servicing options, including forbearances and loan modifications, prior to requesting a PRA. The Agency proposes that the MRA will continue to include the sum of arrearages not exceeding 12 months of PITI, annual fees, legal fees, and foreclosure costs related to a cancelled foreclosure action, but will no longer include any principal deferments or reductions. A PRA will follow an MRA if necessary to bring the borrower's total monthly mortgage payment to 31 percent of gross monthly income. The PRA cannot be issued without an MRA; the MRA may be issued independently of a PRA. The purpose of the PRA is to ensure the modified loan is affordable to the borrower with the potential of also addressing housing market pricing imbalances that impact borrowers in default or in imminent danger of default. The PRA cannot be extended more than once to provide borrower relief. Lenders must receive written approval from RHS prior to servicing a borrower's account with a PRA. As with other special servicing options, the Lender must submit a servicing plan to RHS pursuant to 7 CFR 3555.301(h) when a borrower's account is 90 days delinquent and a method other than foreclosure is recommended to resolve the delinquency. Use of special loan servicing does not change the terms of the loan note guarantee.

Section 502(h)(14) of the Housing Act of 1949 limits the amount of the partial claim to no more than 30 percent of the unpaid principal balance of the mortgage plus any costs that are approved by the Secretary. The maximum principal reduction amount that can be achieved through a combination of both the MRA and PRA can therefore not exceed 30 percent of the unpaid principal balance as of the date of default. The PRA is only permitted in cases when all special servicing requirements are met, notably, that the mortgage payment-to-income ratio after special servicing is reduced to 31 percent or a proximate value extremely close to, but not less than, 31 percent, and the total debt-to-income ratio after special servicing is not more than 55 percent. The trial payment plan described in paragraph 3555.304(b) is also applicable when PRAs take place. In order to provide principal reductions for borrowers who purchased properties at unrealistically inflated values during the period from 2001 to 2009, PRAs will be limited to loans originated and closed on or after January 1, 2001 through January 1, 2010.

Section 3555.304(e)(2) discusses how the amount of a PRA must be subject to an unsecured promissory note which is interest and payment free, due three years from the date of the principal reduction advance, and may be forgiven at the end of three years if the borrower and loan account are in good standing. To be in good standing, the account may not have been more than 60 days delinquent at any time after the date of the PRA. If the debt is forgiven, RHS must report this amount to the Internal Revenue Service as income for the borrower.

Section 3555.304(e)(3) discusses how a Lender files a claim with RHS for reimbursement of a principal reduction advance. First, a claim for reimbursement must be submitted to RHS within 60 days of the advance being executed by the borrower through his or her signature on the promissory note. When filing the claim for reimbursement with RHS, the Lender must submit the original promissory note with the other supporting documentation for the claim.

In order to avoid confusion between the MRA and PRA, the Agency proposes to remove references to principal reduction or deferment in the MRA regulations. Revisions to the definition of MRA in 7 CFR 3555.10 and the MRA provisions in 7 CFR 3555.304(d)(1) and (3) reflect that proposed change. This rule also amends 7 CFR 3555.10, ''Definitions and Abbreviations,'' to include the terms introduced in 7 CFR 3555.304(e).

Refinance: There are currently two refinance options available to Section 502 borrowers, and the Agency wishes to add a third option which has been successfully tested in a pilot. The Agency is proposing to amend section 3555.101(d)(3)(i) to remove the requirement that the interest rate of a refinanced loan be at least 100 basis points below the original rate, and instead to require that the new interest rate not exceed the original interest loan's interest rate. The interest rate reduction requirement has proven problematic in rising rate environments. For example, in the case of divorce, the borrower may not be able to refinance as required by their divorce decree or judgment because they cannot secure an interest rate at least 1 percent lower than the first one. The definition of ''streamlined-assist refinance'' is being added to 7 CFR 3555.10. On February 1, 2012 RHS created a refinancing pilot known as the ''Rural Refinance Pilot.'' The pilot was published in Administrative Notice numbers 4634, 4704, 4720, and 4749. The streamlined-assist refinance differs from the traditional refinance options in that there is no appraisal or credit report requirement in most instances, as long as the borrower has been current on their first mortgage for the previous 12 months and their new interest rate is at least 1 percent lower than their first one. A new appraisal is required for direct loan borrowers who received a subsidy for the purposes of calculating subsidy recapture.

The pilot was designed to assist existing Section 502 direct or

guaranteed loan borrowers in refinancing their homes with greater ease in thirty-five eligible states where steep home price declines, unemployment and persistent poverty rates made refinancing a current mortgage into more affordable terms difficult or impossible. Due to the success of the pilot program, RHS will implement the pilot as a refinance option for existing Section 502 direct or guaranteed loan borrowers nationwide in addition to the two traditional refinance loan options of streamlined and non-streamlined. The special refinance loan option will be called ''streamlined-assist.''

This rule proposes to amend 7 CFR 3555.101(d)(vi) to include ''streamlined-assist'' as one of three available refinance loan options in addition to the traditional ''streamlined'' and ''non-streamlined'' refinance loans. Section 3555.101(d)(vi) discusses eligibility requirements for each streamlined and non-streamlined refinance loan. The streamlined-assist refinance will have the same features as the Rural Refinance Pilot described above. Additional eligibility criteria for refinance loans is discussed in Section 3555.101(d)(3).

Qualified Mortgage: The agency proposes a rule change to Section 3555.109, to indicate that a loan guaranteed by RHS meeting certain CFPB requirements is a ''Qualified Mortgage.''

The CFPB published a ''Qualified Mortgage'' rule (12 CFR part 1026) which became effective January 10, 2014 and implemented in part the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203). This rule requires creditors to make a reasonable, good faith determination of a consumer's repayment ability for any consumer credit transaction secured by a dwelling, and establishes a safe harbor from liability for transactions that meet the requirements for ''qualified mortgages.'' Currently, SFHGLP loans are considered to be qualified mortgages if they meet the requirements in 12 CFR 1026.43(e)(2)(i)–(iii) and the points and fees limits in 12 CFR 1026.43(e)(3) until RHS promulgates its own rules regarding qualified mortgages, or January 10, 2021, whichever is earlier. (See 12 CFR 1026.43(e)(4)).

RHS guaranteed loans currently meet these requirements. Therefore, section 3555.109 will clarify that RHS guaranteed loans which meet the CFPB requirements in 12 CFR 1026.43(e)(2)(i)–(iii) and 12 CFR 1026.43(e)(3) are considered qualified mortgages. Also, the definition of ''qualified mortgage'' will be added to 7 CFR 3555.10.

List of Subjects in 7 CFR Part 3555

Home improvement, Loan programs—Housing and community development, Mortgage insurance, Mortgages, Rural areas.

For the reason stated in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 3555—GUARANTEED RURAL HOUSING PROGRAM

■ 1. The authority citation for part 3555 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 42 U.S.C. 1480, and Subpart E of 7 U.S.C. 1932(a).

Subpart C—Loan Requirements

■ 2. Amend § 3555.10 by adding in alphabetical order the definition for ''Default,'' revising the definition of ''Mortgage recovery advance,'' and adding in alphabetical order definitions for ''Principal reduction advance,'' ''Qualified mortgage,'' and ''Streamlined-assist refinance'' to read as follows:

§ 3555.10 Definitions and abbreviations.

* * * * *

Default. A loan is considered in default when a payment has not been paid after 30 days from the date it was due.

* * * * *

Principal reduction advance. A principal reduction advance is funds advanced by the Lender on behalf of a borrower to reduce the principal balance of the loan.

* * * * *

Mortgage recovery advance. A mortgage recovery advance is funds advanced by the lender on behalf of a borrower to satisfy the borrower's arrearage, and pay legal fees and foreclosure costs related to a cancelled foreclosure action.

* * * * *

Qualified mortgage. A qualified mortgage is a guaranteed loan under this part which meets all Agency requirements as well as the restrictions in 12 CFR 1026.43(e)(2)(i) through (iii) and the points and fees limits in 12 CFR 1026.43(e)(3).

* * * * *

Streamlined-assist refinance. A streamlined-assist refinance is an abbreviated method of refinancing which does not require a credit report, or the calculation of loan-to-value or debt-to-income ratios. Lenders must verify that the borrower has been current on their existing loan for the preceding 12 month period.

* * * * *

■ 3. Section 3555.101 is amended by:

■ a. Revising paragraphs (d)(3)(i) and (ii).

■ b. Removing paragraph (d)(3)(iv).

■ c. Re-designating paragraphs (d)(3)(v) through (x) as (d)(3)(iv) through (ix) respectively.

The revisions read as follows:

§ 3555.101 Loan Purposes.

* * * * *

(d) * * *

(3) * * *

(i) Three options for refinancing may be offered: Streamlined, non-streamlined, and streamlined-assist. Other than provided in this paragraph, no cash out is permitted for any refinance. Documentation costs and underwriting requirements of subparts D, E, and F of this part apply to streamlined and non-streamlined refinances.

(A) Lenders may offer a streamlined refinance for existing Section 502 Guaranteed loans, which does not require a new appraisal. The lender will pay off the balance of the existing Section 502 Guaranteed loan. The new loan amount cannot include any closing costs or lender fees.

(B) Lenders may offer non-streamlined refinancing for existing Section 502 Guaranteed or Direct loans, which requires a new and current market value appraisal. The amount of the new loan must be supported by sufficient equity in the property as determined by an appraisal. The appraised value may be exceeded by the amount of up-front guarantee fee financed, if any, when using the non-streamlined option.

(C) A streamlined-assist refinance loan is a special refinance option available to existing Section 502 direct and guaranteed loan borrowers. Applicants must meet the income eligibility requirements of § 3555.151(a), and must not have had any defaults during the 12 month period prior to the refinance loan application. There are no debt-to-income calculation requirements, no credit report requirements, no property inspection requirements, and no loan-to-value requirements. There is no appraisal requirement except for Section 502 direct loan borrowers who have received a subsidy.

(ii) The interest rate of the new loan must be fixed and must not exceed the interest rate of the original loan being refinanced.

* * * * *

■ 4. Amend § 3555.108 by revising paragraph (d) to read as follows:

§ 3555.108 Full faith and credit.

* * * * *

(d) *Indemnification.* If the Agency determines that a Lender did not originate a loan in accordance with the requirements in this part, and the Agency pays a claim under the loan guarantee, the Agency may revoke the lender's eligibility status in accordance with subpart B of this part and may also require the lender:

(1) To indemnify the Agency for the loss, if the default leading to the payment of loss claim occurred within five (5) years of loan closing, and the default arose from failure to originate the loan in accordance with agency requirements; or:

(2) To indemnify the Agency for the loss regardless of how long ago the loan closed or the default occurred, if the Agency determines that fraud or misrepresentation was involved with the origination of the loan.

(3) In addition, the Agency may use any other legal remedies it has against the Lender.

* * * * *

■ 5. Add § 3555.109 to read as follows:

§ 3555.109 Qualified mortgage.

A qualified mortgage is a guaranteed loan meeting the requirements of this part and applicable Agency guidance, as well as the requirements in 12 CFR 1026.43(e)(i) through (iii) and 12 CFR 1026.43(e)(3).

■ 6. Section 3555.304 is amended by:

■ a. Revising paragraph (d)(1).

■ b. Removing paragraph (d)(3).

■ c. Re-designating paragraphs (d)(4) through (8) as (d)(3) through (7) respectively.

■ d. Adding paragraph (e).

The revisions read as follows:

§ 3555.304 Special servicing options.

* * * * *

(d) * * *

(1) The maximum amount of a mortgage recovery advance is the sum of arrearages not to exceed 12 months of PITI, annual fees, legal fees and foreclosure costs related to a cancelled foreclosure action.

* * * * *

(e) *Principal reduction advance.* A principal reduction advance cannot be issued independently of a mortgage recovery advance, and the amount of the principal reduction advance, when combined with the mortgage recovery advance, cannot exceed 30 percent of the unpaid principal balance as of the date of default. Principal reduction advances can be considered only for loans originated and closed on or after January 1, 2001 through January 1, 2010.

(1) After a mortgage recovery advance has been calculated, the principal reduction amount for the modified mortgage is determined by calculating how much principal reduction advance is needed to achieve a mortgage payment-to-income ratio that is 31 percent or a proximate value extremely close to, but not less than, 31 percent, while ensuring that the total debt-to-income ratio does not exceed 55 percent and that the combined mortgage recovery advance and principal reduction advance does not exceed 30 percent of the unpaid principal balance.

(2) The Lender must have the borrower execute an unsecured promissory note payable to RHS for the amount of the principal reduction advance.

(3) The following terms apply to the repayment of principal reduction advances:

(i) The principal reduction advance debt under the promissory note shall be interest-free.

(ii) Borrowers are not required to make any monthly or periodic payments on the principal reduction advance note; however, borrowers may voluntarily submit partial payments without incurring any prepayment penalty.

(iii) The due date for the principal reduction advance note shall be three years from the date of the note. Prior to the due date on the principal reduction note, payment in full under the note is due should the borrower transfer title to the property by voluntary or involuntary means within three years of the principal reduction advance.

(iv) At the conclusion of three years, RHS will review the account and determine if it is in good standing. An account will be deemed in good standing if it has not been 60 days or more delinquent over the past three years. If the debt is forgiven, RHS must report this amount to the Internal Revenue Service in accordance with applicable law and regulations.

(v) If the account is in good standing at the conclusion of the three year period, RHS will forgive the principal reduction advance note and the borrower will be released of all liability from the principal reduction advance promissory note.

(vi) If the account is not in good standing, the principal reduction advance note will be payable and due in full. The Agency will collect this Federal debt from the borrower by any available means if the principal reduction advance is not repaid based on the terms outlined in the promissory note.

(4) The lender may request reimbursement from the Agency for a principal reduction advance. A fully supported and documented claim for reimbursement must be submitted to the Agency within 60 days of the advance being completed. To be complete, the lender must provide the original promissory note to the Agency.

(5) The loss claim filed by the lender will be adjusted by any amount of principal recovery advance reimbursed to the lender by the Agency.

* * * * *

Dated: January 20, 2015.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2015–03711 Filed 3–4–15; 8:45 am]

BILLING CODE 3410–XV–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 791

RIN 3133–AE45

Promulgation of NCUA Rules and Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule and interpretive ruling and Policy Statement 15–1 with request for comments.

SUMMARY: The NCUA Board (Board) proposes to amend Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2 and 13–1. The amended IRPS would increase the asset threshold used to define small entity under the Regulatory Flexibility Act (RFA) from $50 million to $100 million and, thereby, provide transparent consideration of regulatory relief for a greater number of credit unions in future rulemakings. The proposed rule and IRPS also make a technical change to NCUA's regulations in connection with NCUA's procedures for developing regulations.

DATES: Comments must be received on or before May 4, 2015.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *NCUA Web site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.

• *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—

Comments on Proposed Rule 791 and IRPS 15–1'' in the email subject line.

• *Fax:* (703) 518–6319. Use the subject line described above for email.

• *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

• *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You can view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Kevin Tuininga, Lead Liquidations Counsel, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6543.

SUPPLEMENTARY INFORMATION:

I. Background
II. The Proposed Rule and IRPS
III. Regulatory Procedures

I. Background

A. What changes does this proposed rule make?

The RFA,[1] as amended, generally requires federal agencies to determine and consider the impact of proposed and final rules on small entities. Since adopting IRPS 13–1 in 2013, the Board has defined ''small entity'' in this context as a federally insured credit union (FICU) with less than $50 million in assets.[2] This proposed rule and IRPS 15–1 redefines ''small entity'' as a FICU with less than $100 million in assets. In addition, the proposed rule amends § 791.8(a) of NCUA's regulations to cross reference proposed IRPS 15–1. Section 791.8(a) governs NCUA's procedures for developing regulations and incorporates IRPS 87–2 and each of its amendments.

B. Why is the board proposing this rule and IRPS?

The Board is proposing this rulemaking and IRPS to increase the number of FICUs that receive special consideration of regulatory relief under the RFA. Congress enacted the RFA in 1980 and amended it with the Small Business Regulatory Enforcement Fairness Act of 1996.[3] A principal purpose of the 1996 amendment was to provide an opportunity for judicial review of agency compliance with the RFA.[4]

The RFA, in part, requires federal agencies to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities.[5] If so, the RFA requires agencies to engage in a small entity impact analysis, known as an initial regulatory flexibility analysis (IRFA) for proposed rules and a final regulatory flexibility analysis (FRFA) for final rules.[6] The IRFA and FRFA each must be published in the **Federal Register**.[7] If an agency determines that a proposed or final rule will not have a ''significant economic impact on a substantial number of small entities,'' the agency may certify as much in the **Federal Register** and forego the IRFA and FRFA.[8]

For an IRFA, the procedural requirements include, among other things, ''a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply,'' a description of reporting, recordkeeping, and other compliance burden, and an identification of any overlapping or conflicting federal rules.[9] In addition, the IRFA must ''contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives . . . and which minimize any significant economic impact of the proposed rule on small entities.'' [10] This discussion must include alternatives such as allowing ''differing compliance or reporting requirements or timetables,'' ''the clarification, consolidation, or simplification of compliance and reporting requirements,'' ''the use of performance rather than design standards,'' and a full or partial exemption for small entities.[11]

The FRFA must meet requirements similar to that of the IRFA, but must also discuss and respond to public comments and describe ''the steps the agency has taken to minimize the significant economic impact on small entities . . ., including a statement of 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 . . . was rejected.'' [12] These processes encourage federal agencies to give special consideration to the ability of smaller entities to absorb compliance burdens imposed by new rules.

The RFA establishes terms for various subgroups that fall within the meaning of ''small entity,'' including ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [13] FICUs, as not-for-profit enterprises, are ''small organizations,'' within the broader meaning of ''small entity.'' The RFA permits a regulator, including NCUA, to establish one or more definitions of ''small organization,'' as appropriate to the activities of the agency.[14] An agency's definition must be subjected to public comment and published in the **Federal Register**.[15] The RFA provides a default definition of ''small organization'' as ''a not-for-profit enterprise which is independently owned and operated and is not dominant in its field. . . .'' [16]

In 1981, the Board initially defined ''small entity'' in the credit union context as any FICU with less than $1 million in assets.[17] IRPS 87–2 superseded IRPS 81–4, but retained the definition of ''small entity'' as a FICU with less than $1 million in assets.[18] The Board updated the definition in 2003 to include FICUs with less than $10 million in assets with IRPS 03–2.[19] The last update occurred in 2013, when the Board increased the defining threshold to include FICUs with less than $50 million in assets in IRPS 13–1.[20] In addition, in IRPS 13–1, the Board pledged to review the RFA threshold after two years and thereafter

[1] Public Law 96–354.

[2] IRPS 13–1, 78 FR 4032 (Jan. 18, 2013).

[3] Public Law 104–121.

[4] Id.

[5] 5 U.S.C. 603, 604, 605(b). The term ''small entity'' as used in the RFA includes small businesses, small organizations, and small government jurisdictions. 5 U.S.C. 601(6). Credit unions fall within the definition of organization. 5 U.S.C. 601(4).

[6] 5 U.S.C. 603, 604.

[7] Id.

[8] 5 U.S.C. 605(b).

[9] 5 U.S.C. 603(b). The IRFA must also include a description of why the agency is considering action and ''a succinct statement of the objectives of, and legal basis for, the proposed rule . . . .'' Id.

[10] 5 U.S.C. 603(c).

[11] Id.

[12] 5 U.S.C. 604(a).

[13] 5 U.S.C. 601.

[14] 5 U.S.C. 601(4).

[15] Id.

[16] Id.

[17] IRPS 81–4, 46 FR 29248 (June 1, 1981).

[18] 52 FR 35231 (Sept. 8, 1987).

[19] 68 FR 31949 (May 29, 2003).

[20] 78 FR 4032 (Jan. 18, 2013).

on a three-year cycle, similar to its regulatory review process.[21]

As a result of conducting its review two years following the issuance IRPS 13–1, the Board believes it should increase the asset threshold used to define ''small entity'' from $50 million to $100 million. In its last two adjustments to the RFA threshold, the Board primarily referenced inflation, asset growth, and the percentage of FICUs covered by certain 1998 amendments to the Federal Credit Union Act to justify increasing the threshold.[22] In light of the persistent economic trends in the industry that are discussed below, the Board has decided to bypass the extrapolation approach it has used in the past, which would justify only an incremental increase to the RFA threshold at this time. Instead, the Board believes it should weigh competitive disadvantages within the credit union industry, relative threats to the National Credit Union Share Insurance Fund (Insurance Fund), and the need for broader regulatory relief to adopt a larger increase.

Increasing the RFA threshold to $100 million will account for FICUs that generally face significant challenges from their relatively small asset base, membership, and economies of scale. The Board believes competitive disadvantages, rather than industry percentages, better delineate which FICUs should receive special consideration during future rulemakings. This new approach would result in a more inclusive threshold with respect to RFA coverage, reflecting the Board's intent to reduce regulatory burdens for FICUs under $100 million in assets.

II. The Proposed Rule and IRPS

This proposed rule and IRPS 15–1 would amend IRPS 87–2 (as amended by IRPS 03–2 and IRPS 13–1) by changing the definition of ''small entity'' to include FICUs with less than $100 million in assets. The increased threshold would cause NCUA to give special consideration to the economic impact of proposed and final regulations on an additional 745 small FICUs, bringing the total number of FICUs covered by the RFA to approximately 4,869. The proposed rule and IRPS 15–1 retains the three-year review cycle that the Board adopted in 2013. IRPS 15–1 would be incorporated by reference into § 791.8(a) of NCUA's regulations governing regulatory procedures, and it would replace the reference to IRPS 13–1.

In IRPS 13–1, the Board combined adjustments to existing regulatory asset thresholds with an increase to the RFA threshold.[23] Specifically, asset thresholds addressed in IRPS 13–1 included the threshold governing the definition of ''complex'' in § 702.103(a) of NCUA's regulations, which determines the application of risk-based net worth requirements, and the threshold providing an exemption to NCUA's interest rate risk (IRR) rule in § 741.3(b)(5). Rather than replicate this approach in this proposal, the Board will separately establish the asset threshold used to define which FICUs are ''complex'' in § 702.103(a) in the risk-based capital rule itself. Further, other regulatory asset thresholds, including those applying to IRR and liquidity requirements, will be separately considered in the Board's general three-year regulatory review cycle. Individual review will facilitate consideration of unique risks and compliance burdens that are specific to those rules, rather than encouraging a one-size-fits-all approach.

A. How did the Board identify $100 million as an appropriate asset threshold for the RFA?

The Board believes that the RFA threshold proposed in this rulemaking and IRPS will result in thorough consideration of regulatory relief for a larger number of FICUs in future rulemakings. Thus, to determine an appropriate asset threshold for the RFA and support a significant increase, the Board considered which FICUs are most disadvantaged in comparison to their peers, as well as risk to the Insurance Fund. The concept of competitive disadvantage aligns well with Congress's default description of RFA-covered entities as those that are ''not dominant'' in their field.[24] In an effort to determine which institutions fall within that concept in this proposed rule and IRPS, the Board examined the following industry metrics for the period between 2001 and 2013:

- Deposit growth rates;
- asset growth rates; membership growth rates;
- loan origination growth rates;
- inflation-adjusted average loan amounts;
- ratio of operating costs to assets;
- merger and liquidation trends;
- average year-to-date loan amounts;
- non-interest expenses per dollar loaned;
- average assets per full-time employee; and
- average non-interest expense per annual loan originations.

As discussed below, rates of deposit growth, rates of membership growth, rates of loan origination growth, and the ratio of operating costs to assets exemplified the results of the Board's examination.[25]

(i) Slower Deposit Growth Rates

Smaller FICUs have consistently demonstrated an inability to grow their deposit base at a rate that keeps pace with larger FICUs. This slower growth rate makes it difficult for smaller FICUs to cover fixed costs, which are increasing over time. FICUs with growing deposits and loans are able to spread out fixed costs and incrementally reduce operating costs.

In general, deposit growth rates drop off significantly for FICUs with less than $100 million in assets. FICUs with less than $100 million in assets as of the end of the year 2000 grew their deposits by an average of 4.0 percent annually over the next 13 years. In comparison, FICUs with greater than $100 million in assets as of the end of the year 2000 grew deposits at 7.3 percent annually, on average, over the same period. On an asset-weighted basis, the industry's average deposit growth rate from 2001 to 2013 was 7.0 percent per year.

(ii) Slower Membership Growth Rates

FICUs with less than $100 million in assets also had significantly slower membership growth rates than larger FICUs. On average, FICUs with less than $100 million in assets as of the end of the year 2000 had their membership shrink by 0.5 percent annually over the next 13 years. In contrast, FICUs with more than $100 million in assets as of the end of the year 2000 grew their membership by 2.3 percent annually over the same period. On an asset-weighted basis, the industry's membership growth rate was 1.7 percent per year from 2001 to 2013.

(iii) Slower Growth in Loan Originations

FICUs with less than $100 million in assets also had significantly slower growth in loan originations than larger FICUs. On average, FICUs with less than $100 million in assets as of the end of the year 2000 grew loan originations by 2.3 percent annually over the next 13 years. In contrast, FICUs with more than

[21] Id. IRPSs 87–2, 03–2, and 13–1 are incorporated by reference into NCUA's rule governing the promulgation of regulations. 12 CFR 791.8(a).

[22] 68 FR 31949, 31950 (May 29, 2003); 78 FR 4032, 4034 (Jan. 18, 2013).

[23] 78 FR 4032 (Jan. 18, 2013).

[24] 5 U.S.C. 601(4).

[25] The data used to calculate each of the metrics is adjusted to prevent outliers from skewing the average results.

$100 million in assets as of the end of the year 2000 grew their loan originations by 8.5 percent annually over the same period. On an asset-weighted basis, the industry's loan origination growth was 6.9 percent per year from 2001 to 2013.

(iv) Higher Operating Expenses

FICUs with less than $100 million in assets also had higher annual operating expenses per unit of assets and per dollar of loan originations compared to other asset groups. On average, FICUs with less than $100 million in assets as of the end of the year 2000 had annual operating expenses equal to 4.0 percent of assets over the next 13 years. FICUs with more than $100 million in assets as of the end of the year 2000 had annual operating expenses of 3.5 percent of assets over the same period.

The impact of these differences in operating expenses can be dramatic. Between 2001 and 2013, FICUs with less than $100 million in assets as of the end of the year 2000, had operating expenses, on average, equal to 18 cents for every dollar in loan originations. This expense ratio was a third higher than at FICUs with more than $100 million in assets as of the end of the year 2000, which averaged annual operating expenses equal to 13 cents for every dollar in loan originations over the same period.

The 50-basis-point difference in operating expenses (as a share of assets) between FICUs above and below the $100 million asset threshold resulted in large and persistent differences in earnings between these FICUs. The earnings gap between FICUs above and below the $100 million threshold averaged 40 basis points from 2001 to 2013. To put this in perspective, during that period, 25 percent of FICUs below the $100 million asset threshold had negative earnings. Only 3.3 percent of FICUs with more than $100 million in assets had negative earnings over the same period. FICUs with persistently weak or negative earnings are more likely to go out of business via failure or merger.

The Board believes that if smaller FICUs are going to be successful and meet their mission in the long term, they should have every feasible opportunity to lower costs. Challenges related to lagging deposit growth, stagnant membership, and high operating costs have caused FICUs with less than $100 million in assets to merge and/or fail at higher rates. Despite representing 83 percent of all FICUs, FICUs with less than $100 million in assets experienced 96 percent of mergers and liquidations since 2004 (through the second quarter of 2014).

Although the number of mergers and failures for FICUs below $100 million is disproportionately high, losses suffered by FICUs with assets between $50 million and $100 million have historically been relatively small. Seven FICUs between $50 million and $100 million in inflation-adjusted assets failed between the first quarter of 2002 and second quarter of 2014. Resulting losses totaled less than $52 million. In contrast, losses for FICUs between $100 million and $200 million were more than triple that amount over the same period. Moreover, FICUs with between $50 million and $100 million in assets represent a small additional share of the system's assets (4.8 percent). Thus, to the extent the increase to $100 million results in more FICU exemptions from rules governing safety and soundness, the Board does not believe it will present material risk to the Insurance Fund.

By increasing the RFA threshold to $100 million in assets, the Board recognizes its role in ensuring additional scrutiny of the regulatory costs of FICUs under that threshold. The increase to $100 million in assets will require the Board to engage in the public analytical process the RFA requires for the benefit of significantly more FICUs whenever a regulation would impose significant economic burdens on a substantial number of FICUs under $100 million. Further, it will encourage the consideration of alternatives for more FICUs and subject that consideration to the benefit of public comments.

B. How will the proposed rule and IRPS affect FICUs?

The change to the RFA threshold will ensure that regulatory relief will be consistently and robustly considered for an additional 745 FICUs. Future rules are more likely to invoke an RFA analysis because of the significantly increased threshold. When an IRFA or FRFA is triggered, these additional FICUs will have the benefit of an opportunity to comment on a transparent and published analysis of impacts and alternatives.

In all, approximately 4,869 FICUs with less than $100 million in assets would come within the RFA's mandates as of the adoption of this proposed rule and IRPS. This represents 76.7 percent of FICUs. For all of these FICUs, future regulations will be thoroughly evaluated to determine whether an exemption or other separate consideration should apply.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The RFA requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (currently defined by NCUA as FICUs with under $50 million in assets). In this case, the proposed rule and IRPS expands the number of FICUs defined as small entities under the RFA. The proposed rule and IRPS therefore will not have a significant economic impact on a substantial number of FICUs under $50 million in assets that are already covered by the RFA.

With respect to additional FICUs that would be covered by the RFA, a significant component of the proposed rule and IRPS will provide prospective relief in the form of special and more robust consideration of their ability to handle compliance burden. This prospective relief is not yet quantifiable. Further, the proposed rule and IRPS can only reduce, rather than increase, compliance burden for these FICUs and, therefore, will not raise costs in a manner that requires an IRFA or FRFA or a discussion of alternatives for minimizing the proposed rule's compliance burden. Accordingly, NCUA has determined and certifies that the proposed rule and IRPS will not have a significant economic impact on a substantial number of small entities. No regulatory flexibility analysis is required.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden.[26] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The proposed changes to IRPS 87–2, as amended by IRPSs 03–2 and 13–1, will not create any new paperwork burden for FICUs. Thus, NCUA has determined that the terms of this proposed rule and IRPS do not increase the paperwork requirements under the PRA and regulations of the Office of Management and Budget.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily

[26] 44 U.S.C. 3507(d).

complies with the executive order to adhere to fundamental federalism principles. This proposed rule and IRPS would not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this proposed rule and IRPS will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 791

Administrative practice and procedure, Credit unions, Sunshine Act.

By the National Credit Union Administration Board on February 19, 2015.

Gerard Poliquin,

Secretary of the Board.

■ For the reasons discussed above, the Board proposes to amend IRPS 87–2 (as amended by IRPS 03–2 and IRPS 13–1) by revising the second sentence of paragraph 2 of Section II and replacing the last two sentences of paragraph 2 of Section II to read as follows:

Interpretive Ruling and Policy Statement 87–2

II. Procedures for the Development of Regulations

* * * * *

2. * * * NCUA will designate federally insured credit unions with less than $100 million in assets as small entities. * * * Every three years, the NCUA Board will review and consider adjusting the asset threshold it uses to define small entities for purposes of analyzing whether a regulation will have a significant economic impact on a substantial number of small entities.

* * * * *

For the reasons discussed above, the Board proposes to amend 12 CFR part 791 as follows:

PART 791—RULES OF NCUA BOARD PROCEDURES; PROMULGATION OF NCUA RULES AND REGULATIONS; PUBLIC OBSERVATION OF NCUA BOARD MEETINGS

■ 1. The authority citation for part 791 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and 5 U.S.C 552b.

■ 2. Amend § 791.8(a) to read as follows:

§ 791.8 Promulgation of NCUA rules and regulations.

(a) NCUA's procedures for developing regulations are governed by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and NCUA's policies for the promulgation of rules and regulations as set forth in its Interpretive Ruling and Policy Statement 87–2, as amended by Interpretive Ruling and Policy Statements 03–2, 13–1, and 15–1.

[FR Doc. 2015–03806 Filed 3–4–15; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2015–0455; Notice No. 25–15–04–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11; Electronic Flight Control System: Lateral-Directional and Longitudinal Stability and Low-Energy Awareness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is a fly-by-wire electronic flight control system that provides an electronic interface between the pilot's flight controls and the flight control surfaces for both normal and failure states. The system generates the actual surface commands that provide for stability augmentation and control about all three airplane axes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before April 20, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–0455 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage, sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

The CSeries flight control system design incorporates normal load factor limiting on a full time basis that will prevent the pilot from inadvertently or intentionally exceeding the positive or negative airplane limit load factor. The FAA considers this feature to be novel and unusual in that the current regulations do not provide standards for maneuverability and controllability evaluations for such systems. Special conditions are needed to ensure adequate maneuverability and controllability when using this design feature.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Bombardier Aerospace must show that the CSeries airplanes meet the applicable provisions of 14 CFR part 25 as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

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

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

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design feature: Fly-by-wire electronic flight control system that provides an electronic interface between the pilot's flight controls and the flight control surfaces for both normal and failure states. The system generates the actual surface commands that provide for stability augmentation and control about all three airplane axes.

Discussion

In the absence of positive lateral stability, the curve of lateral control surface deflections against sideslip angle should be in a conventional sense and reasonably in harmony with rudder deflection during steady heading sideslip maneuvers.

Since conventional relationships between stick forces and control surface displacements do not apply to the ''load factor command'' flight control system on the CSeries airplanes, longitudinal stability characteristics should be evaluated by assessing the airplane handling qualities during simulator and flight test maneuvers appropriate to the operation of the airplane. This may be accomplished by using the Handling Qualities Rating Method presented in appendix 5 of Advisory Circular (AC) 25–7C, *Flight Test Guide for Certification of Transport Category Airplanes,* dated October 16, 2012, or an acceptable alternative method proposed by Bombardier Aerospace. Important considerations are as follows:

(a) Adequate speed control without creating excessive pilot workload;

(b) Acceptable high and low speed protection; and

(c) Provision of adequate cues to the pilot of significant speed excursions beyond V_{MO}/M_{MO} and low speed awareness flight conditions.

The airplane should provide adequate awareness cues to the pilot of a low energy (*i.e.,* a low speed, low thrust, or low height) state to ensure that the airplane retains sufficient energy to recover when flight control laws provide neutral longitudinal stability significantly below the normal operating speeds. This may be accomplished as follows:

(a) Adequate low speed/low thrust cues at low altitude may be provided by a strong positive static stability force gradient (1 pound per 6 knots applied through the sidestick); or

(b) The low energy awareness may be provided by an appropriate warning with the following characteristics:

i. It should be unique, unambiguous, and unmistakable.

ii. It should be active at appropriate altitudes and in appropriate configurations (*i.e.,* at low altitude, in the approach and landing configurations).

iii. It should be sufficiently timely to allow recovery to a stabilized flight condition inside the normal flight envelope while maintaining the desired flight path and without entering the flight controls angle-of-attack protection mode.

iv. It should not be triggered during normal operation, including operation in moderate turbulence, for recommended maneuvers at recommended speeds.

v. It should not be cancelable by the pilot other than by achieving a higher energy state.

vi. There should be an adequate hierarchy among the warnings so that the pilot is not confused and led to take inappropriate recovery action if multiple warnings occur.

Global energy awareness and non-nuisance of low energy cues should be evaluated by simulator and flight tests in the whole take-off and landing altitude range for which certification is requested. This would include all relevant combinations of weight, center-of-gravity position, configuration, airbrakes position, and available thrust, including reduced and de-rated take-off thrust operations and engine failure cases. A sufficient number of tests should be conducted, allowing the level of energy awareness and the effects of energy management errors to be assessed.

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

Applicability

As discussed above, these special conditions are applicable to the Bombardier BD–500–1A10 and BD–500–1A11. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on two model series of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

■ Accordingly, the Federal Aviation Administration proposes the following special conditions as part of the type certification basis for Bombardier Aerospace BD–500–1A10 and BD–500–1A11 series airplanes.

1. Electronic Flight Control System: Lateral-Directional and Longitudinal Stability and Low-Energy Awareness. In lieu of the requirements of §§ 25.171, 25.173, 25.175, and 25.177:

(a) The airplane must be shown to have suitable static lateral, directional, and longitudinal stability in any condition normally encountered in service, including the effects of atmospheric disturbance. The showing of suitable static lateral, directional, and longitudinal stability must be based on the airplane handling qualities, including pilot workload and pilot compensation, for specific test procedures during the flight test evaluations.

(b) The airplane must provide adequate awareness to the pilot of a low energy (low speed/low thrust/low height) state when fitted with flight control laws presenting neutral longitudinal stability significantly below the normal operating speeds. ''Adequate awareness'' means warning information must be provided to alert the crew of unsafe operating conditions and to enable them to take appropriate corrective action.

(c) The static directional stability (as shown by the tendency to recover from a skid with the rudder free) must be positive for any landing gear and flap position and symmetrical power condition, at speeds from 1.13 V_{SR1}, up to V_{FE}, V_{LE}, or V_{FC}/M_{FC} (as appropriate).

(d) The static lateral stability (as shown by the tendency to raise the low wing in a sideslip with the aileron controls free), for any landing-gear and wing-flap position and symmetric-power condition, may not be negative at any airspeed (except that speeds higher than V_{FE} need not be considered for wing-flaps-extended configurations nor speeds higher than V_{LE} for landing-gear-extended configurations) in the following airspeed ranges:

i. From 1.13 V_{SR1} to V_{MO}/M_{MO}.

ii. From V_{MO}/M_{MO} to V_{FC}/M_{FC}, unless the divergence is—

(1) Gradual;

(2) Easily recognizable by the pilot; and

(3) Easily controllable by the pilot.

(e) In straight, steady sideslips over the range of sideslip angles appropriate to the operation of the airplane, but not less than those obtained with one half of the available rudder control movement (but not exceeding a rudder control force of 180 pounds), rudder control movements and forces must be substantially proportional to the angle of sideslip in a stable sense; and the factor of proportionality must lie between limits found necessary for safe operation. This requirement must be met for the configurations and speeds specified in paragraph (c) of this section.

(f) For sideslip angles greater than those prescribed by paragraph (e) of this section, up to the angle at which full rudder control is used or a rudder control force of 180 pounds is obtained, the rudder control forces may not reverse, and increased rudder deflection must be needed for increased angles of sideslip. Compliance with this requirement must be shown using straight, steady sideslips, unless full lateral control input is achieved before reaching either full rudder control input or a rudder control force of 180 pounds; a straight, steady sideslip need not be maintained after achieving full lateral control input. This requirement must be met at all approved landing gear and wing-flap positions for the range of operating speeds and power conditions appropriate to each landing gear and wing-flap position with all engines operating.

Issued in Renton, Washington, on February 24, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–05048 Filed 3–4–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0251; Directorate Identifier 2014–NM–200–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This proposed AD was prompted by a determination that, in specific flight conditions, the allowable load limits on the vertical tail plane could be reached and possibly exceeded. Exceeding allowable load could result in detachment of the vertical tail plane. This proposed AD would require modification of the pin programming flight warning computer (FWC) to activate the stop rudder input warning (SRIW) logic; and an inspection to determine the part numbers of the FWC and the flight augmentation computer (FAC), and replacement of the FWC and FAC if necessary. We are proposing this AD to prevent detachment of the vertical tail plane and consequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by April 20, 2015.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email

account.airworth-eas@airbus.com; Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0251; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0251; Directorate Identifier 2014–NM–200–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2014–0217, dated September 26, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Model A318, A319, A320, and Model A321 series airplanes. The MCAI states:

> During design reviews that were conducted following safety recommendations related to in-service incidents and one accident on another aircraft type, it has been determined that, in specific flight conditions, the allowable load limits on the vertical tail plane could be reached and possibly exceeded.
>
> This condition, if not corrected, could lead, in the worst case, to detachment of the vertical tail plane in flight and consequent loss of the aeroplane.
>
> To prevent such a possibility, Airbus has developed modifications within the flight augmentation computer (FAC) to reduce the vertical tail plane stress and to activate a conditional aural warning within the flight warning computer (FWC) to further protect against pilot induced rudder doublets.
>
> For the reasons described above, this [EASA] AD requires installation and activation of the stop rudder input warning (SRIW) logic.
>
> In addition, this [EASA] AD requires, prior to or concurrent with modification of an aeroplane with the activation of the SRIW, upgrades of the FAC and FWC, to introduce the SRIW logic and SRIW aural capability, respectively. After modification, this [EASA] AD prohibits installation of certain Part Number (P/N) FWC and FAC.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0251.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–22–1480, dated July 9, 2014. The service information describes procedures for modifying the pin programming to activate the SRIW logic.

Airbus has also issued the following service bulletins. The service information describes procedures for replacing FWCs and FACs.

- Airbus Service Bulletin A320–22–1375, dated January 15, 2014.
- Airbus Service Bulletin A320–22–1427, Revision 04, dated February 11, 2014.
- Airbus Service Bulletin A320–22–1447, Revision 01, dated September 18, 2014.
- Airbus Service Bulletin A320–22–1461, Revision 04, dated September 15, 2014.
- Airbus Service Bulletin A320–31–1414, Revision 03, dated September 15, 2014.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

FAA's Determination and Requirements of This Proposed AD

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

Explanation of ''RC'' Procedures and Tests in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement was a new process for annotating which procedures and tests in the service information are required for compliance with an AD. Differentiating these procedures and tests from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information identified previously include procedures and tests that are identified as RC (required for compliance) because these procedures have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As specified in a NOTE under the Accomplishment Instructions of the specified service information, procedures and tests identified as RC must be done to comply with the proposed AD. However, procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an alternative method of compliance (AMOC), provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC will require approval of an AMOC.

Costs of Compliance

We estimate that this proposed AD affects 953 airplanes of U.S. registry.

We also estimate that it would take about 3 work-hours per product to

comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $243,015, or $255 per product.

In addition, we estimate that any necessary follow-on actions would take about 6 work-hours (3 work-hours for an FWC and 3 work-hours for an FAC), for a cost of up to $510 per product. We have received no definitive data that would enable us to provide part cost estimates for the on-condition actions specified in this proposed AD. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2015–0251; Directorate Identifier 2014–NM–200–AD.

(a) Comments Due Date

We must receive comments by April 20, 2015.

(b) Affected ADs

None.

(c) Applicability

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

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

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

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

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

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto flight; 31, Instruments.

(e) Reason

This AD was prompted by a determination that, in specific flight conditions, the allowable load limits on the vertical tail plane could be reached and possibly exceeded. Exceeding allowable load could result in detachment of the vertical tail plane. We are issuing this AD to prevent detachment of the vertical tail plane and consequent loss of control of the airplane.

(f) Compliance

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

(g) Pin Programming Modification

Within 48 months after the effective date of this AD, modify the pin programming to activate the stop rudder input warning (SRIW) logic, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–22–1480, dated July 9, 2014.

(h) Inspection To Determine Part Numbers (P/Ns), Flight Warning Computer (FWC) and Flight Augmentation Computer (FAC) Replacement

Prior to or concurrently with, the actions required by paragraph (g) of this AD: Inspect the part numbers of the FWC and the FAC installed on the airplane. If any FWC or FAC having a part number identified in paragraph (h)(1) or (h)(2) of this AD, as applicable, is installed on an airplane, prior to or concurrently with, the actions required by paragraph (g) of this AD, replace all affected FWCs and FACs with a unit having a part number identified in paragraph (h)(3) of this AD, in accordance with the Accomplishment Instructions of the applicable Airbus service bulletins specified in paragraph (i) of this AD.

(1) Paragraphs (h)(1)(i) through (h)(1)(xvii) of this AD identify FWCs having part numbers that are non-compatible with the SRIW activation required by paragraph (g) of this AD.

(i) 350E017238484 (H1D1).
(ii) 350E053020303 (H2E3).
(iii) 350E016187171 (C5).
(iv) 350E053020404 (H2E4).
(v) 350E017248685 (H1D2).
(vi) 350E053020606 (H2F2).
(vii) 350E017251414 (H1E1).
(viii) 350E053020707 (H2F3).
(ix) 350E017271616 (H1E2).
(x) 350E053021010 (H2F3P).
(xi) 350E018291818 (H1E3CJ).
(xii) 350E053020808 (H2F4).
(xiii) 350E018301919 (H1E3P).
(xiv) 350E053020909 (H2–F5).
(xv) 350E018312020 (H1E3Q).
(xvi) 350E053021111 (H2–F6).
(xvii) 350E053020202 (H2E2).

(2) Paragraphs (h)(2)(i) through (h)(2)(xxxiv) of this AD identify FACs having part numbers that are non-compatible with the SRIW activation required by paragraph (g) of this AD.

(i) B397AAM0202.
(ii) B397BAM0101.
(iii) B397BAM0512.
(iv) B397AAM0301.
(v) B397BAM0202.
(vi) B397BAM0513.
(vii) B397AAM0302.
(viii) B397BAM0203.
(ix) B397BAM0514.
(x) B397AAM0303.
(xi) B397BAM0305.
(xii) B397BAM0515.
(xiii) B397AAM0404.
(xiv) B397BAM0406.
(xv) B397BAM0616.
(xvi) B397AAM0405.
(xvii) B397BAM0407.
(xviii) B397BAM0617.
(xix) B397AAM0506.
(xx) B397BAM0507.
(xxi) B397BAM0618.
(xxii) B397AAM0507.
(xxiii) B397BAM0508.
(xxiv) B397BAM0619.
(xxv) B397AAM0508.
(xxvi) B397BAM0509.
(xxvii) B397BAM0620.
(xxviii) B397AAM0509.
(xxix) B397BAM0510.
(xxx) B397CAM0101.

(xxxi) B397AAM0510.

(xxxii) B397BAM0511.

(xxxiii) B397CAM0102.

(xxxiv) Soft P/N G2856AAA01 installed on hard P/N C13206AA00.

(3) Paragraphs (h)(3)(i) through (h)(3)(iv) of this AD identify the FWCs and FACs having the part numbers that are compatible with SRIW activation required by paragraph (g) of this AD.

(i) For airplane configurations with no sharklet, an FAC having P/N B397BAM0621 (621 hard B).

(ii) For airplanes configured with sharklet A320 and A319, an FAC having P/N B397BAM0622 (622 hard B).

(iii) For airplanes configured with sharklet A321, an FAC having P/N B397BAM0623 (623 hard B).

(iv) For all airplane configurations, an FAC having soft P/N G2856AAA02 installed on hard P/N C13206AA00 (CAA02 hard C) and FWC having P/N 350E053021212 (H2–F7).

(i) Service Bulletins for Actions Required by Paragraph (h) of This AD

Do the actions required by paragraph (h) of this AD in accordance with the Accomplishment Instructions of the applicable Airbus service bulletin specified in paragraphs (i)(1) through (i)(5) of this AD.

(1) Airbus Service Bulletin A320–22–1375, dated January 15, 2014 (FAC 621 Hard B).

(2) Airbus Service Bulletin A320–22–1427, Revision 04, dated February 11, 2014 (FAC 622 Hard B).

(3) Airbus Service Bulletin A320–22–1447, Revision 01, dated September 18, 2014 (FAC A02 Hard C).

(4) Airbus Service Bulletin A320–22–1461, Revision 04, dated September 15, 2014 (FAC 623 Hard B).

(5) Airbus Service Bulletin A320–31–1414, Revision 03, dated September 15, 2014 (FWC H–F7).

(j) Exclusion From Actions Required by Paragraphs (g) and (h) of This AD

An airplane on which Airbus Modification 154473 has been embodied in production is excluded from the requirements of paragraphs (g) and (h) of this AD, provided that, within 30 days after the effective date of this AD, an inspection of the part numbers of the FWC and the FAC installed on the airplane is done to determine that no FWC having a part number listed in paragraph (h)(1) of this AD, and no FAC having a part number part number listed in listed in paragraph (h)(2) of this AD, has been installed on that airplane since date of manufacture. A review of airplane maintenance records is acceptable in lieu of this inspection if the part numbers of the FWC and FAC can be conclusively determined from that review. If any FWC or FAC having a part number identified in paragraph (h)(1) or (h)(2) of this AD, as applicable, is installed on a post-modification 154473 airplane: Within 30 days after the effective date of this AD, do the replacement required by paragraph (h) of this AD.

(k) Parts Installation Prohibitions

After modification of an airplane as required by paragraphs (g), (h), and (j) of this AD: Do not install on that airplane any FWC having a part number listed in paragraph (h)(1) of this AD or any FAC having a part number listed in paragraph (h)(2) of this AD.

(l) Later Approved Parts

Installation of a version (part number) of the FWC or FAC approved after the effective date of this AD is an approved method of compliance with the requirements of paragraph (h) or (j) of this AD, provided the requirements specified in paragraphs (l)(1) and (l)(2) of this AD are met.

(1) The version (part number) must be approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(2) The installation must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(m) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the Airbus service information identified in paragraphs (m)(1) through (m)(12) of this AD. This service information is not incorporated by reference in this AD.

(1) Airbus Service Bulletin A320–22–1427, dated January 25, 2013.

(2) Airbus Service Bulletin A320–22–1427, Revision 01, dated July 30, 2013.

(3) Airbus Service Bulletin A320–22–1427, Revision 02, dated October 14, 2013.

(4) Airbus Service Bulletin A320–22–1427, Revision 03, dated November 8, 2013.

(5) Airbus Service Bulletin A320–22–1447, dated October 18, 2013.

(6) Airbus Service Bulletin A320–22–1461, dated October 31, 2013.

(7) Airbus Service Bulletin A320–22–1461, Revision 01, dated February 25, 2014.

(8) Airbus Service Bulletin A320–22–1461, Revision 02, dated April 30, 2014.

(9) Airbus Service Bulletin A320–22–1461, Revision 03, dated July 17, 2014.

(10) Airbus Service Bulletin A320–31–1414, dated December 19, 2012.

(11) Airbus Service Bulletin A320–31–1414, Revision 01, dated March 21, 2013.

(12) Airbus Service Bulletin A320–31–1414, Revision 02, dated July 30, 2013.

(n) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Required for Compliance (RC):* If the service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures and tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

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

(o) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0217, dated September 26, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0251.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 19, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–04504 Filed 3–4–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0244; Directorate Identifier 2014–NM–127–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318, A319, and A320 series airplanes. This proposed AD was prompted by a cracked upper cardan in the main landing gear (MLG). This proposed AD would require revising the maintenance or inspection program, as applicable, to reduce the life limits for the MLG upper cardan for certain installations. We are proposing this AD to prevent failure of the upper cardan in the MLG, which could result in MLG collapse and subsequent damage to the airplane and injury to occupants.

DATES: We must receive comments on this proposed AD by April 20, 2015.

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

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

For service information identified in this proposed AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. Because this service information is incorporated by reference in AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015), it is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0692.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0244; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–0244; Directorate Identifier 2014–NM–127–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0141, dated June 4, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model Airbus Model A318, A319, and A320 series airplanes. The MCAI states:

> During an A320–200 77T main landing gear (MLG) fatigue test by Messier Bugatti-Dowty (MBD), an upper cardan was found with a crack, emanating from the grease hole/main lug intersection. The affected upper cardan, Part Number (P/N) 201163620, is listed in the applicable Airworthiness Limitations Section (ALS) Part 1 with a demonstrated fatigue life of 60,000 landings.
>
> This condition, if not corrected, could lead to MLG upper cardan failure, possibly resulting in MLG collapse and subsequent damage to the aeroplane and injury to occupants.
>
> Prompted by these findings and further to analysis, it has been decided to reduce the life limit for certain installations of the P/N 201163620 MLG upper cardan.
>
> For the reasons described above, this AD requires implementation of the new life limits, as applicable, and replacement of any affected MLG upper cardan units that have already exceeded the reduced limit.
>
> The reduced life limits for the affected MLG upper cardan are expected to be incorporated in a next revision of the Airbus A318/A319/A320/A321 ALS Part 1.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0244.

Related AD

AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015), applicable to all Airbus Model A318, A319, A320, and A321 series airplanes, requires revising the maintenance or inspection program, as applicable, to incorporate certain Airworthiness Limitation Items. Paragraph (n)(1) of AD 2014–23–15 requires incorporating Part 1—Safe Life Airworthiness Limitation Items, of the Airbus A318/A319/A320/A321 ALS, Revision 02, dated May 13, 2011. AD 2014–23–15 corresponds to EASA AD 2013–0147, dated July 16, 2013. This proposed AD would not supersede AD 2014–23–15, but would require a reduced life limit for MLG upper cardans having part number (P/N) 201163620 and installed in certain airplane configurations. Accomplishing the requirement specified in paragraph (g) of this proposed AD terminates the life limit required by paragraph (n)(1) of AD 2014–23–15 for P/N 201163620, which is installed in certain airplane configurations identified in this proposed AD.

Related Service Information Under 1 CFR Part 51

Airbus has issued A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 02, dated May 13, 2011. This document provides revised instructions

and life limits for airworthiness limitations items. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. This service information is incorporated by reference in AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015). It is reasonably available; see **ADDRESSES** for ways to access this service information.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2014–0141, dated June 4, 2014, requires replacement of each MLG upper cardan having P/N 201163620 with a serviceable part within 3 months after the effective date of that EASA AD, or prior to exceeding new life limits, whichever occurs later. Instead of requiring the part replacement, this proposed AD would require only a revision to the maintenance or inspection program, as applicable, to incorporate the new reduced life limits. The affected airplanes operated in the U.S. fleet are below the reduced life limit thresholds and will not reach those thresholds within 3 months after the effective date of this proposed AD. Therefore this proposed AD would require revising the maintenance or inspection program, as applicable, within 30 days after the effective date of this proposed AD. Requiring a revision to the maintenance or inspection program, as applicable, rather than requiring individual repetitive actions (such as repetitively replacing a part prior to a life limit), requires operators to record AD compliance only at the time the revision is made. Repetitive actions specified in the airworthiness limitations must be complied with in accordance with section 91.403(c) of the Federal Aviation Regulations (14 CRF 91.403(c)).

Costs of Compliance

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

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $72,335, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2015–0244; Directorate Identifier 2014–NM–127–AD.

(a) Comments Due Date

We must receive comments by April 20, 2015.

(b) Affected ADs

Paragraph (g) of this AD terminates the life limit specified in paragraph (n)(1) of AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015), for airplanes having a main landing gear (MLG) upper cardan part number (P/N) 201163620.

(c) Applicability

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

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

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

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

(d) Subject

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

(e) Reason

This AD was prompted by a cracked upper cardan in the MLG. We are issuing this AD to prevent failure of the upper cardan in the MLG, which could result in MLG collapse and subsequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Revision to Maintenance or Inspection Program

For airplanes having a MLG upper cardan part number (P/N) 201163620: Within 30 days after the effective date of this AD revise the maintenance or inspection program, as applicable, to incorporate the applicable life limits for the MLG upper cardan P/N 201163620 specified in paragraphs (g)(1) through (g)(5) of this AD and the life limit clarifications specified in paragraph (h) of this AD. The initial compliance time for replacing the MLG upper cardan is prior to the applicable life limit specified in

paragraphs (g)(1) through (g)(5) of this AD, or within 30 days after the effective date of this AD, whichever occurs later. Accomplishing this revision terminates the life limit required by paragraph (n)(1) of AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015), for the MLG upper cardan P/N 201163620 for that airplane only.

(1) For Airbus Model A319 series airplanes, pre-Airbus Modification 26644, excluding corporate jets post-Airbus Modification 28238, 28162, and 28342: The life limit is 50,590 total flight cycles.

(2) For Airbus Model A319 series airplanes, post-Airbus Modification 26644, excluding corporate jets post-Airbus Modification 28238, 28162, and 28342: The life limit is 56,480 total flight cycles.

(3) For Airbus Model A320 series airplanes pre-Airbus Modification 26644 having weight variant (WV) WV011, WV012, WV016, or WV018: The life limit is 50,590 total flight cycles.

(4) For Airbus Model A320 series airplanes post-Airbus Modification 26644, having WV011, WV012, WV016, or WV018: The life limit is 56,480 total flight cycles.

(5) For Airbus Model A320 series airplanes post-Airbus Modification 26644, having WV015 or WV017: The life limit is 42,140 total flight cycles.

(h) Additional Life Limit Clarifications

(1) The life limits specified in paragraphs (g)(1) through (g)(5) of this AD are total flight cycles accumulated by the MLG since first installation on an airplane.

(2) The life limits specified in paragraphs (g)(1) through (g)(5) of this AD are applicable only for the airplane model, configuration and WV specified in those paragraphs.

(3) If a part is transferred between airplanes having a different life limit for the MLG unit, adjust the life limit using the method specified in Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 02, dated May 13, 2011, which is incorporated by reference in AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015).

(4) An MLG unit on which Airbus Modification 26644 is installed is also known as ''enhanced'' landing gear and is identified as P/N 201582xxx Leg and Dressing Series. An MLG unit that does not have Airbus Modification 26644 installed is identified as P/N 201375xxx Leg and Dressing Series. (The xxx designation is a placeholder for numbers).

(5) For airplanes with configurations not specified in paragraphs (g)(1) through (g)(5) of this AD, the life limit for the MLG unit is specified in Airbus A318/A319/A320/A321 ALS Part 1—Safe Life Airworthiness Limitation Items, Revision 02, dated May 13, 2011, which is incorporated by reference in AD 2014–23–15, Amendment 39–18031 (80 FR 3871, January 26, 2015).

(i) No Alternative Actions and Intervals

After the maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(j) Parts Installation Limitation

As of the effective date of this AD, a MLG upper cardan having P/N 201163620 may be installed on an airplane, provided the part life has not exceeded the applicable life limit specified in paragraphs (g)(1) through (g)(5) of this AD, and is replaced with a serviceable part prior to exceeding the applicable life limit specified in paragraphs (g)(1) through (g)(5) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0141, dated June 4, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0244.

(2) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 3, 2015.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–02923 Filed 3–5–15; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2014–N–1168]

Generic Drug User Fee Amendments of 2012; Regulatory Science Initiatives; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing that will provide an overview of the current status of regulatory science initiatives for generic drugs and an opportunity for public input on research priorities in this area. FDA is seeking this input from a variety of stakeholders—industry, academia, patient advocates, professional societies, and other interested parties—as it fulfills its commitment under the Generic Drug User Fee Amendments of 2012 (GDUFA) to develop an annual list of regulatory science initiatives specific to generic drugs. FDA will take the information it obtains from the public hearing into account in developing the fiscal year (FY) 2016 Regulatory Science Plan.

DATES: The public hearing will be held on June 5, 2015, from 9 a.m. to 5 p.m. The public hearing may be extended or may end early depending on the level of public participation.

ADDRESSES: The public hearing will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public hearing participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Registration and Requests for Oral Presentations: The FDA Conference Center at the White Oak location is a

Federal facility with security procedures and limited seating. Attendance will be free and on a first-come, first-served basis. If you wish to attend (either in person or by Webcast (see *Streaming Webcast of the Public Hearing*)) and/or present at the hearing, please register for the hearing and/or make a request for oral presentations or comments by email to *GDUFARegulatoryScience@fda.hhs.gov* by May 15, 2015. The email should contain complete contact information for each attendee (*i.e.,* name, title, affiliation, address, email address, telephone number, and priority number(s)). Those without email access can register by contacting Thushi Amini by May 15, 2015 (see **FOR FURTHER INFORMATION CONTACT**).

FDA will try to accommodate all persons who wish to make a presentation. Individuals wishing to present should identify the number of the topic, or topics, they wish to address (see section V under Supplementary Information). This will help FDA organize the presentations. FDA will notify registered presenters of their scheduled presentation times. The time allotted for each presentation will depend on the number of individuals who wish to speak. Once FDA notifies registered presenters of their scheduled times, they are encouraged to submit an electronic copy of their presentation to *GDUFARegulatoryScience@fda.hhs.gov* on or before May 22, 2015. Persons registered to make an oral presentation are encouraged to arrive at the hearing room early and check in at the onsite registration table to confirm their designated presentation time. An agenda for the hearing and other background materials will be made available 5 days before the hearing at *http://www.fda.gov/GDUFARegScience.*

If you need special accommodations because of a disability, please contact Thushi Amini (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the hearing.

Streaming Webcast of the Public Hearing: For those unable to attend in person, FDA will provide a live Webcast of the hearing. To join the hearing via the Webcast, please go to *https://collaboration.fda.gov/gdufa2012/.*

Comments: Regardless of attendance at the public hearing, interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), 5600 Fishers Lane, Rm. 1061, Rockville, MD 20857. The deadline for submitting comments to the docket is June 26, 2015. 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.*

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov or http://www.fda.gov/GDUFARegScience.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thushi Amini, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4728, Silver Spring, MD 20993; 240–402–7958, email: *Thushi.Amini@fda.hhs.gov;* or Robert Lionberger, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4722, Silver Spring, MD 20993, 240–402–7957, email: *Robert.Lionberger@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2012, Congress passed GDUFA (Title III of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144)). GDUFA is designed to enhance public access to safe, high-quality generic drugs and reduce costs to industry. To support this goal, FDA agreed in the GDUFA commitment letter to work with industry and interested stakeholders on identifying regulatory science research priorities specific to generic drugs for each fiscal year covered by GDUFA. The commitment letter outlines FDA's performance goals and procedures under the GDUFA program for the years 2012–2017. The commitment letter can be found at *http://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf.*

II. FY 2013 Regulatory Science Priorities

The FY 2013 regulatory science research priorities list was developed by FDA and industry and included in the GDUFA commitment letter. To implement the FY 2013 priorities list, the Office of Generic Drugs awarded $17 million in external contracts and grants to initiate new research studies during FY 2013. Four million dollars were allocated to support internal research related to generic drugs. This includes rapid response capabilities through equipment for FDA labs and support for laboratory research fellows at FDA, as well as research fellows to work on data analysis and coordination of internal activities with external grants and contracts.

III. FY 2014 Regulatory Science Priorities

On June 21, 2013, the Office of Generic Drugs held a public hearing to gain input in developing the FY 2014 regulatory science priorities list. This list was prepared based on internal Center for Drug Evaluation and Research discussions, comments received from this public hearing, and comments submitted to the public docket. The FY 2014 priorities list can be found at *http://www.fda.gov/GDUFARegScience.* To implement the FY 2014 priorities list, the Office of Generic Drugs awarded $17 million in external contracts and grants to initiate new research studies during FY 2014. A list of FY 2014 awarded studies can be found at *http://www.fda.gov/GDUFARegScience.*

IV. FY 2015 Regulatory Science Priorities

On May 16, 2014, the Office of Generic Drugs held a public meeting to allow public input in developing the FY 2015 regulatory science priorities list. The FY 2015 Regulatory Science Priorities are as follows:

1. Postmarket Evaluation of Generic Drugs
2. Equivalence of Complex Products
3. Equivalence of Locally Acting Products
4. Therapeutic Equivalence Evaluation and Standards
5. Computational and Analytical Tools

For more information on these topic areas, please visit *www.fda.gov/GDUFARegScience.* The Office of Generic Drugs is currently developing research studies to support the FY 2015 priorities list. Funding opportunities for collaborations will be posted in March 2015 at *www.fda.gov/GDUFARegScience.*

V. Purpose and Scope of the June 5, 2015, Public Hearing

The purpose of the June public hearing is to obtain input from industry and other interested stakeholders on the identification of regulatory science priorities for FY 2016. To help fulfill FDA's mission, FDA is particularly interested in receiving input on the following topics:

1. Opportunities for scientific or technical advancements that would help to overcome specific barriers for industry that currently limit the availability of generic drug products.

2. Innovative approaches to preapproval development of generic drugs, including new methodologies for design and conduct of in vitro, ex vivo, and clinical studies and identification of scientifically robust strategies for demonstration of bioequivalence for various product classes.

3. Innovations in scientific approaches to evaluating the therapeutic equivalence of generic drug products through later stages of their lifecycle following initial approval.

4. Identification of high-impact public health issues involving generic drugs that can be addressed by the prioritized allocation of FY 2016 funding for regulatory science research.

5. Identification of specific issues related to generic drug products where scientific recommendations and/or clarifications are needed in developing and/or revising FDA's guidance for industry.

6. Strategies for enhancing quality and equivalence risk management during generic drug product development, during regulatory review, and/or throughout the drug product's lifecycle following initial approval.

FDA will consider all comments made at this hearing or received through the docket (see *Comments* under **ADDRESSES**) as it develops its FY 2016 GDUFA Regulatory Science Plan. Additional information concerning GDUFA, including the text of the law and the commitment letter, can be found at *http://www.fda.gov/gdufa.*

VI. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with 21 CFR part 15. The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner and the Center for Drug Evaluation and Research. Under § 15.30(f) (21 CFR 15.30), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may pose questions; they may question any person during or at the conclusion of each presentation. Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (21 CFR part 10, subpart C). Under § 10.205 (21 CFR 10.205), representatives of the media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see *Transcripts* under **ADDRESSES**). To the extent that the conditions for the hearing, as described in this document, conflict with any provisions set out in part 15, this document acts as a waiver of those provisions as specified in § 15.30(h).

Dated: February 23, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05018 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–LAMR–17097; PPWONRADE2, PMP00EI05.YP0000]

RIN 1024–AD86

Special Regulations; Areas of the National Park System, Lake Meredith National Recreation Area, Off-Road Motor Vehicles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend its special regulations for Lake Meredith National Recreation Area to require permits to operate motor vehicles off roads, designate areas and routes where motor vehicles may be used off roads, create management zones that would further manage this activity, and establish camping, operational, and vehicle requirements. These changes would allow off-road vehicle use for recreation while reducing associated impacts to resources. Unless authorized by special regulation, operating a motor vehicle off roads within areas of the National Park System is prohibited.

DATES: Comments must be received by May 4, 2015.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AD86, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Superintendent, Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036.
- *Hand Deliver to:* Superintendent, Lake Meredith National Recreation Area, 419 E. Broadway, Fritch, TX 79036.

Instructions: All submissions received must include the agency name and RIN for this rulemaking. Comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Maguire, Superintendent, Lake Meredith National Recreation Area, Alibates Flint Quarries National Monument, P.O. Box 1460, Fritch, Texas 79036–1460, by phone at 806–857–3151, or by email at *Robert_Maguire@nps.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Significance of Lake Meredith National Recreation Area

Congress established Lake Meredith National Recreation Area (LAMR or recreation area) in 1990 ''to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters. . . .'' 16 U.S.C 460eee.

Situated approximately 35 miles north of Amarillo, Texas within Potter, Moore, Hutchinson, and Carson counties, LAMR is approximately 45,000 acres in size and is the largest public landmass in the Texas Panhandle. LAMR includes a variety of habitats that are uncommon in the region, including aquatic, wetland, and riparian areas, and one of the few areas in the region with trees. The natural and geologic resources of the area have enabled a continuum of human presence in the area for more than 13,000 years. The exposed geologic features on the walls of the Canadian River valley (*i.e.,* the ''breaks'') reveal active geologic processes that are easily visible to an extent not present elsewhere in the region. The recreation area is also home to the Arkansas River shiner (Notropis girardi), a fish species that is federally listed as threatened.

Authority To Promulgate Regulations

The National Park Service (NPS) manages LAMR under statute

commonly known as the NPS Organic Act of 1916 (Organic Act) (54 U.S.C. 100101 *et seq.*), which gives the NPS broad authority to regulate the use of the park areas under its jurisdiction. The Organic Act authorizes the Secretary of the Interior, acting through NPS, to ''prescribe such regulations as the Secretary considers necessary or proper for the use and management of [National Park] System units.'' 54 U.S.C. 100751(a).

Executive Order 11644, Use of Off-Road Vehicles on the Public Lands, issued in 1972 and amended by Executive Order 11989 in 1977, required federal agencies to issue regulations designating specific areas and routes on public lands where the use of off-road vehicles may be used. NPS implemented these Executive Orders in 36 CFR 4.10.

Under 36 CFR 4.10, the use of motor vehicles off established roads is not permitted unless routes and areas are designated for off-road motor vehicle use by special regulation. Under 36 CFR 4.10(b), such routes and areas ''may be designated only in national recreation areas, national seashores, national lakeshores and national preserves.'' The proposed rule would designate routes and areas where motor vehicles may be used off roads in compliance with 36 CFR 4.10 and Executive Orders 11644 and 11989. The proposed rule would replace regulations promulgated in 1975 that designate areas for off-road vehicle (ORV) use.

Off-Road Motor Vehicle Use at LAMR

Designated ORV Use Areas

LAMR provides a variety of visitor experiences, including the use of ORVs. In 1975, the NPS promulgated a special regulation (40 FR 762, January 3, 1975) at 36 CFR 7.57(a) designating two ORV use areas at LAMR: (i) Blue Creek, with 275 acres for ORV use in the creek bottom between the cutbanks; and (ii) Rosita, with approximately 1,740 acres for ORV use below the 3,000-foot elevation line. These two areas remain the only areas designated for ORV use in the recreational area.

The Blue Creek ORV area is in the Blue Creek riparian area at the northern end of the recreational area that empties into Lake Meredith. ORV use at Blue Creek is allowed only in the creek bottom along both sides from cutbank to cutbank. Cutbanks, also known as river-cut cliffs, are the outside banks of a water channel and are located at the base of the hills at the edges of the creek bed.

The Rosita ORV area is a riparian area of the Canadian River at the southern end of the recreation area. ORV use at Rosita is in the Canadian River bed as well as the surrounding hills, in some cases out to a mile or more. Although the authorized area is below the 3,000-foot elevation line, and ORV use outside the authorized area is prohibited, it is difficult for ORV users to determine the exact location of the 3,000-foot elevation line.

Changes in ORV Use at LAMR

ORV use at Blue Creek and Rosita has changed considerably since the areas were designated by special regulation in 1975, both in intensity and the types of vehicles used. ORV use has taken place at Blue Creek and Rosita since at least the 1950s. Throughout the 1960s, ORVs primarily consisted of a small number of ''river buggies'' crafted from old automobiles to operate in the Canadian River bottom. A few people used dirt bikes, motorcycles, or surplus military vehicles to access the area. Standard four-wheel-drive vehicles were rarely seen.

Today, visitors use a variety of vehicle types, including all-terrain vehicles (ATVs), utility task vehicles (UTVs), dune buggies, rock crawlers, and standard four-wheel-drive vehicles. Regardless of the vehicle type, the majority of ORV use at LAMR has been and continues to be for recreation, rather than transportation. ORV users are both local and from other urban areas, especially at Rosita. ORV use is often, but not always, family focused. In February, an annual three-day event called Sand Drags is held just outside the recreation area north of Rosita. This locally sponsored racing event draws approximately 30,000 visitors to the area, including hundreds of motorcycles, four wheelers, sand rails, and river buggies. This event results in the highest annual visitation to the recreation area with a notable increase in recreational ORV use.

Changes in the intensity and type of ORV use at LAMR have impacted natural and cultural resources and raised concerns about visitor experience, health, and safety. Impacted resources include soils, vegetation, water, soundscapes, wildlife and wildlife habitat, threatened species, and archeological sites. These impacts are described in the January 2015 Final Off-Road Vehicle Management Plan/Environmental Impact Statement (FEIS) that is discussed below.

Off-Road Vehicle Management Plan/Environmental Impact Statement

The proposed rule would implement the preferred alternative (Alternative D) for the recreation area described in the FEIS. The FEIS, which describes the purpose and need for taking action, the alternatives considered, the scoping process and public participation, the affected environment and environmental consequences, and consultation and coordination, may be viewed on the recreation area's planning Web site at *http://parkplanning.nps.gov/lamr,* by clicking the link entitled ''ORV Management Plan and Regulation'' and then clicking ''Document List.''

Proposed Rule

Fee Permit System

The proposed rule would require a special use permit to operate a motor vehicle off roads in the recreational area. With each permit the NPS would issue a decal that would be required to be affixed to each vehicle in a manner and location determined by the superintendent. Decals would be required for each ORV operating in the recreation area or transported into the recreation area on a trailer. Families could submit a single application for special use permits for multiple vehicles that are registered to members of that family. Annual permits would be valid for the calendar year the permit is issued; three-day and one-day permits would also be available and valid from the date designated on the permit. There would be no limit to the number of annual or other permits issued.

Permits would be issued after the applicant reads educational materials and acknowledges in writing that he or she has read, understood, and agrees to abide by the rules governing ORV use in the recreation area. Permit applications would be available at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site. Completed permit applications could be submitted in person or mailed to the recreation area at Lake Meredith National Recreation Area, P.O. Box 1460, Fritch, TX 79036 or brought to headquarters. The NPS would process completed permit applications and provide a permit, or mail a permit, with instructions and educational materials to the applicant. After the applicant receives the permit, he or she would sign the permit and submit it to the park or mail it back to the park at the P.O. Box address. After the NPS receives the signed permit, it would provide or send a copy of the signed permit and a decal to the permit-holder to be affixed to the ORV. Violating the terms or conditions of any permit or failing to properly display the decal would be prohibited and may result in the suspension or revocation of the permit.

The NPS intends to recover the costs of administering the special use permit program under 54 U.S.C. 103104. In order to obtain a special use permit to operate a motor vehicle off roads in the recreational area, the proposed rule would require operators to pay a permit fee to allow the NPS to recover these costs.

Designated Routes and Areas

The proposed rule would prohibit ORV use in the recreational area except for designated areas, routes, and access points. These locations would be identified on maps located at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site.

At Blue Creek, the proposed rule would designate the following areas, routes, and access points for ORV use:

Designated locations for ORV use	Part of a management zone?
Blue Creek:	
Approximately 133.5 acres on the river bottom	Low Speed Zone (partial overlap).
Approximately one linear mile of routes and access points to the river bottom that would be marked by carsonite posts or other visible markers.	No.

At Rosita, the proposed rule would designate the following areas, routes, and access points for ORV use:

Designated locations for ORV use	Part of a management zone?
Rosita:	
Approximately 170.2 acres south of the Canadian River (currently denuded of vegetation) at the western border of LAMR where HWY 287 nears the recreation area.	No.
Approximately 65.2 acres south of the Canadian River and on the east side of Bull Taco Hill	Hunting Zone (complete overlap).
Approximately 119.3 acres on the river bottom	Resource Protection Zone (partial overlap).
Approximately 15.1 linear miles of routes and access points to the river bottom	Resource Protection Zone (partial overlap). Hunting Zone (complete overlap).
Approximately 9.3 acres south of the Canadian River near HWY 287 that would be marked by cables	Beginner Zone (complete overlap).

Management Zones

As indicated in the tables above, the proposed rule would also establish management zones at Blue Creek and Rosita. In some locations, the areas, routes, and access points designated for ORV use would enter into one or more of these management zones. When this occurs, special restrictions would apply to ORV use. These zones would be designed to separate types of ORV use in the recreation area to avoid visitor conflict, protect the health and safety of visitors, and minimize impacts to natural and cultural resources. Zones would be identified on maps located at headquarters (419 E. Broadway, Fitch, TX 79036) and on the recreation area's Web site. The special restrictions for each management zone are described in the table below:

Management zone	Special restrictions	ORV use location
Beginner Zone	Speed limit: 20mph (unless otherwise posted)	Rosita.
	Marked for beginner ORV operators only.	
Camping Zone	Speed limit: 15mph (unless otherwise posted)	Blue Creek.
	ORVs may only be used to access the campground; recreational use prohibited	Rosita.
	ORVs may not be used from 10pm-6am (unless otherwise posted), except that state-registered vehicles may be used during this time.	
Hunting Zone	Recreational ORV use prohibited during Texas rifle hunting season; ORVs may be used for hunting during this season.	Rosita.
Low-Speed Zone	Speed limit: 15 mph (unless otherwise posted)	Blue Creek.
Resource Protection Zone	ORVs with a wheel width greater than 65 inches are prohibited	Rosita.

Camping

The proposed rule would establish rules related to camping in the recreation area. Tent camping (without motor vehicles) would be allowed anywhere in the recreation area except for designated ORV areas, routes, and access points and within 100 feet of these locations. At Blue Creek and Rosita, camping in a motor vehicle, including tent trailers, RVs, and vans, would be limited to marked camping zones.

Operational and Vehicle Requirements

ORV use would be prohibited on vegetation anywhere in the recreation area. Driving through isolated pools of water would be prohibited at Rosita regardless of time or season for the protection of the Arkansas River shiner. Isolated pools of water means water that is not connected to or touching flowing water. ORVs would be allowed to cross flowing river water via designated access points. The decibel limit for all ORVs in the recreation area would be 96 dba. NPS personnel would enforce this rule by stopping and testing the decibel level of any ORV suspected of exceeding the noise limit. Noise level would be measured using the SAE J1287 standard. The rule would require ATVs to have a whip—a pole, rod, or antenna—securely mounted to the vehicle that extends at

least eight feet from the surface of the ground with an orange colored safety flag at the top. The rule would require that ORVs have a functioning muffler system and functioning headlights and taillights if the ORV is operating at night. Operators would be required to use headlights and taillights starting one half hour before sunset and ending on half hour after sunrise. Glass containers (*e.g.,* cups and bottles) would be prohibited in designated areas, routes, and access points, and in camping zones at Blue Creek and Rosita. Except for management zones with a slower speed limit, the speed limit would be 35 mph (unless otherwise posted) on ORV routes and 55 mph (unless otherwise posted) on the river bottom at Blue Creek and Rosita. Speed limits would be implemented for visitor safety and to reduce driving that may damage resources.

The provisions of 36 CFR part 4 (Vehicles and Traffic Safety), including state laws adopted by 36 CFR 4.2, would continue to apply within the recreation area. Currently, Texas law includes, but is not limited to, the following rules about ORVs:

- ORVs must have an off-highway vehicle (OHV) use decal issued by the State of Texas.
- ATV operators must wear eye protection and helmets approved by the Texas Department of Transportation.
- ATV operators must possess valid safety certificates issued by the State of Texas under Section 663.031 of the Texas Transportation Code.
- ATV operators under the age of 14 must be accompanied by a parent or guardian.
- ATV operators may not carry passengers unless the vehicle is designed by the manufacturer for carrying passengers.

Superintendent's Discretionary Authority

The proposed rule would allow the superintendent to open or close designated areas, routes, or access points to motor vehicle use, or portions thereof, or impose conditions or restrictions for off-road motor vehicle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The superintendent would provide public notice of all such actions through one or more of the methods listed in 36 CFR 1.7.

Compliance With Other Laws, Executive Orders, and Department Policy—Use of Off-Road Vehicles on the Public Lands (Executive Orders 11644 and 11989)

Executive Order 11644, as amended by Executive Order 11989, was adopted to address impacts on public lands from ORV use. The Executive Order applies to ORV use on federal public lands that is not authorized under a valid lease, permit, contract, or license. Section 3(a)(4) of Executive Order 11644 provides that ORV ''[a]reas and trails shall be located in areas of the National Park System, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.'' Since the Executive Order clearly was not intended to prohibit all ORV use everywhere in these units, the term ''adversely affect'' does not have the same meaning as the somewhat similar terms ''adverse impact'' and ''adverse effect'' used in the National Environmental Policy Act of 1969 (NEPA). In analyses under NEPA, a procedural statute that provides for the study of environmental impacts, the term ''adverse effect'' includes minor or negligible effects.

Section 3(a)(4) of the Executive Order, by contrast, concerns substantive management decisions and must be read in the context of the authorities applicable to such decisions. LAMR is an area of the National Park System. Therefore, NPS interprets the Executive Order term ''adversely affect'' consistent with its NPS Management Policies 2006. Those policies require that the NPS only allow ''appropriate use'' of parks and avoid ''unacceptable impacts.''

This rule is consistent with those requirements. It will not impede attainment of the recreation area's desired future conditions for natural and cultural resources as identified in the FEIS. NPS has determined that this rule will not unreasonably interfere with the atmosphere of peace and tranquility or the natural soundscape maintained in natural locations within the recreation area. Therefore, within the context of the resources and values of the recreation area, motor vehicle use on the routes and areas designated by this rule would not cause an unacceptable impact to the natural, aesthetic, or scenic values of the recreation area.

Section 8(a) of the Executive Order requires agency heads to monitor the effects of ORV use on lands under their jurisdictions. On the basis of information gathered, agency heads may from time to time amend or rescind designations of areas or other actions as necessary to further the policy of the Executive Order. The preferred alternative in the EIS includes monitoring and resource protection procedures and periodic review to provide for the ongoing evaluation of impacts of motor vehicle use on protected resources. The superintendent has authority to take appropriate action as needed to protect the resources of the recreation area.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. 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 (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled ''Benefit-Cost Analysis of ORV Use Regulations in Lake Meredith National Recreation Area'' that can be viewed online at *http://parkplanning.nps.gov/lamr,* by clicking the link entitled ''ORV Management Plan and Regulation'' and then clicking ''Document List.'' According to that report, no small entities would be directly regulated by the proposed rule, which would only regulate visitor use of ORVs.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. 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 (UMRA)

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. The designated ORV routes and areas are located entirely within the recreation area, and would not result in direct expenditure by state, local, or tribal governments. This rule addresses public use of NPS lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (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 taking implications under Executive Order 12630. Access to private property adjacent to the recreation area will not be affected by this rule. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The proposed rule is limited in effect to federal lands managed by the NPS and would not have a substantial direct effect on state and local government. 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 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

During scoping for the EIS, recreational area staff sent letters to the Apache Tribe of Oklahoma, Caddo Nation of Oklahoma, Comanche Nation, Cheyenne-Arapaho Tribe of Oklahoma, Delaware Nation of Oklahoma, Fort Sill Apache Tribe of Oklahoma, Jicarilla Apache Nation, Kiowa Indian Tribe of Oklahoma, Mescalero Apache Tribe, Wichita & Affiliated Tribes requesting information on any historic properties of religious or cultural significance to the Tribes that would be affected by the FEIS. The same tribes were contacted when the recreation area released the Off-Road Vehicle Management Plan/Draft Environmental Impact Statement in January 2013. These tribes have not informed NPS staff of any concerns over historic properties of religious or cultural significance.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control Number 1024–0026 (expires 08/31/16). 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.

National Environmental Policy Act of 1969 (NEPA)

This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared the FEIS under the NEPA. The FEIS is summarized above and available online at *http://www.parkplanning.nps.gov/lamr,* by clicking on the link entitled ''ORV Management Plan and Regulation'' and then clicking ''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)), 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 above. 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 authors of this regulation are Lindsay Gillham, Environmental Quality Division, National Park Service, and 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 above.

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 follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for part 7 is revised to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201 (2001).

■ 2. In § 7.57, revise paragraph (a) to read as follows:

§ 7.57 Lake Meredith Recreation Area.

(a) *Off-road motor vehicle use.* Operating a motor vehicle is allowed within the boundaries of Lake Meredith National Recreation Area off roads under the conditions in this paragraph (a).

(1) *Permit requirement.* (i) A special use permit issued and administered by the superintendent is required to operate a motor vehicle off roads at designated locations at the recreation area. There is no limit to the number of permits that the Superintendent may issue.

(ii) The NPS charges a fee to recover the costs of administering the special use permits. Permit applicants must pay the fee charged by the NPS in order to obtain a special use permit.

(iii) Annual permits are valid for the calendar year for which they are issued. Three-day permits are valid on the day designated on the permit and the following two days. One-day permits are valid on the day designated on the permit.

(iv) A permit applicant must acknowledge in writing that he or she understands the rules governing off-road vehicle use at the recreation area.

(v) Each motor vehicle permitted to operate off roads must display an NPS decal issued by the superintendent and an off-highway vehicle (OHV) use decal issued by the State of Texas. The NPS decal must be affixed to the vehicle in a manner and location specified by the superintendent.

(vi) Permits may be requested at the recreation area headquarters in Fritch, Texas and on the recreation area Web site.

(2) *Designated locations.* The operation of a motor vehicle off roads within the recreation area is prohibited except at the locations designated by this paragraph (a). Designated locations are identified on maps available at the recreation area headquarters and on the recreation area Web site.

(i) Permitted motor vehicles may be used off roads at the following locations at Blue Creek, an area at the northern end of the recreational area that empties into Lake Meredith:

Designated locations for off-road motor vehicle use	Part of a management zone?
Blue Creek:	
Approximately 133.5 acres on the river bottom	Low Speed Zone (partial overlap).
Approximately one linear mile of routes and access points to the river bottom that are marked by carsonite posts or other visible markers.	No.

(ii) Permitted motor vehicles may be used off roads at the following locations at Rosita, an area of the Canadian River at the southern end of the recreation area:

Designated locations for off-road motor vehicle use	Part of a management zone?
Rosita:	
Approximately 170.2 acres south of the Canadian River (currently denuded of vegetation) at the western border of LAMR where HWY 287 nears the recreation area.	No.
Approximately 65.2 acres south of the Canadian River and on the east side of Bull Taco Hill	Hunting Zone (complete overlap).
Approximately 119.3 acres on the river bottom	Resource Protection Zone (partial overlap).
Approximately 15.1 linear miles of routes and access points to the river bottom	Resource Protection Zone (partial overlap). Hunting Zone (complete overlap).
Approximately 9.3 acres south of the Canadian River near HWY 287 that are marked by cables	Beginner Zone (complete overlap).

(3) *Management zones.* Some of the designated locations for off-road motor vehicle use enter into or abut one or more management zones that further manage this activity. These zones are identified on maps available at headquarters and on the recreation area Web site. Each zone has special restrictions governing off-road motor vehicle use as set forth in the following table:

Zone	Special restrictions	Location
Beginner Zone	Speed limit: 20mph (unless otherwise posted) Marked for beginner operators of off-road vehicles only.	Rosita.
Camping Zone	Speed limit: 15mph (unless otherwise posted) Off-road vehicles may only be used to access the campground; recreational use prohibited. Off-road vehicles that are not registered in a state may not be used from 10pm-6am (unless otherwise posted).	Rosita, Blue Creek.
Hunting Zone	Recreational off-road vehicle use is prohibited during Texas rifle hunting season; off-road vehicles may be used for hunting during this season.	Rosita.

Zone	Special restrictions	Location
Low-Speed Zone	Speed limit: 15 mph (unless otherwise posted) Located approximately ½ mile on either side of the FM 1913 bridge.	Blue Creek.
Resource Protection Zone	Off-road vehicles with a wheel width greater than 65 inches are prohibited.	Rosita.

(4) *Camping.* The following restrictions apply to camping at Blue Creek and Rosita:

(i) At Blue Creek and Rosita, camping in a motor vehicle, including tent trailers, RVs, and vans, is prohibited outside of marked camping zones.

(ii) Tent camping (without motor vehicles) is allowed anywhere in the recreation area except for designated ORV areas, routes, and access points and within 100 feet of these locations.

(5) *Operational and vehicle requirements.* The following requirements apply to the use of motor vehicles off roads in the recreation area:

(i) At Rosita, operating a motor vehicle in an isolated pool of water that is not connected to or touching flowing water is prohibited.

(ii) Operating a motor vehicle on vegetation is prohibited.

(iii) Glass containers are prohibited in designated areas, routes, and access points, and in camping zones.

(iv) Operating a motor vehicle in excess of 35 mph (unless otherwise posted) on designated routes and access points at Blue Creek and Rosita is prohibited.

(v) Operating a motor vehicle in excess of the speed limits identified in paragraph (a)(3) (unless otherwise posted) in specific management zones is prohibited.

(vi) Operating a motor vehicle in excess of 55 mph (unless otherwise posted) in the designated areas that are not part of a Low-Speed Zone on the river bottoms at Blue Creek and Rosita is prohibited.

(vii) All ATVs (as defined under Texas Transportation Code 502.001) must be equipped with a whip—a pole, rod, or antenna—that is securely mounted on the vehicle and stands upright at least eight feet from the surface of the ground when the vehicle is stopped. This whip must have a solid red or orange safety flag with a minimum size of six inches by twelve inches that is attached no more than ten inches from the top of the whip. Flags must have a pennant, triangle, square, or rectangular shape.

(viii) A motor vehicle must display lighted headlights and taillights during the period from one-half hour before sunset to one half hour after sunrise.

(ix) Motor vehicles must have a functioning muffler system. Motor vehicles that emit more than 96 decibels of sound (using the SAE J1287 test standard) are prohibited.

(x) Operating a motor vehicle with a wheel width greater than 65 inches in a Resource Protection Zone is prohibited.

(6) *Prohibited acts.* Violating any provision of this paragraph (a), including the special restrictions for each management zone, or the terms, conditions, or requirements of an off-road vehicle permit is prohibited. A violation may also result in the suspension or revocation of the applicable permit by the superintendent.

(7) *Superintendent's authority.* The superintendent may open or close designated areas, routes, or access points to motor vehicle use, or portions thereof, or impose conditions or restrictions for off-road motor vehicle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter. Violating any such closure, condition, or restriction is prohibited.

Dated: February 19, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–05034 Filed 3–4–15; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0810; FRL–9923–93–Region 4]

Approval and Promulgation of Implementation Plans; Tennessee; Emissions Statement Requirement for the 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation, on January 5, 2015, to address the emissions statement requirement for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The revision affects Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, and Wilson Counties. Annual emissions statements are required for certain sources in all ozone nonattainment areas. These changes address requirements for the Knoxville, Tennessee 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Knoxville Area) and the Tennessee portion of the Memphis, Tennessee-Arkansas-Mississippi 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Memphis Area). The Knoxville Area is comprised of Knox and Blount County, and a portion of Anderson County, Tennessee, and the Tennessee portion of the Memphis Area is comprised of Shelby County, Tennessee. Davidson, Rutherford, Sumner, Williamson, Wilson and the remaining portion of Anderson County are not part of an ozone nonattainment area.

DATES: Written comments must be received on or before April 6, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0810 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *R4-ARMS@epa.gov.*
3. Fax: (404) 562–9019.
4. Mail: ''EPA–R04–OAR–2014–0810,'' Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official

hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann can be reached at (404) 562–9029 and via electronic mail at *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the Rules section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule and incorporated by reference herein. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all adverse comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: February 13, 2015.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2015–04488 Filed 3–4–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1083]

Proposed Flood Elevation Determinations for Humboldt County, California and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Humboldt County, California and Incorporated Areas.

DATES: As of March 5, 2015, the proposed rule published December 16, 2009, at 74 FR 66605, is withdrawn.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1083, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On December 16, 2009, FEMA published a proposed rulemaking at 74 FR 66605, proposing flood elevation determinations along one or more flooding sources in Humboldt County, California. FEMA is withdrawing the proposed rulemaking and intends to publish a Notice of Proposed Flood Hazard Determinations in the **Federal Register** and a notice in the affected community's local newspaper following issuance of a revised preliminary Flood Insurance Rate Map and Flood Insurance Study report.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2015–05096 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 80, No. 43

Thursday, March 5, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Salmon-Challis National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee site.

SUMMARY: The Salmon-Challis National Forest is proposing to charge fee at the Copper Basin Guard Station. This cabin includes a $100/night fee and would be available for rental from June 1 to September 30. Fees are proposed based on the level of amenities and services provided, cost of operations and maintenance, and market assessment. The fee will be determined upon further analysis and public comment. An analysis of nearby rental cabins with similar amenities shows that the proposed fees are reasonable and typical of similar sites in the area. Funds from fees would be used for the continued operation and maintenance and improvements of these rental cabins.

DATES: Comments will be accepted through August 1, 2015. New fees would begin May 2016.

ADDRESSES: Charles A. Mark, Forest Supervisor, Salmon-Challis National Forest, 1206 S. Challis Street, Salmon, ID 83467.

FOR FURTHER INFORMATION CONTACT: Trish Callaghan, Recreation Fee Coordinator, 208–756–5115. Information about proposed fee changes can also be found on the Salmon-Challis National Forest Web site: *http://www.fs.usda.gov/scnf.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. People wanting reserve these cabins would need to do so through the National Recreation Reservation Service, at *www.recreation.gov* or by calling 1–877–444–6777 when it becomes available.

Dated: February 20, 2015.

Charles A. Mark,

Forest Supervisor.

[FR Doc. 2015–05086 Filed 3–4–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Value of Non-Consumptive Recreation Use From Those Accessing the Monterey Bay National Marine Sanctuary via For Hire Operation Boats

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 4, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Vernon R. (Bob) Leeworthy, (301) 713–7261 or *Bob.Leeworthy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

NOAA is mentoring student interns from the Monterey Institute for International Studies to estimate the market and non-market economic values associated with non-consumptive recreation uses (*e.g.,* whale watching, other wildlife observation, SCUBA diving, snorkeling, beach activities, surfing, wind-surfing, kite boarding, paddle boarding, etc.) in the Monterey Bay National Marine Sanctuary (MBNMS) for those accessing the MBNMS via ''for hire'' operation boats.

We will conduct surveys of the for hire operations that take people out for non-consumptive recreation, to obtain total use by type of activity and the spatial use by type of activity. Information will also be obtained on costs-and-earnings of the operations, knowledge, attitudes and perceptions of sanctuary management strategies and regulations, and demographic information on owner/captains and crews. Surveys will also be conducted of the passengers aboard the for hire operation boats to obtain their market and non-market economic use values for non-consumptive recreation use and how those value change with changes in natural resource attribute conditions and user characteristics. Additional information will be obtained on importance-satisfaction ratings of key natural resource attributes, facilities and services, knowledge, attitudes and perceptions of management strategies and regulations, and demographic profiles of passengers.

II. Method of Collection

For the for hire operations, a team of students will go to the operations offices and collect the information. For the passengers, surveys will be conducted at the docks after the completion of their trips. The on-site survey will obtain information on demographic profiles, annual number of trips in the MBNMS for non-consumptive recreation, and their non-market economic use value. Self-addressed, postage paid mail back questionnaires will be used for importance-satisfaction ratings, knowledge, attitudes and perceptions, and trip expenditures.

III. Data

OMB Control Number: 0648–xxxx.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 1,050.

Estimated Time per Response: 2 hours per for hire operation, 20 minutes per on-site interview of passengers, 20 minutes per importance-satisfaction/knowledge, attitudes and perceptions mail back, and 20 minutes for the expenditure mail back.

Estimated Total Annual Burden Hours: 733.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 2, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–05019 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Value of the Reduction in the Risk of Whale Strikes in the Channel Islands National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 4, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Vernon R. (Bob) Leeworthy, (301) 713–7261 or *Bob.Leeworthy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

NOAA is sponsoring a class project at the Bren School of Management & Science at the University of California, Santa Barbara to estimate the market and non-market economic values associated with the reduction in risk of whale strikes by different scenarios of changes in traffic lanes and/or vessel speeds for major commercial vessels operating in the region of southern California where the Channel Islands National Marine Sanctuary is located.

NOAA will conduct surveys of the for hire operations that take people out for non-consumptive recreation to watch whales or other wildlife to obtain total use by type of activity (*e.g.,* whale watching, and other wildlife observation) and the spatial use by type of activity. Information will also be obtained on costs-and-earnings of the operations and demographic information on owner/captains and crews. Surveys will also be conducted of the passengers aboard the for hire operation boats to obtain their market and non-market economic use values for the reduction in the risk of whale strikes. Additional information will be obtained on importance-satisfaction ratings of key natural resource attributes, facilities and services along with demographic profiles of passengers.

II. Method of Collection

For the for hire operations, a team of students will go to the operations offices and collect the information. For the passengers, surveys will be conducted at the docks after the completion of their whale watching trip. Self-addressed, postage paid mail back questionnaires will be used for importance-satisfaction ratings and whale watching trip expenditures.

III. Data

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 25 for-hire operations and 500 individuals.

Estimated Time per Response: 2 hours per for-hire operation; 20 minutes each per on-site interview of passengers, importance-satisfaction mail-back and expenditure mail-back.

Estimated Total Annual Burden Hours: 367: For-hire operations, 50 hours; on-site survey of passengers, 167 hours; importance-satisfaction mail-back, 83 hours; expenditure mail-back, 67 hours.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 27, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–05003 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD805

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Ecosystem and Ocean Planning Committee will meet as a Committee of the Whole, to receive an overview from the Bureau of Ocean Energy Management (BOEM) about their geological and geophysical (G&G) permitting process in the Atlantic, focusing on regulations and the permitted activities for G&G surveys, and the development of possible comments.

DATES: The meeting will be held on Wednesday, March 25, 2015, from 1:30 p.m. to 3:30 p.m. EST, via Internet Webinar.

ADDRESSES: The meeting will be held via Internet Webinar. To join the Webinar, follow this link and enter the online meeting room: *http://mafmc.adobeconnect.com/marchboem/.*

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: BOEM will give a presentation to the Council's Ecosystem and Ocean Planning Committee, as a Committee Meeting of the Whole. This will include an overview of the geological and geophysical (G&G) permitting process in the Atlantic, focusing on regulations and the permitted activities for G&G surveys. BOEM will provide an overview of what is included in a complete permit and discuss the coordination process. The overview will also describe the National Environmental Policy Act and internal environmental review processes, discuss the related consultation and coordination process, and finally touch on mitigation and operations monitoring. BOEM will also give an overview of the development of the Five Year Outer Continental Shelf Oil and Gas Leasing Program for 2017–22. BOEM staff will be available to answer any questions following the presentation.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 2, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05076 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD767

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Tilefish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held Thursday, March 26, 2015, from 10 a.m. until noon.

ADDRESSES: The meeting will be held via webinar with a telephone-only connection option.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* also has details on the proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Monitoring Committee to review, and if necessary, revise the current management measures designed to achieve the recommended Golden Tilefish catch and landings limits for 2016/17.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 2, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05081 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 150224183–5183–01]

RIN 0660–XC016

Privacy, Transparency, and Accountability Regarding Commercial and Private Use of Unmanned Aircraft Systems

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Request for public comment.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is requesting comment on privacy, transparency, and accountability issues regarding commercial and private use of unmanned aircraft systems (UAS). On February 15, 2015, President Obama issued the Presidential Memorandum ''Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems,'' which directs NTIA to establish a multistakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the National Airspace System (NAS).

Through this notice NTIA commences this process.

DATES: Comments are due on or before 5 p.m. Eastern Time on April 20, 2015.

ADDRESSES: Written comments may be submitted by email to *UASrfc2015@ntia.doc.gov*. Comments submitted by email should be machine-readable and should not be copy-protected. Written comments also may be submitted by mail to the National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Attn: UAS RFC 2015, Washington, DC 20230. Responders should include the name of the person or organization filing the comment, as well as a page number on each page of their submissions. All comments received are a part of the public record and will generally be posted to *http://www.ntia.doc.gov/category/internet-policy-task-force* without change. All personal identifying information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NTIA will accept anonymous comments.

FOR FURTHER INFORMATION CONTACT: John Verdi or John Morris, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–8238 or (202) 482–1689; email *jverdi@ntia.doc.gov* or *jmorris@ntia.doc.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: Congress recognized the potential wide-ranging benefits of UAS operations within the United States in the FAA Modernization and Reform Act of 2012 (Public Law 112–95), which requires a plan to safely integrate civil UAS into the NAS by 2015. Compared to manned aircraft, UAS may provide lower-cost operation and augment existing capabilities while reducing risks to human life. Estimates suggest the positive economic impact to U.S. industry of the integration of UAS into the NAS could be substantial and likely will grow for the foreseeable future.[1] UAS may be able to provide a variety of commercial services less expensively than manned aircraft, including aerial photography and farm management, while reducing or eliminating safety risks to aircraft operators. In addition, UAS may be able to provide some commercial services that would be impossible for manned aircraft. For example, improvements in technology may allow small UAS to deliver packages to homes and businesses where manned aircraft cannot land, and high-altitude UAS could provide Internet service to remote areas by remaining aloft for months at a time—far longer than manned aircraft.

On February 15, 2015, President Obama issued the Presidential Memorandum ''Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems.'' The Presidential Memorandum states: ''[a]s UAS are integrated into the NAS, the Federal Government will take steps to ensure that the integration takes into account not only our economic competitiveness and public safety, but also the privacy, civil rights, and civil liberties concerns these systems may raise.''[2] The Presidential Memorandum establishes a ''multi-stakeholder engagement process to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the NAS.''[3] The process will include stakeholders from industry, civil society, and academia, and will be initiated by the Department of Commerce, through NTIA, and in consultation with other interested agencies.

The NTIA-convened process is intended to help address privacy concerns raised by commercial and private UAS. UAS can enable aerial data collection that is more sustained, pervasive, and invasive than manned flight; at the same time, UAS flights can reduce costs, provide novel services, and promote economic growth. These attributes create opportunities for innovation, but also pose privacy challenges regarding collection, use, retention, and dissemination of data collected by UAS. NTIA encourages stakeholders to identify safeguards that address the privacy challenges posed by commercial and private UAS use.

The NTIA-convened process is intended to promote transparent UAS operation by companies and individuals. Transparent operation can include identifying the entities that operate particular UAS, the purposes of UAS flights, and the data practices associated with UAS operations. Transparent UAS operation can enhance privacy and bolster other values. Transparency can help property owners identify UAS if an aircraft erroneously operates or lands on private property. Transparency can also facilitate reports of UAS operations that cause nuisances or appear unsafe. NTIA encourages stakeholders to identify mechanisms, such as standardized physical markings or electronic identifiers, which could promote transparent UAS operation.[4]

The NTIA-convened process is intended to promote accountable UAS operation by companies and individuals. UAS operators can employ accountability mechanisms to help ensure that privacy protections and transparency policies are enforced within an organization. Accountability mechanisms can include rules regarding oversight and privacy training for UAS pilots, as well as policies for how companies and individuals operate UAS and handle data collected by UAS. Accountability programs can also employ audits, assessments, and internal or external reports to verify UAS operators' compliance with their privacy and transparency commitments. Accountability mechanisms can be implemented by companies, model aircraft clubs, UAS training programs, or others. NTIA encourages stakeholders to identify mechanisms that can promote accountable UAS operation.

NTIA will convene stakeholders in an open and transparent forum to develop consensus best practices for utilization by commercial and private UAS operators. For this process, commercial and private use includes the use of UAS for commercial purposes as civil aircraft, even if the use would qualify a UAS as a public aircraft under 49 U.S.C. 40102(a)(41) and 40125. The process will not focus on law enforcement or other noncommercial governmental use of UAS.

NTIA will convene the first public meeting of the multistakeholder process in the Washington, DC metro area. The meeting will be open to the public, webcast, and NTIA will provide an audio conference bridge. NTIA asks that stakeholders who plan to attend the first meeting express their interest at: *http://www.ntia.doc.gov/2015-privacy-multistakeholder-meeting-expression*. Expressions of interest will assist NTIA in approximating the number of

[1] Presidential Memorandum, ''Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems,'' (Feb. 15, 2015), *available at: http://www.whitehouse.gov/the-press-office/2015/02/15/presidential-memorandum-promoting-economic-competitiveness-while-safegua.*

[2] Presidential Memorandum at 1.

[3] Presidential Memorandum at 4.

[4] Such standardized physical marking would be in addition to the markings required by the FAA for purposes of registration.

attendees and identifying an appropriate venue for the meeting.

Request for Comment: NTIA invites public comment on the following issues from all stakeholders, including the commercial, academic, and public interest sectors, lawmakers, and governmental consumer protection and enforcement agencies. NTIA will use the comments to help establish an efficient, effective structure for the multistakeholder engagement and identify the substantive issues stakeholders wish to discuss.

General

1. The Presidential Memorandum asks stakeholders to develop best practices concerning privacy, transparency, and accountability for a broad range of UAS platforms and commercial practices. How should the group's work be structured? Should working groups address portions of the task?

2. Would it be helpful to establish three working groups with one focusing on privacy, one on transparency, and one on accountability? Should such groups work in serial or parallel?

3. Would it be helpful for stakeholders to distinguish between micro, small, and large UAS platforms (*e.g.,* UAS under 4.4 lbs., UAS between 4.4 lbs. and 55 lbs., and UAS over 55 lbs.)? Do smaller or larger platforms raise different issues for privacy, transparency, and accountability?

4. What existing best practices or codes of conduct could serve as bases for stakeholders' work?

Privacy

5. UAS can be used for a wide variety of commercial and private purposes, including aerial photography, package delivery, farm management, and the provision of Internet service. Do some UAS-enabled commercial services raise unique or heightened privacy issues as compared to non-UAS platforms that provide the same services? For example, does UAS-based aerial photography raise unique or heightened privacy issues compared to manned aerial photography? Does UAS-based Internet service raise unique or heightened privacy issues compared to wireline or ground-based wireless Internet service?

6. Which commercial and private uses of UAS raise the most pressing privacy challenges?

7. What specific best practices would mitigate the most pressing privacy challenges while supporting innovation?

Transparency

8. Transparent UAS operation can include identifying the entities that operate particular UAS, the purposes of UAS flights, and the data practices associated with UAS operations. Is there other information that UAS operators should make public?

9. What values can be supported by transparency of commercial and private UAS operation? Can transparency enhance privacy, encourage reporting of nuisances caused by UAS flights, or help combat unsafe UAS flying? Can transparency support other values?

10. How can companies and individuals best provide notice to the public regarding where a particular entity or individual operates UAS in the NAS?

11. What mechanisms can facilitate identification of commercial and private UAS by the public? Would standardized physical markings aid in identifying UAS when the aircraft are mobile or stationary? [5] Can UAS be equipped with electronic identifiers or other technology to facilitate identification of UAS by the public?

12. How can companies and individuals best keep the public informed about UAS operations that significantly impact privacy, anti-nuisance, or safety interests? Would routine reporting by large-scale UAS operators provide value to the public? What might such reporting include? How might it be made publicly available?

13. What specific best practices would promote transparent UAS operation while supporting innovation?

Accountability

14. UAS operators can employ accountability mechanisms to help ensure that privacy protections and transparency policies are enforced within an organization. How can companies, model aircraft clubs, and UAS training programs ensure that oversight procedures for commercial and private UAS operation comply with relevant policies and best practices? Can audits, assessments, or reporting help promote accountability?

15. What rules regarding conduct, training, operation, data handling, and oversight would promote accountability regarding commercial and private UAS operation?

16. What specific best practices would promote accountable commercial and private UAS operation while supporting innovation?

[5] Such standardized physical markings would be in addition to the markings required by the FAA for purposes of registration.

Dated: February 27, 2015.

Lawrence E. Strickling,

Assistant Secretary for Communications and Information.

[FR Doc. 2015–05020 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD806

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, March 23, 2015 at 9 a.m. and on Tuesday, March 24, 2015 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161; fax: (207) 756–6623.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Habitat committee will review the Plan Development Team analyses as requested on February 24, 2015. The committee also plans to review the Advisory Panel recommendations for preferred alternatives. They will also develop final preferred alternative recommendations for the full Council. They will discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under

section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: February 27, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015–05025 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD671

Atlantic Highly Migratory Species; Essential Fish Habitat 5-Year Review

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

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of the Draft Atlantic Highly Migratory Species (HMS) Essential Fish Habitat (EFH) 5-Year Review. The purpose of Atlantic HMS EFH 5-Year Review is to gather relevant new information and determine whether modifications to existing EFH descriptions and designations are warranted, in compliance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations. If EFH modifications are warranted, an amendment to the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) may be initiated.

DATES: Written comments must be received by April 6, 2015.

ADDRESSES: Electronic copies of the Draft Atlantic HMS EFH 5-Year Review may also be obtained on the internet at: *http://www.nmfs.noaa.gov/sfa/hms/documents/2015_draft_efh_review.pdf.*

You may submit comments on this document, identified by NOAA–NMFS–2015–0037, by any of the following methods:

• Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0037,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• Mail: Submit written comments to Peter Cooper, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Peter Cooper by phone at (301) 427–8503.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) includes provisions concerning the identification and conservation of essential fish habitat (EFH) (16 U.S.C. 1801 *et seq.*). EFH is defined in 50 CFR 600.10 as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' NMFS must identify and describe EFH, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH (§ 600.815(a). EFH maps are presented online in the NMFS EFH Mapper (*http://www.habitat.noaa.gov/protection/efh/habitatmapper.html*). Federal agencies that authorize, fund, or undertake actions that may adversely affect EFH must consult with NMFS, and NMFS must provide conservation recommendations to Federal and state agencies regarding any such actions (§ 600.815(a)(9)).

In addition to identifying and describing EFH for managed fish species, a review of EFH must be completed every 5 years, and EFH provisions must be revised or amended, as warranted, based on the best available scientific information. The EFH 5-year review should evaluate published scientific literature, unpublished scientific reports, information solicited from interested parties, and previously unavailable or inaccessible data. NMFS announced the initiation of this review and solicited information for this review from the public in a **Federal Register** notice on March 24, 2014 (79 FR 15959). The initial public review/submission period ended on May 23, 2014.

This document is a draft 5-year review of EFH for Atlantic HMS, which include tunas (bluefin, bigeye, albacore, yellowfin, and skipjack), oceanic sharks, swordfish, and billfishes (blue marlin, white marlin, sailfish, roundscale spearfish, and longbill spearfish). The HMS EFH 5-year review considers data available regarding Atlantic HMS and their habitats that have become available since 2009 that were not included in Final Amendment 1 to the 2006 Consolidated Atlantic HMS (June 1, 2010, 75 FR 30484); Final Environmental Impact Statement for Amendment 3 to the 2006 Consolidated HMS FMP (June 1, 2010, 75 FR 30484); and the interpretive rule that described EFH for roundscale spearfish (September 22, 2010, 75 FR 57698), which are the most recent documents that described EFH for Atlantic HMS species. Upon completion of the HMS EFH 5-year Review, NMFS will analyze the information gathered through the EFH review process and determine if subsequent revision or amendment of EFH if warranted.

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

Dated: March 2, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–05079 Filed 3–4–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board on Coastal Engineering Research (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed

pursuant to 33 U.S.C. 426–2 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a).

The Board is a non-discretionary Federal advisory committee that shall provide the Coastal and Hydraulics Laboratory, which includes the Coastal Engineering Research Center, through the Chief of Engineers/Commander (''the Chief of Engineers''), U.S. Army Corps of Engineers (''the Corps of Engineers''), independent advice and recommendations on coastal engineering research priorities and additional functions as assigned by the Chief of Engineers. The Board shall report to the Secretary of the Army, through the Chief of Engineers/Commander, U.S. Army Corps of Engineers. The Chief of Engineers/Commander, U.S. Army Corps of Engineers, may act upon the Board's advice and recommendations.

The Board, pursuant to 33 U.S.C. 426–2, shall be composed of seven members who are appointed by the Secretary of Defense or the Deputy Secretary of Defense.

DoD, pursuant to the authorizing legislation, shall appoint four officers of the Corps of Engineers to the Board as ex officio appointments, with one position being occupied by the Deputy Commanding General for Civil and Emergency Operations, U.S. Army Corps of Engineers. The Chief of Engineers, in consultation with the Assistant Secretary of the Army (Civil Works), shall determine which three of the eight coastal division commanders shall be nominated as the other ex officio members of the Board. The Chief of Engineers, in determining which of the coastal division commanders shall serve on the Board, shall consider the individual's tenure as a division commander and his or her expertise in the matters before the Board.

The three civilian Board members shall be civilian engineers recommended by the Chief of Engineers for their expertise in the field of beach erosion, shore protection, and coastal processes and infrastructure.

The Deputy Commanding General for Civil and Emergency Operations, U.S. Army Corps of Engineers, shall serve as the President of the Board.

Board members who are not full-time or permanent part-time Federal officers or employees shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members. Board members who are full-time or permanent part-time Federal officers or employees shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members.

The Secretary of Defense, or the Deputy Secretary of Defense, may approve the appointment of civilian Board members and the three coastal division commanders for terms of service of one-to-four years with annual renewals. However, no member, unless authorized by the Secretary of Defense or the Deputy Secretary of Defense, may serve more than two consecutive terms of service.

Pursuant to section 105 of Public Law 91–611, Board members, who are not full-time or permanent part-time Federal officers or employees, may be paid at rates not to exceed the daily equivalent of the rate for a GS–15, step 10, for each day of attendance at Board meetings, not to exceed 30 days per year, in addition to travel and other necessary expenses connected with their official duties on the Board, in accordance with the provisions of 5 U.S.C. 5703(b), (d), and 5707. RGE members may be reimbursed for official Board-related travel and per diem.

The DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army, as the DoD sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or its members can update or report, verbally or in writing, on behalf of the Board, directly to the DoD or to any Federal officer or employee.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of one-to-four years, with annual renewals, even if the member in question is already a member of the Board.

Subcommittee members, if not full-time or part-time Federal officers or employees, shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Subcommittee members who are full-time or permanent part-time Federal officers or employees will serve as RGE members pursuant to 41 CFR 102–3.130(a).

Each subcommittee member is appointed to provide advice to the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Subcommittee members may be compensated, and shall be allowed travel expenses, in the same manner as the Board members.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The estimated number of Board meetings is two per year.

The Board's Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee appointed in accordance with governing DoD policies and procedures.

The Board's DFO is required to be in attendance at all meetings of the Board and any of its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of the Board or any subcommittee meeting.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Board on Coastal Engineering Research membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board on Coastal Engineering Research.

All written statements shall be submitted to the DFO for the Board on Coastal Engineering Research, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board on Coastal Engineering Research DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings

of the Board on Coastal Engineering Research. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: March 2, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–05040 Filed 3–4–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement for the Modernization and Repair of Piers 2 and 3, Military Ocean Terminal Concord, CA

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army (Army) announces the availability of the Final Environmental Impact Statement (EIS) for the Modernization and Repair of Piers 2 and 3 at Military Ocean Terminal Concord, California (MOTCO). The Final EIS evaluates the potential environmental and socioeconomic effects that could result from demolition and reconstruction of structural elements, replacement of infrastructure, upgrades to shore-side roads and electrical infrastructure, repair of piles at Pier 3, and maintenance dredging. Environmental consequences were evaluated for noise; air quality; geology, topography, and soils; water resources; biological resources; land use and coastal zone management; transportation; infrastructure; visual resources; recreational resources; socioeconomics; environmental justice and protection of children; cultural resources; and hazardous materials, hazardous waste, toxic substances, and contaminated sites. Based on the analysis described in the EIS, all impacts are anticipated to be less than significant. The potential for environmental impacts is greatest for the following resource areas: water resources; biological resources; transportation; infrastructure; and cultural resources.

DATES: The Army will make a final decision no sooner than 30 days after the publication of a Notice of Availability for the Final EIS in the **Federal Register**.

ADDRESSES: Please send requests for a copy of the Final EIS or written comments on the Final EIS to Mr. Malcolm Charles, Director of Public Works, Attention: SDAT–CCA–MI (Charles), 410 Norman Avenue, Concord, CA 94520; email comments to *usarmy.motco.sddc.mbx.list-eis@mail.mil;* or fax comments to (925) 246–4171 (Attention: SDAT–CCA–MI [Charles]).

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Garner, Public Affairs Office, Surface Deployment and Distribution Command; telephone: (618) 220–6284; email: *usarmy.scott.sddc.mbx.command-affairs@mail.mil.*

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to modernize and repair Pier 2 and repair Pier 3 so the Army can maintain its ability to meet Department of Defense (DOD) mission requirements in support of wartime and contingency operations. Piers 2 and 3 were built in the mid-1940s and are past their structural and design life and lack modern operational efficiencies. Based on Net Explosive Weight handling capability, Pier 2 is the optimum pier for mission capability, but it cannot be used due to its degraded and nonoperational condition. Pier 3, currently the primary operational pier at MOTCO, requires some level of repair to maintain even its limited operational capability through 2019.

Alternative 1 fully implements repairs to Piers 2 and 3 with Pier 2 re-oriented to align the west end with the existing shipping channel to create a more modernized configuration. Alternative 2 would be similar to Alternative 1, but the Pier 2 footprint would not change. Alternative 3 would fully implement repairs to Piers 2 and 3, reorienting Pier 2 to create a more modernized configuration but with a larger deck surface and heavier load-carrying capacity than that proposed under Alternative 1. Under the No Action Alternative, the modernization and repair of Pier 2 and the repair of Pier 3 at MOTCO would not occur, and Pier 3 would continue to be used with loading restrictions for the remainder of its service life. The No Action Alternative provides the environmental baseline conditions for comparing the impacts associated with the other alternatives. Alternative 1 is the preferred alternative.

The Army consulted with regulatory agencies, to include the State Historic Preservation Officer, the National Park Service, the U.S. Army Corps of Engineers, the San Francisco Bay Regional Water Quality Control Board, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the San Francisco Bay Conservation and Development Commission.

Several of the comments received during the Draft EIS review period resulted in revisions to the Final EIS. These revisions included minor clarifications and the inclusion of updated information. The Final EIS includes responses to all comments.

Copies of the Final EIS are available for public review at the following two Contra Costa County libraries: (1) Concord Library, 2900 Salvio Street, Concord, CA 94519 and (2) Bay Point Library, 205 Pacifica Avenue, Bay Point, CA 94565. The Final EIS may also be reviewed electronically at *http://www.sddc.army.mil/MOTCO/default.aspx.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–05083 Filed 3–4–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for United States Air Force F–35a Operational Basing—Pacific

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of Intent (NOI).

SUMMARY: The Air Force is issuing this notice of intent (NOI) (40 CFR 1508.22) to prepare an Environmental Impact Statement (EIS) to assess the proposed action to base two (2) F–35A squadrons (48 Primary Assigned Aircraft (PAA)) at Eielson Air Force Base (AFB), Alaska. The proposed action will also include the use of related airspace and ranges, particularly the Joint Pacific Alaska Range Complex (JPARC). The F–35A is the conventional take-off and landing version of the Joint Strike Fighter (JSF). It is a multiple-role fighter with an emphasis on air-to-ground missions.

A No-Action Alternative will be included in the EIS, whereby no F–35A squadrons would be based at Eielson AFB. The analysis of the no-action alternative will provide a benchmark to enable Air Force decision-makers to compare the magnitude of the environmental effects of the proposed action. No-action means the proposed action would not take place, and the resulting environmental effects from taking no-action will be compared with the effects of allowing the proposed activity to go forward.

Scoping: The public scoping process will be used to identify community concerns and local issues to be considered during the draft EIS development process. Federal, state, and

local agencies; Alaska Native Tribes and organizations; as well as interested persons are encouraged to provide written comments of environmental concern associated with the proposed action to the Air Force. Comments should be provided by the methods and dates indicated below.

DATES: Public scoping meetings will be held in North Pole, Fairbanks, and Delta Junction, Alaska at the following dates, times, and locations:

Tuesday, March 24, 2015, 6:00 p.m. to 8:00 p.m.

North Pole Worship Center, 3340 Badger Road, North Pole.

Wednesday, March 25, 2015, 6:00 p.m. to 8:00 p.m.

Westmark Hotel and Conference Center, 813 Noble Street, Fairbanks.

Thursday, March 26, 6:00 p.m. to 8:00 p.m.

Alaskan Steakhouse & Motel, 265 Richardson Highway, Delta Junction.

Comments on the proposal can be made at the scoping meetings, by mail, or via the project Web site at: *https://www.PACAF-F35Aeis.com.* Written comments can be mailed to: 354 FW/PA, 354 Broadway Avenue, Suite 15A, Eielson AFB, AK 99702.

Although comments can be submitted to the Air Force at any time during the EIS process, scoping comments are requested by Friday, April 17, 2015 to ensure full consideration in the draft EIS.

FOR FURTHER INFORMATION CONTACT: For questions regarding the proposed action, scoping, and EIS development, contact the Eielson AFB Public Affairs Office, at 907–377–2116 or at *354fw.pa.publicaffairs@us.af.mil.*

Henry Williams Jr.,

Acting Air Force Federal Register Liaison Officer, DAF.

[FR Doc. 2015–05014 Filed 3–4–15; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0023]

Agency Information Collection Activities; Comment Request; Roads to Success in North Dakota: A Randomized Study of a College and Career Preparation Curriculum

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before May 4, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0023 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Braden Goetz, 202–245–7405.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Roads to Success in North Dakota: A Randomized Study of a College and Career Preparation Curriculum.

OMB Control Number: 1830—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 88.

Total Estimated Number of Annual Burden Hours: 22.

Abstract: The Office of Career, Technical, and Adult Education in the U.S. Department of Education is supporting an evaluation that will examine the impact of a college and career preparation curriculum for students in the 11th and 12th grades on students' college and career aspirations, planning for postsecondary transitions and adult life, and attitudes toward education and careers. The evaluation has an experimental design with school-level random assignment. This Information Collection Request includes surveys of students, instructors, and principals and protocols for site visits.

Dated: March 2, 2015.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–05011 Filed 3–4–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 25, 2015, 5:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 East Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las

Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Briefing and Recommendation Development for Corrective Action Alternatives for Corrective Action Unit 568, Area 3 Plutonium Dispersion Sites—Work Plan Item #2
2. Briefing and Recommendation Development for Fiscal Year 2017 Baseline Prioritization—Work Plan Item #7

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx*

Issued at Washington, DC, on February 26, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05090 Filed 3–4–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Monday, March 23, 2015, 1:00 p.m.–4:30 p.m.

Tuesday, March 24, 2015, 8:30 a.m.–4:15 p.m.

ADDRESSES: New Ellenton Community Center, 212 Pine Hill Avenue, New Ellenton, SC 29809.

FOR FURTHER INFORMATION CONTACT: de'Lisa Carrico, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–8607.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, March 23, 2015

1:00 p.m. Welcome & Agenda Review
1:10 p.m. Recommendation & Work Plan Update
1:15 p.m. Combined Committees Session

Order of committees:

- Strategic & Legacy Management
- Administrative & Outreach
- Facilities Disposition & Site Remediation
- Waste Management
- Nuclear Materials

4:15 p.m. Public Comments Session
4:30 p.m. Adjourn

Tuesday, March 24, 2015

8:30 a.m. Opening, Pledge, Approval of Minutes, and Chair Update
9:00 a.m. Agency Updates
10:15 a.m. Public Comment
10:30 a.m. Nuclear Materials Committee Report
11:10 a.m. Break
11:20 a.m. Administrative & Outreach Committee Report
12:00 p.m. Public Comment
12:15 p.m. Lunch Break
1:45 p.m. Facilities Disposition & Site Remediation Committee Report
2:20 p.m. Waste Management Committee Report
2:55 p.m. Strategic & Legacy Management Committee Report
4:00 p.m. Public Comment
4:15 p.m. Adjourn

Public Participation: The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact de'Lisa Carrico at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact de'Lisa Carrico's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://cab.srs.gov/srs-cab.html.*

Issued at Washington, DC, on February 27, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05088 Filed 3–4–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 25, 2015, 1:00 p.m.–5:15 p.m.

ADDRESSES: La Fonda on the Plaza, La Terraza Room, 100 E. San Francisco Street, Sante Fe, New Mexico 87501.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–

0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1:00 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Lee Bishop; Establishment of a Quorum: Roll Call and Excused Absences, William Alexander; Welcome and Introductions, Doug Sayre, Chair; Approval of Agenda and Meeting Minutes of January 28, 2015.

1:15 p.m. Old Business
- Written Reports
- Report on Waste Management Symposia, Mona Varela
- Report on Environmental Justice Conference, Danny Mayfield and Carlos Valdez

1:30 p.m. New Business

1:45 p.m. Update from DDFO, Lee Bishop/Michael Gardipe

2:00 p.m. Update to DOE Stakeholders on Fiscal Year 2017 EM Budget and Planning Integration, Pete Maggiore

2:30 p.m. Break

3:00 p.m. Consideration and Action on NNMCAB Recommendations to DOE, Doug Sayre, Chair

3:30 p.m. Update from Liaisons
- Update from DOE, Pete Maggiore
- Update from Los Alamos National Laboratory, Randy Erickson
- Update from New Mexico Environment Department, Jeff Kendall

4:45 p.m. Public Comment Period

5:00 p.m. Wrap-Up and Comments from NNMCAB Members

5:15 p.m. Adjourn, Lee Bishop

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/.*

Issued at Washington, DC, on February 26, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–05093 Filed 3–4–15; 8:45 am]

BILLING CODE 6405–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0145; FRL 9923–83–ORD]

Human Studies Review Board; Notification of a Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Office of the Science Advisor announces a public meeting of the Human Studies Review Board to advise the Agency on the EPA ethical and scientific reviews of research with human subjects.

DATES: This public meeting will be held on April 22–23, 2015, from approximately 1:30 p.m. on Wednesday, April 22 to approximately 4:45 p.m. eastern standard time and on Thursday, April 23, 2015 from 8:30 a.m. to approximately 11:30 a.m. Comments may be submitted on or before noon (eastern standard time) on Wednesday, April 15, 2015.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

Comments: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2015–0145, by one of the following methods:

Internet: http://www.regulations.gov: Follow the online instructions for submitting comments.

Email: ORD.Docket@epa.gov.

Mail: The EPA Docket Center EPA/DC, ORD Docket, Mail code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Hand Delivery: The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site *http://www.epa.gov/epahome/dockets.htm.*

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2015–0145. The Agency'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 or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. 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 the 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, the EPA recommends that you include your name and other contact information in the body of your comment and with any electronic storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to receive further information should contact Jim Downing at telephone number (202) 564–2468; fax: (202) 564–2070; email address: *downing.jim@epa.gov*; mailing address Environmental Protection Agency, Office of the Science Advisor, Mail code 8105R, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information

concerning the EPA HSRB can be found on the EPA Web site at *http://www.epa.gov/hsrb.*

SUPPLEMENTARY INFORMATION:

Meeting access: Ample seating is available at the meeting on a first-come basis. To request accommodation of a disability, please contact the persons listed under **FOR FURTHER INFORMATION CONTACT** at least ten business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT**, so that appropriate arrangements can be made.

Procedures for providing public input: Interested members of the public may submit relevant written or oral comments for the HSRB to consider during the advisory process. Additional information concerning submission of relevant written or oral comments is provided in section I, ''Public Meeting'' under subsection D. ''How May I Participate in this Meeting?'' of this notice.

Webcast: This meeting may be webcast. Please refer to the HSRB Web site, *http://www.epa.gov/hsrb/* for information on how to access the webcast. Please note that the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the meeting will continue as planned.

Public Meeting

A. Does this action apply to me?

This action is directed to the public in general. This notice may, however, be of particular interest to persons who conduct or assess human studies, especially studies on substances regulated by the EPA, or to persons who are, or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act or the Federal Insecticide, Fungicide, and Rodenticide Act. This notice might also be of special interest to participants of studies involving human subjects, or representatives of study participants or experts on community engagement. Since many entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I access electronic copies of this document and other related information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

Docket: 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.,* 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 ORD Docket, EPA/DC, Public Reading Room. The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. eastern standard time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site (*http://www.epa.gov/epahome/dockets.htm*). The Agency's position paper(s), charge/questions to the HSRB, and the meeting agenda will be available by the last week of March 2015. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, at *http://www.regulations.gov* and the EPA HSRB Web site at *http://www.epa.gov/hsrb/.* For questions on document availability, or if you do not have access to the Internet, consult Jim Downing listed under **FOR FURTHER INFORMATION**.

C. What should I consider as I prepare my comments for the EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data that you used to support your views.
4. Provide specific examples to illustrate your concerns and suggest alternatives.
5. To ensure proper receipt by the EPA, be sure to identify the Docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. How may I participate in this meeting?

You may participate in this meeting by following the instructions in this section. To ensure proper receipt by the EPA, it is imperative that you identify Docket ID number EPA–HQ–ORD–2015–0145 in the subject line on the first page of your request.

1. *Oral comments.* Requests to present oral comments will be accepted up to Wednesday, April 15, 2015. To the extent that time permits, interested persons who have not pre-registered may be permitted by the Chair of the HSRB to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the HSRB is strongly advised to submit their request (preferably via email) to Jim Downing, under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern standard time, Wednesday, April 15, 2015, in order to be included on the meeting agenda and to provide sufficient time for the HSRB Chair and HSRB Designated Federal Official to review the meeting agenda to provide an appropriate public comment period. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. Oral comments before the HSRB are generally limited to five minutes per individual or organization. Please note that this includes all individuals appearing either as part of, or on behalf of, an organization. While it is our intent to hear a full range of oral comments on the science and ethics issues under discussion, it is not our intent to permit organizations to expand the time limitations by having numerous individuals sign up separately to speak on their behalf. If additional time is available, further public comments may be possible.

2. *Written comments.* Submit your written comments prior to the meeting. For the Board to have the best opportunity to review and consider your comments as it deliberates on its report, you should submit your comments at least five business days prior to the beginning of this meeting. If you submit comments after this date, those comments will be provided to the Board members, but you should recognize that the HSRB members may not have adequate time to consider those comments prior to making a decision. Thus, if you plan to submit written comments, the agency strongly encourages you to submit such comments no later than noon, eastern

standard time, Wednesday, April 15, 2015. You should submit your comments using the instructions in section I., under subsection C., ''What Should I Consider as I Prepare My Comments for the EPA?'' In addition, the agency also requests that persons submitting comments directly to the docket also provide a copy of their comments to Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**. There is no limit on the length of written comments for consideration by the HSRB.

E. Background

The HSRB is a Federal advisory committee operating in accordance with the Federal Advisory Committee Act 5 U.S.C. App. 2, sec. 9. The HSRB provides advice, information, and recommendations to the EPA on issues related to scientific and ethical aspects of human subjects research. The major objectives of the HSRB are to provide advice and recommendations on: (1) Research proposals and protocols; (2) reports of completed research with human subjects; and (3) how to strengthen EPA's programs for protection of human subjects of research. The HSRB reports to the EPA Administrator through the Agency's Science Advisor.

1. *Topics for discussion.* At its meeting on April 22–23, 2015, EPA's Human Studies Review Board (HSRB) will consider ethical and scientific issues surrounding the following topics:

a. A Completed Study and Monograph Report for Backpack and Handgun Application of Liquid Spray in Utility Rights of Way (Agricultural Handlers Exposure Task Force)

b. A New Protocol for Field Testing of Skin Applied Mosquito Repellent Products (SC Johnson)

2. *Meeting minutes and reports.* Minutes of the meeting, summarizing the matters discussed and recommendations, if any, made by the advisory committee regarding such matters, will be released within 90 calendar days of the meeting. Such minutes will be available at *http://www.epa.gov/osa/hsrb/* and *http://www.regulations.gov.* In addition, information regarding the Board's final meeting report, will be found at *http://www.epa.gov/osa/hsrb/* or from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: February 20, 2015.

Thomas A. Burke,

Science Advisor.

[FR Doc. 2015–05068 Filed 3–4–15; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration Board, Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 12, 2015, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- February 12, 2015

B. Reports

- Report on Farm Credit System's Funding Condition
- Farm Credit System Building Association Auditor's Report on 2014 Financial Audit

Closed Executive Session *

Reports

- Farm Credit Building Association Auditor's Report

* Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(2).

Dated: March 3, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–05221 Filed 3–3–15; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0264]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 4, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0264.

Title: Section 80.413, On-Board Station Equipment Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 303, 307(e), 309 and 332 and 151–155 and sections 301–609 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,000 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission is seeking an extension of this expiring information collection in order to obtain the full three year approval from OMB. There is no change to the recordkeeping requirement.

Section 80.413 requires the licensee of an on-board station to keep equipment records which show:

(1) The ship name and identification of the on-board station;

(2) The number of and type of repeater and mobile units used on-board the vessel; and

(3) The date the type of equipment which is added or removed from the on-board station.

The information is used by FCC personnel during inspections and investigations to determine what mobile units and repeaters are associated with on-board stations aboard a particular vessel. If this information were not maintained, no means would be available to determine if this type of radio equipment is authorized or who is responsible for its operation. Enforcement and frequency management programs would be negatively affected if the information were not retained.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–05078 Filed 3–4–15; 8:45 am]

BILLING CODE 6712–01P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Downloadable Security Technology Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Downloadable Security Technology Advisory Committee (DSTAC) will hold a meeting on March 24, 2015. At the meeting, the Current Commercial Requirements Working Group and the Technology and Preferred Architectures Working Group will present their findings, the Advisory Committee will consider establishing more working groups, and the committee will discuss any other topics related to the DSTAC's work that may arise.

DATES: March 24, 2015.

ADDRESSES: Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Brendan Murray, *Brendan.Murray@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–1573 or Nancy Murphy, *Nancy.Murphy@fcc.gov,* of the Media Bureau, (202) 418–1043.

SUPPLEMENTARY INFORMATION: The meeting will be held on March 24, 2015, from 10:00 a.m. to 4:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW–C305, 445 12th Street SW., Washington, DC 20554.

The DSTAC is a Federal Advisory Committee that will ''identify, report, and recommend performance objectives, technical capabilities, and technical standards of a not unduly burdensome, uniform, and technology- and platform-neutral software-based downloadable security system.''

The meeting on March 24, 2015, will be the second meeting of the DSTAC. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Brendan Murray, DSTAC Designated Federal Officer, by email to *DSTAC@fcc.gov* or by U.S. Postal Service Mail to 445 12th Street SW., Room 4–A726, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–05077 Filed 3–4–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0147]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry and Food and Drug Administration Staff; Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products and Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed

extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collections in the guidances for industry and FDA staff entitled ''Guidance for Industry and Food and Drug Administration Staff on Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products'' and ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions.''

DATES: Submit either electronic or written comments on the collection of information by May 4, 2015.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry and Food and Drug Administration Staff on Section 905(j) Reports: Demonstrating Substantial Equivalence for Tobacco Products—(OMB Control Number 0910–0673) (Extension)

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) (*Pub. L. 111–31*) into law. The Tobacco Control Act amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by adding a new chapter granting FDA authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors. Section 905(j) of the FD&C Act (*21 U.S.C. 387*e(j)) authorizes FDA to establish the form for the submission of information related to substantial equivalence (SE). In guidance documents issued under the Good Guidances Practices regulation (*21 CFR 10.115*), FDA provides recommendations intended to assist persons submitting reports under section 905(j) of the FD&C Act and explains, among other things, FDA's interpretation of the statutory sections related to substantial equivalence.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Full SE 905(j)(1)(A)(i) and 910(a)	75	1	75	300	22,500
Product Quantity Change SE Report	125	1	125	87	10,875
Same characteristics SE Report	100	1	100	47	4,700
Totals					38,075

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA has based these estimates on information it now has available from interactions with the industry, information related to other regulated products, and FDA's expectations regarding the tobacco industry's use of the section 905(j) pathway to market their products. Table 1 describes the annual reporting burden as a result of the implementation of the SE requirements of sections 905(j) and 910(a) of the FDC Act (*21 U.S.C. 387*j(a)). Based on current information, FDA now estimates that it will receive 300 section 905(j) reports each year. Of these 300 reports, FDA estimates that 75 of these reports will be ''full'' SE reports that take a manufacturer approximately 300 hours to prepare. Under the newly issued guidance entitled, ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions,'' FDA is recommending that certain modifications might be addressed in either a ''Same Characteristics SE Report'' or ''Product Quantity Change Report.'' FDA estimates that it will receive 100 Same Characteristics SE Reports and that it will take a manufacturer approximately 47 hours to prepare this report. FDA estimates that it will receive 125 Product Quantity Change SE Reports and that it will take a manufacturer approximately 87 hours to prepare this report. Therefore, FDA estimates the burden for submission of SE information will be 38,075 hours.

Dated: February 27, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05024 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurobiology of Addictions.

Date: March 11, 2015.

Time: 11:30 a.m. to 12:30 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: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@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: Neurobiology of Psychiatric Disorders.

Date: March 11, 2015.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@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 Conflicts and Continuous Submissions.

Date: March 25, 2015.

Time: 9:00 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: Olga A. Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–009: Secondary Dataset Analyses in Heart, Lung, and Blood Diseases and Sleep Disorders.

Date: March 26, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Georgetown Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 25, 2015.

Carolyn Baum,

Program Analyst. Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05005 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0302]

Jeffrey L. Rockmore; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a request for a hearing submitted by Dr. Jeffrey L. Rockmore, and is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Dr. Rockmore for 2 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Rockmore was convicted of a misdemeanor under Federal law for conduct relating to the regulation of a drug product under the FD&C Act and that the type of conduct underlying the conviction undermines the process for the regulation of drugs. In determining the appropriateness and period of Dr. Rockmore's debarment, FDA has considered the relevant factors listed in the FD&C Act. Dr. Rockmore has failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: The order is effective March 5, 2015.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathan Doty, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On August 11, 2009, in the U.S. District Court for the Northern District of New York, Dr. Rockmore, a physician, pled guilty to a misdemeanor under the FD&C Act, namely misbranding a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act (21 U.S.C. 331(k), 352(i)(3), 333(a)(1)) and 18 U.S.C. 2. The basis for this conviction was conduct surrounding his injection of patients seeking treatment with BOTOX/BOTOX Cosmetic (BOTOX) with a product, TRI-toxin, distributed by Toxin Research International, Inc. BOTOX is a biological product derived from Botulinum Toxin Type A that is manufactured by Allergan, Inc., and was approved by FDA for use on humans for the treatment of facial wrinkles in 1991. According to the records of the criminal proceedings, Dr. Rockmore's colleague in the same medical practice, The Plastic Surgery Group (TPSG), directed a nurse to obtain 31 vials of TRI-toxin, an unapproved drug product, which was represented by its distributor as ''Botulinum Toxin Type A''. Dr. Rockmore then proceeded to inject approximately 26 patients, who believed they were being injected with BOTOX, with TRI-toxin as a substitute.

Dr. Rockmore is subject to debarment based on a finding, under section 306(b)(2)(B)(i)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(i)(I)): (1) That he was convicted of a misdemeanor under Federal law relating to the regulation of a drug product under the FD&C Act and (2) that the type of conduct underlying the conviction undermines the process for the regulation of drugs. By notice to Dr. Rockmore dated November 30, 2010,

FDA's Office of Regulatory Affairs (ORA) proposed to debar him for 4 years from providing services in any capacity to a person having an approved or pending drug product application.

In a letter dated December 30, 2010, through counsel, Dr. Rockmore requested a hearing on the proposal. In his request for a hearing, Dr. Rockmore acknowledges his conviction under Federal law, as alleged by FDA. By letter dated January 28, 2011, Dr. Rockmore submitted materials and arguments in support of his request. Dr. Rockmore acknowledges that he was convicted of a Federal misdemeanor, as found in the proposal to debar, but argues that he should not be debarred for reasons related to the factual basis set forth in the proposal to debar. In particular, with respect to the considerations for determining the appropriateness and period of debarment under section 306(c)(3) of the FD&C Act, he argues that there are genuine and substantial issues of fact for resolution at a hearing, namely factual issues bearing on whether he participated in or even knew of certain conduct that resulted in his violation of the FD&C Act.

Hearings are granted only if there is a genuine and substantial issue of fact. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged or the action requested (see 21 CFR 12.24(b)).

The Chief Scientist has considered Dr. Rockmore's arguments, as well as the proposal to debar itself, and concludes that, although Dr. Rockmore has failed to raise a genuine and substantial issue of fact requiring a hearing, the appropriate period of debarment is 2 years.

II. Arguments

In support of his hearing request, Dr. Rockmore first asserts that he is not subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act. He contends that he pled guilty to a misdemeanor violation of the FD&C Act (see section 303(a)(1) of the FD&C Act), which is a strict liability offense, and that thus there was no demonstration or admission of criminal intent or knowledge underlying the conviction. Dr. Rockmore concludes, therefore, that the conduct underlying his conviction did not undermine the process for the regulation of drugs.

Section 306(b)(2)(B)(i)(I) of the FD&C Act specifically provides for the debarment of individuals convicted of Federal misdemeanors related to the regulation of drug products under the FD&C Act. Given that misdemeanor violations of the FD&C Act themselves are strict liability offenses, it stands to reason that criminal intent is not a critical component to debar an individual under section 306(b)(2)(B)(i)(I). During his criminal proceedings, Dr. Rockmore pled guilty to misbranding and causing the misbranding of a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act by offering an unapproved drug, TRI-toxin, for sale as an approved drug product, BOTOX. Dr. Rockmore's conduct undermined the process for the regulation of drugs in that it permitted an unapproved drug to be substituted for an approved drug without the knowledge of the patient. As a result, Dr. Rockmore is, in fact, subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act.

Dr. Rockmore next challenges the manner in which ORA applied the considerations under section 306(c)(3) of the FD&C Act in determining the appropriateness and period of his debarment. In the proposal to debar Dr. Rockmore, ORA stated that there are four applicable considerations under section 306(c)(3) of the FD&C Act: (1) The nature and seriousness of his offense under section 306(c)(3)(A); (2) the nature and extent of management participation in the offense under section 306(c)(3)(B); (3) the nature and extent of voluntary steps taken to mitigate the impact on the public under section 306(c)(3)(C); and (4) prior convictions involving matters within the jurisdiction of FDA under section 306(c)(3)(F). ORA found with respect to Dr. Rockmore that the first two considerations weigh in favor of debarment and noted that the third and fourth considerations would be treated as favorable factors for him. In making all of its findings under section 306(c)(3) of the FD&C Act, ORA characterized Dr. Rockmore's conduct based on records from his criminal proceedings.

Under section 306(c)(3)(A) of the FD&C Act, in determining the appropriateness and period of debarment, FDA considers ''the nature and seriousness of the offense involved.'' In the proposal to debar, ORA relied on the criminal information to which Dr. Rockmore pled guilty to find that the conduct underlying his convictions:

> created a risk of injury to consumers due to the use of an unapproved drug, undermined [FDA's] oversight of an approved drug product by representing that [he] used the approved drug while actually substituting an unapproved drug in its place, and seriously undermined the integrity of [FDA's] regulation of drug products.

Under section 306(c)(3)(B) of the FD&C Act, ORA also considered the ''nature and extent of [Dr. Rockmore's] management participation in the offense'' and specifically found that he was a corporate principal who ''pleaded guilty to misbranding TRI-toxin'' and ''participated in the [TPSG's] unlawful conduct of administering [an] unapproved drug on multiple occasions to patients.'' ORA concluded, therefore, that the nature and seriousness of Dr. Rockmore's offenses and the nature and extent of management participation were unfavorable factors with respect to him.

Dr. Rockmore counters ORA's findings with respect to those two considerations in section 306(c)(3) of the FD&C Act with the following arguments: (1) That he did not admit any criminal intent or intentional wrongdoing when he pled guilty to a misdemeanor offense under the FD&C Act; (2) that, in fact, another physician at TPSG took unilateral action in ordering the TRI-toxin and directing a nurse to substitute it for BOTOX; (3) that the TRI-toxin vials that they used for injecting patients with TRI-toxin were identical to the vials he used for BOTOX before the substitution; and (4) that since the conviction for the underlying misdemeanor was of an individual, that there was no management participation and that, thus, the nature and extent of management participation is inapplicable as a factor in determining appropriateness and period of debarment. Dr. Rockmore concedes that he pled guilty to the misdemeanor offense because he was, in fact, guilty of offering TRI-toxin for sale to their patients as BOTOX. He argues, however, that the criminal records do not establish any intent or knowledge on his part and that thus the conduct underlying his conviction does not warrant debarment in light of the considerations in section 306(c)(3) of the FD&C Act.

As noted previously, ORA relied on the records of Dr. Rockmore's criminal proceedings for its findings in the proposal to debar. There is nothing definitive in the criminal records before FDA to contradict Dr. Rockmore's assertions with respect to the nature of his involvement in the misdemeanor offense to which he pled guilty. The criminal information to which Dr. Rockmore pled guilty alleges that TPSG, as opposed to Dr. Rockmore, began ordering TRI-toxin for use in the medical practice, and there are no allegations that Dr. Rockmore took part in the ordering process. Indeed, the proposal to debar states that, as claimed

by Dr. Rockmore, another physician in the practice, William F. DeLuca, Jr., was responsible for authorizing a nurse to substitute TRI-toxin for BOTOX, not Dr. Rockmore. At Dr. Rockmore's sentencing hearing, at which six other codefendants, including DeLuca, were also sentenced, the presiding judge also made clear that he believed DeLuca was the physician responsible for making the ''mistake'' that led to the other physician's offenses. In addressing DeLuca, the court stated:

> And we're here because of your actions and inactions. As I said, your mistakes were different in kind and degree from those of your colleagues. It was you who brought this drug into the practice, and it was your conduct and your failure to check out either the company or the drug that you were ordering, as you should have done, your negligence in doing that that has brought us here today in the end.

In addressing one of the other three physicians who pled guilty under circumstances similar to Dr. Rockmore's, the court further stated: ''There have been disputes on how in the past over who knew what and at what point in time. It is clear from the facts in this case that you had no knowledge that the substance was anything other than [BOTOX] until your discovery of it in November of 2004.''

In short, consistent with the proposal to debar Dr. Rockmore for 4 years, the records of his criminal proceedings establish that the misdemeanor convictions for the physicians in TPSG other than DeLuca were not based on any affirmative involvement in ordering the TRI-toxin or substituting the TRI-toxin for BOTOX. Furthermore, in proposing to debar Dr. Rockmore for 4 years, ORA did not rely on any findings with respect to Dr. Rockmore's intent or knowledge. Rather, citing the records of Dr. Rockmore's criminal proceedings, the proposal to debar simply rests on Dr. Rockmore's position of authority within TPSG and his conduct in misbranding TRI-toxin by administering it to patients who believed they were receiving BOTOX. As a result, under § 12.24(b), there is no genuine and substantial issue of fact raised by Dr. Rockmore's arguments for resolution at a hearing.

As set forth in the proposal to debar and summarized previously, Dr. Rockmore pled guilty to a misdemeanor under the FD&C Act for his role in offering a drug under the name of another. Based on the undisputed record before the Agency, the consideration in section 306(c)(3)(A) of the FD&C Act with respect to the nature and seriousness of the offense involved is a favorable factor. As reflected in the records of the criminal proceedings, Dr. Rockmore's offense did not rest on any intent or knowledge of wrongdoing on his part, nor may such intent or knowledge be inferred from the circumstances of his offense or the findings in the proposal to debar. Although, as a practicing physician, Dr. Rockmore should be expected to take the appropriate steps to avoid administering an unapproved new drug to patients or misrepresenting the drug being administered, his failure to do so over a 10-month period does not warrant considering the nature and seriousness of his offense as an unfavorable factor, relative to the range of conduct that might underlie a Federal misdemeanor conviction.

On the other hand, because of Dr. Rockmore's position of authority within TPSG and, thus, presumed ability to prevent the series of events that resulted in the offense underlying his misdemeanor conviction, the nature and extent of management participation in the offense is an unfavorable factor, for the purposes of the consideration under 306(c)(3)(B) of the FD&C Act. Dr. Rockmore asserts that there was no management participation, and thus, this factor is inapplicable because the underlying conviction was of an individual. However, the criminal information to which Dr. Rockmore pled guilty alleges that TPSG began ordering TRI-toxin for use in the medical practice. It is undisputed that Dr. Rockmore is a principal in TPSG, and this is the basis for considering the nature and extent of management participation as a factor in determining the appropriateness and period of debarment. FDA has relied on this factor in other debarment cases where the underlying conviction was of an individual (see 78 FR 68455 (November 14, 2013); 77 FR 27236 (May 9, 2012)).

The limited scope of his direct actions in committing the underlying misdemeanor offense does not mitigate the extent of his management participation, as established during his criminal proceedings and as set out in the proposal to debar. It is true that nothing in the criminal proceedings or the proposal to debar reflects any involvement by him in the decision to order the TRI-toxin and substitute it for BOTOX, and the proposal to debar specifically finds that another physician authorized a nurse to place that order. However, Dr. Rockmore, as a principal of TPSG, was responsible for failing to ensure that there were controls and procedures in place to prevent other physicians or a nurse from ordering unapproved drugs for administration to patients. His own admitted inaction on that front warrants treating his management participation as an unfavorable factor.[1]

Consistent with the proposal to debar, the record establishes that the medical practice of which Dr. Rockmore was a part ultimately took voluntary steps to mitigate the effect on the public health from its unlawful conduct (see section 306(c)(3)(C) of the FD&C Act). Furthermore, it is undisputed that Dr. Rockmore had no previous criminal convictions related to matters within the jurisdiction of FDA (see section 306(c)(3)(F) of the FD&C Act). Therefore, these will be treated as favorable factors. In light of the foregoing four considerations, one of which weighs against Dr. Rockmore, debarment for 2 years is appropriate.

III. Findings and Order

Therefore, the Chief Scientist, under section 306(b)(2)(B)(i)(I) of the FD&C Act and under authority delegated to him, finds that Dr. Rockmore has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval of a drug product or otherwise relating to the regulation of a drug product under the FD&C Act and that the conduct underlying the conviction undermines the regulation of drugs. FDA has considered the relevant factors listed in section 306(c)(3) of the FD&C Act and determined that a debarment of 2 years is appropriate.

As a result of the foregoing findings, Dr. Rockmore is debarred for 2 years from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see *DATES*) (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved, or pending, drug product application, who knowingly uses the services of Dr. Rockmore, in any capacity during his period of debarment, will be subject to civil money penalties. If Dr. Rockmore, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Rockmore during his period of debarment.

[1] See *United States* v. *Park,* 421 U.S. 658, 673–74 (1975) (holding that a high-level manager within a business entity bears a responsibility to prevent and correct violations of the FD&C Act).

Any application by Dr. Rockmore for termination of debarment under section 306(d) of the FD&C Act should be identified with Docket No. FDA–2010–N–0302 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents in the Docket at *http://www.regulations.gov.*

Dated: February 24, 2015.

Stephen Ostroff,

Director, Office of the Chief Scientist.

[FR Doc. 2015–05045 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, International Collaborations in Environmental Health.

Date: March 24–25, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709, (Virtual Meeting).

Contact Person: Sally Eckert-Tilotta, Ph.D., Scientific Review Officer, National Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 25, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05004 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01P

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; PAR–14–317 and 318: Role of the Microbiome in HIV Vaccine Responses.

Date: March 18, 2015.

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.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special R01 Review.

Date: March 25, 2015.

Time: 3:00 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: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA ES–14–010: Centers of Excellence on Environmental Health Disparities Research.

Date: March 30–April 1, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW., Washington, DC 20037.

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: ''Cloud based Data Sharing and Analysis with Privacy Protection''.

Date: March 30, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; TW–14–003: Limited Competition: Research Training for Career Development of Junior Faculty in Medical Education Partnership Initiative (MEPI) Institutions.

Date: March 31, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Hilary D. Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AIDS and AIDS Related Applications.

Date: March 31, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–14–280: Pilot Centers for Precision Disease Modeling.

Date: March 31, 2015.
Time: 8:00 a.m. to 9:00 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: Residence Inn Washington DC, 1199 Vermont Avenue NW., Washington, DC 20005.
Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pregnancy/Neonatology Research.
Date: March 31, 2015.
Time: 9:00 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: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Molecular Analysis Technology.
Date: March 31, 2015.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics.
Date: March 31, 2015.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Careen K. Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Organelles' Dysfunction in Neurodegerative Disorders.
Date: March 31, 2015.
Time: 4:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Alessandra C. Rovescalli, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205, MSC 7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; ''Program Project: BTRC Center Review''.
Date: March 31–April 2, 2015.
Time: 6:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–14–015: Facile Methods and Technologies for Synthesis of Biomedically Relevant Carbohydrates.
Date: March 31, 2015.
Time: 12:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Kathryn M. Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05008 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0299]

Douglas M. Hargrave; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a request for a hearing submitted by Dr. Douglas M. Hargrave (Dr. Hargrave), and is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Dr. Hargrave for 2 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Hargrave was convicted of a misdemeanor under Federal law for conduct relating to the regulation of a drug product under the FD&C Act and that the type of conduct underlying the conviction undermines the process for the regulation of drugs. In determining the appropriateness and period of Dr. Hargrave's debarment, FDA has considered the relevant factors listed in the FD&C Act. Dr. Hargrave has failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: The order is effective March 5, 2015.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathan Doty, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On August 11, 2009, in the U.S. District Court for the Northern District of New York, Dr. Hargrave, a physician, pled guilty to a misdemeanor under the FD&C Act, namely misbranding a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act (21 U.S.C. 331(k), 352(i)(3), 333(a)(1)) and 18 U.S.C. 2. The basis for this conviction was conduct surrounding his injection of patients seeking treatment with BOTOX/BOTOX Cosmetic (BOTOX) with a product, TRI-toxin, distributed by Toxin Research International, Inc. BOTOX is a biological product derived from Botulinum Toxin Type A that is manufactured by Allergan, Inc., and was approved by FDA for use on humans for the treatment of facial wrinkles in 1991. According to the records of the criminal proceedings, Dr. Hargrave's colleague in the same medical practice, The Plastic Surgery Group (TPSG), directed a nurse to obtain 31 vials of TRI-toxin, an unapproved drug product, which was represented by its distributor as ''Botulinum Toxin Type A.'' Dr. Hargrave then proceeded to inject approximately 25 patients, who believed they were being injected with BOTOX, with TRI-toxin as a substitute.

Dr. Hargrave is subject to debarment based on a finding, under section 306(b)(2)(B)(i)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(i)(I)): (1) That he

was convicted of a misdemeanor under Federal law relating to the regulation of a drug product under the FD&C Act and (2) that the type of conduct underlying the conviction undermines the process for the regulation of drugs. By notice to Dr. Hargrave dated November 30, 2010, FDA's Office of Regulatory Affairs (ORA) proposed to debar him for 4 years from providing services in any capacity to a person having an approved or pending drug product application.

In a letter dated December 30, 2010, through counsel, Dr. Hargrave requested a hearing on the proposal. In his request for a hearing, Dr. Hargrave acknowledges his conviction under Federal law, as alleged by FDA. By letter dated January 28, 2011, Dr. Hargrave submitted materials and arguments in support of his request. Dr. Hargrave acknowledges that he was convicted of a Federal misdemeanor, as found in the proposal to debar, but argues that he should not be debarred for reasons related to the factual basis set forth in the proposal to debar. In particular, with respect to the considerations for determining the appropriateness and period of debarment under section 306(c)(3) of the FD&C Act, he argues that there are genuine and substantial issues of fact for resolution at a hearing, namely factual issues bearing on whether he participated in or even knew of certain conduct that resulted in his violation of the FD&C Act.

Hearings are granted only if there is a genuine and substantial issue of fact. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged or the action requested (see 21 CFR 12.24(b)).

The Chief Scientist has considered Dr. Hargrave's arguments, as well as the proposal to debar itself, and concludes that, although Dr. Hargrave has failed to raise a genuine and substantial issue of fact requiring a hearing, the appropriate period of debarment is 2 years.

II. Arguments

In support of his hearing request, Dr. Hargrave first asserts that he is not subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act. He contends that he pled guilty to a misdemeanor violation of the FD&C Act (see section 303(a)(1) of the FD&C Act), which is a strict liability offense, and that thus there was no demonstration or admission of criminal intent or knowledge underlying the conviction. Dr. Hargrave concludes, therefore, that the conduct underlying his conviction did not undermine the process for the regulation of drugs.

Section 306(b)(2)(B)(i)(I) of the FD&C Act specifically provides for the debarment of individuals convicted of Federal misdemeanors related to the regulation of drug products under the FD&C Act. Given that misdemeanor violations of the FD&C Act themselves are strict liability offenses, it stands to reason that criminal intent is not a critical component to debar an individual under section 306(b)(2)(B)(i)(I). During his criminal proceedings, Dr. Hargrave pled guilty to misbranding and causing the misbranding of a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act by offering an unapproved drug, TRI-toxin, for sale as an approved drug product, BOTOX. Dr. Hargrave's conduct undermined the process for the regulation of drugs in that it permitted an unapproved drug to be substituted for an approved drug without the knowledge of the patient. As a result, Dr. Hargrave is, in fact, subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act.

Dr. Hargrave next challenges the manner in which ORA applied the considerations under section 306(c)(3) of the FD&C Act in determining the appropriateness and period of his debarment. In the proposal to debar Dr. Hargrave, ORA stated that there are four applicable considerations under section 306(c)(3) of the FD&C Act: (1) The nature and seriousness of his offense under section 306(c)(3)(A); (2) the nature and extent of management participation in the offense under section 306(c)(3)(B); (3) the nature and extent of voluntary steps taken to mitigate the impact on the public under section 306(c)(3)(C); and (4) prior convictions involving matters within the jurisdiction of FDA under section 306(c)(3)(F). ORA found with respect to Dr. Hargrave that the first two considerations weigh in favor of debarment and noted that the third and fourth considerations would be treated as favorable factors for him. In making all of its findings under section 306(c)(3) FD&C Act, ORA characterized Dr. Hargrave's conduct based on records from his criminal proceedings.

Under section 306(c)(3)(A) of the FD&C Act, in determining the appropriateness and period of debarment, FDA considers ''the nature and seriousness of the offense involved.'' In the proposal to debar, ORA relied on the criminal information to which Dr. Hargrave pled guilty to find that the conduct underlying his convictions:

> created a risk of injury to consumers due to the use of an unapproved drug, undermined [FDA's] oversight of an approved drug product by representing that [he] used the approved drug while actually substituting an unapproved drug in its place, and seriously undermined the integrity of [FDA's] regulation of drug products.

Under section 306(c)(3)(B) of the FD&C Act, ORA also considered the ''nature and extent of [Dr. Hargrave's] management participation in the offense'' and specifically found that he was a corporate principal who ''pleaded guilty to misbranding TRI-toxin'' and ''participated in the [TPSG's] unlawful conduct of administering [an] unapproved drug on multiple occasions to patients.'' ORA concluded, therefore, that the nature and seriousness of Dr. Hargrave's offenses and the nature and extent of management participation were unfavorable factors with respect to him.

Dr. Hargrave counters ORA's findings with respect to those two considerations in section 306(c)(3) of the FD&C Act with the following arguments: (1) That he did not admit any criminal intent or intentional wrongdoing when he pled guilty to a misdemeanor offense under the FD&C Act; (2) that, in fact, another physician at TPSG took unilateral action in ordering the TRI-toxin and directing a nurse to substitute it for BOTOX; (3) that the TRI-toxin vials that they used for injecting patients with TRI-toxin were identical to the vials he used for BOTOX before the substitution; and (4) that since the conviction for the underlying misdemeanor was of an individual, that there was no management participation and that, thus, the nature and extent of management participation is inapplicable as a factor in determining appropriateness and period of debarment. Dr. Hargrave concedes that he pled guilty to the misdemeanor offense because he was, in fact, guilty of offering TRI-toxin for sale to their patients as BOTOX. He argues, however, that the criminal records do not establish any intent or knowledge on his part and that thus the conduct underlying his conviction does not warrant debarment in light of the considerations in section 306(c)(3) of the FD&C Act.

As noted previously, ORA relied on the records of Dr. Hargrave's criminal proceedings for its findings in the proposal to debar. There is nothing definitive in the criminal records before FDA to contradict Dr. Hargrave's assertions with respect to the nature of his involvement in the misdemeanor offense to which he pled guilty. The criminal information to which Dr.

Hargrave pled guilty alleges that TPSG, as opposed to Dr. Hargrave, began ordering TRI-toxin for use in the medical practice, and there are no allegations that Dr. Hargrave took part in the ordering process. Indeed, the proposal to debar states that, as claimed by Dr. Hargrave, another physician in the practice, William F. DeLuca, Jr., was responsible for authorizing a nurse to substitute TRI-toxin for BOTOX, not Dr. Hargrave. At Dr. Hargrave's sentencing hearing, at which six other codefendants, including DeLuca, were also sentenced, the presiding judge also made clear that he believed DeLuca was the physician responsible for making the ''mistake'' that led to the other physician's offenses. In addressing DeLuca, the court stated:

> And we're here because of your actions and inactions. As I said, your mistakes were different in kind and degree from those of your colleagues. It was you who brought this drug into the practice, and it was your conduct and your failure to check out either the company or the drug that you were ordering, as you should have done, your negligence in doing that that has brought us here today in the end.

In addressing one of the other three physicians who pled guilty under circumstances similar to Dr. Hargrave's, the court further stated: ''There have been disputes on how in the past over who knew what and at what point in time. It is clear from the facts in this case that you had no knowledge that the substance was anything other than [BOTOX] until your discovery of it in November of 2004.''

In short, consistent with the proposal to debar Dr. Hargrave for 4 years, the records of his criminal proceedings establish that the misdemeanor convictions for the physicians in TPSG other than DeLuca were not based on any affirmative involvement in ordering the TRI-toxin or substituting the TRI-toxin for BOTOX. Furthermore, in proposing to debar Dr. Hargrave for 4 years, ORA did not rely on any findings with respect to Dr. Hargrave's intent or knowledge. Rather, citing the records of Dr. Hargrave's criminal proceedings, the proposal to debar simply rests on Dr. Hargrave's position of authority within TPSG and his conduct in misbranding TRI-toxin by administering it to patients who believed they were receiving BOTOX. As a result, under § 12.24(b), there is no genuine and substantial issue of fact raised by Dr. Hargrave's arguments for resolution at a hearing.

As set forth in the proposal to debar and summarized previously, Dr. Hargrave pled guilty to a misdemeanor under the FD&C Act for his role in offering a drug under the name of another. Based on the undisputed record before the Agency, the consideration in section 306(c)(3)(A) of the FD&C Act with respect to the nature and seriousness of the offense involved is a favorable factor. As reflected in the records of the criminal proceedings, Dr. Hargrave's offense did not rest on any intent or knowledge of wrongdoing on his part, nor may such intent or knowledge be inferred from the circumstances of his offense or the findings in the proposal to debar. Although, as a practicing physician, Dr. Hargrave should be expected to take the appropriate steps to avoid administering an unapproved new drug to patients or misrepresenting the drug being administered, his failure to do so over a t10-month period does not warrant considering the nature and seriousness of his offense as an unfavorable factor, relative to the range of conduct that might underlie a Federal misdemeanor conviction.

On the other hand, because of Dr. Hargrave's position of authority within TPSG and, thus, presumed ability to prevent the series of events that resulted in the offense underlying his misdemeanor conviction, the nature and extent of management participation in the offense is an unfavorable factor, for the purposes of the consideration under 306(c)(3)(B) of the FD&C Act. Dr. Hargrave asserts that there was no management participation, and that, thus, this factor is inapplicable because the underlying conviction was of an individual. However, the criminal information to which Dr. Hargrave pled guilty alleges that TPSG began ordering TRI-toxin for use in the medical practice. It is undisputed that Dr. Hargrave is a principal in TPSG, and this is the basis for considering the nature and extent of management participation as a factor in determining the appropriateness and period of debarment. FDA has relied on this factor in other debarment cases where the underlying conviction was of an individual (see 78 FR 68455 (November 14, 2013), 77 FR 27236–01 (May 9, 2012)).

The limited scope of his direct actions in committing the underlying misdemeanor offense does not mitigate the extent of his management participation, as established during his criminal proceedings and as set out in the proposal to debar. It is true that nothing in the criminal proceedings or the proposal to debar reflects any involvement by him in the decision to order the TRI-toxin and substitute it for BOTOX, and the proposal to debar specifically finds that another physician authorized a nurse to place that order. However, Dr. Hargrave, as a principal of TPSG, was responsible for failing to ensure that there were controls and procedures in place to prevent other physicians or a nurse from ordering unapproved drugs for administration to patients. His own admitted inaction on that front warrants treating his management participation as an unfavorable factor.[1]

Consistent with the proposal to debar, the record establishes that the medical practice of which Dr. Hargrave was a part ultimately took voluntary steps to mitigate the effect on the public health from its unlawful conduct (see section 306(c)(3)(C) of the FD&C Act). Furthermore, it is undisputed that Dr. Hargrave had no previous criminal convictions related to matters within the jurisdiction of FDA (see section 306(c)(3)(F) of the FD&C Act). Therefore, these will be treated as favorable factors. In light of the foregoing four considerations, one of which weighs against Dr. Hargrave, debarment for 2 years is appropriate.

III. Findings and Order

Therefore, the Chief Scientist, under section 306(b)(2)(B)(i)(I) of the FD&C Act and under authority delegated to him, finds that Dr. Hargrave has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval of a drug product or otherwise relating to the regulation of a drug product under the FD&C Act and that the conduct underlying the conviction undermines the regulation of drugs. FDA has considered the relevant factors listed in section 306(c)(3) of the FD&C Act and determined that a debarment of 2 years is appropriate.

As a result of the foregoing findings, Dr. Hargrave is debarred for 2 years from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see **DATES**), (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved, or pending, drug product application, who knowingly uses the services of Dr. Hargrave, in any capacity during his period of debarment, will be subject to civil money penalties. If Dr. Hargrave, during his period of debarment, provides services in any capacity to a

[1] See *United States* v. *Park,* 421 U.S. 658, 673–74 (1975) (holding that a high-level manager within a business entity bears a responsibility to prevent and correct violations of the FD&C Act).

person with an approved or pending drug product application he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Hargrave during his period of debarment.

Any application by Dr. Hargrave for termination of debarment under section 306(d) of the FD&C Act should be identified with Docket No. FDA–2010–N–0299 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents in the Docket at *http://www.regulations.gov/.*

Dated: February 24, 2015.

Stephen Ostroff,

Director, Office of the Chief Scientist.

[FR Doc. 2015–05046 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0586]

Clinical Trial Imaging Endpoint Process Standards; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Clinical Trial Imaging Endpoint Process Standards.'' This guidance assists sponsors in optimizing the quality of imaging data obtained in clinical trials intended to support approval of drugs and biological products. This guidance focuses on imaging acquisition, display, archiving, and interpretation process standards that FDA regards as important when imaging is used to assess a trial's primary endpoint or a component of that endpoint. This draft guidance revises the draft guidance entitled ''Standards for Clinical Trial Imaging Endpoints'' issued on August 19, 2011.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 4, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Louis Marzella, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5406, Silver Spring, MD 20993–0002, 301–796–1414; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Clinical Trial Imaging Endpoint Process Standards.'' The purpose of this guidance is to assist sponsors in optimizing the quality of imaging data obtained in clinical trials intended to support approval of drugs and biological products. It focuses on imaging acquisition, display, archiving, and interpretation standards that FDA regards as important when imaging is used to assess the trial's primary endpoint or a component of that endpoint. The guidance describes the minimum standards a sponsor should use to help ensure that clinical trial imaging data are obtained in a manner that complies with a trial's protocol, maintains imaging data quality, and provides a verifiable record of the imaging process.

This guidance addresses the background considerations for determining the role of imaging in a clinical trial as well as the major considerations in the development of an imaging charter that describes the trial's imaging methods. The guidance specifically addresses the technical components of a charter's description of the image acquisition, image interpretation, and image data development methods.

This draft guidance revises the draft guidance entitled ''Standards for Clinical Trial Imaging Endpoints'' issued on August 19, 2011 (76 FR 51993). Comments we received on the draft guidance have been considered and the guidance has been revised as follows: (1) It has been made clear that the guidance pertains to imaging in clinical trials intended to support approval of drugs and biological products and focuses upon standards that FDA regards as important when imaging is used to assess a trial's primary endpoint; (2) it has been made clear that the imaging charter can be either a single document or an ensemble of documents, depending on multiple factors; (3) it is emphasized that imaging risks are best described in the clinical protocol and should be addressed in consent documents instead of including this information in the imaging charter; (4) it has been emphasized that this guidance does not address whether imaging outcomes are clinically meaningful and are acceptable for drug approval evidence; (5) it has been noted that image acquisition phantoms may or may not be necessary, depending on the nature of the imaging in a clinical trial; (6) it has been modified to emphasize the need for the clinical protocol (not the charter) to describe how incidental findings will be handled; (7) it has been noted that the charter should identify any use of investigational equipment (for international trials, the guidance encourages use of equipment that is lawfully marketed in the area); and (8) a section has been added that describes the importance of having the clinical trial sponsor ensure the fidelity of all charter components with the clinical protocol.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the major considerations for standardization of imaging primary endpoints in clinical trials of drugs and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be

used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that 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 parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. 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.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: February 27, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05016 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Written Comments on the Draft National Adult Immunization Plan; Extension of Comment Period

AGENCY: National Vaccine Program Office, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS), through the National Vaccine Program Office (NVPO) is extending the public comment period for a draft document titled ''The National Adult Immunization Plan (NAIP).'' The availability of that draft document was published in the **Federal Register** on February 6, 2015, Volume 80, Number 25, pages 6721–6722.

DATES: The comment period is extended by 14 days and thus will end on March 23, 2015.

ADDRESSES: (1) The draft NAIP is available on the Web at *www.hhs.gov/nvpo/.*

(2) Electronic responses are preferred and may be addressed to: *Rebecca.Fish@hhs.gov.*

(3) Written responses should be addressed to: National Vaccine Program Office, U.S. Department of Health and Human Services, 200 Independence Avenue SW., Room 733G, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Rebecca Fish, National Vaccine Program Office, Office of the Assistant Secretary for Health, Department of Health and Human Services; telephone (202) 260–9283; fax (202) 260–1165; email: *Rebecca.Fish@hhs.gov.*

SUPPLEMENTARY INFORMATION: The notice of availability of the draft National Adult Immunization Plan (NAIP) was published in the **Federal Register** on February 6, 2015, Volume 80, Number 25, pages 6721–6722, with a deadline for comments of March 9, 2015. The NAIP is a national plan that will require engagement from a wide range of stakeholders to achieve its full vision. The plan emphasizes collaboration and prioritization of efforts that will have the greatest impact. NVPO is soliciting public comment on the draft NAIP from a variety of stakeholders, including the general public, for consideration as they develop their final report to the Secretary. Since the notice of availability and draft guidance documents were published, the Department has received requests to extend the comment period to allow sufficient time for a full review of the draft NAIP. NVPO is committed to affording the public a meaningful opportunity to comment on the draft NAIP and welcomes comments.

Persons with access to the Internet may obtain the draft National Adult Immunization Plan on NVPO's Web site at *http://www.hhs.gov/nvpo.*

Dated: February 25, 2015.

Bruce Gellin,

Deputy Assistant Secretary for Health, Director, National Vaccine Program Office, Executive Secretary, National Vaccine Advisory Committee.

[FR Doc. 2015–05030 Filed 3–4–15; 8:45 am]

BILLING CODE 4150–44–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; Gene Regulation.

Date: February 26, 2015.

Time: 1:00 p.m. to 2:00 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: Richard A Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Biomaterials.

Date: March 5–6, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Joseph D Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@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: February 25, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05006 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

FDA Number: 93.671

Funding Opportunity Announcement for Family Violence Prevention and Services/Grants for Domestic Violence Shelters/Grants to Native American Tribes (Including Alaska Native Villages) and Tribal Organizations

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth, and Families (ACYF), ACF, HHS.

ACTION: This Funding Opportunity Announcement (FOA) was originally published as Funding Opportunity Number HHS–2015–ACF–ACYF–FVPS–0135 on February 2, 2015 at *http://www.acf.hhs.gov/grants/open/foa/index.cfm?switch=foa&fon=HHS-2015-ACF-ACYF-FVPS-0135.* FYSB is publishing this notice in the **Federal Register** to satisfy its regulatory requirements at 45 CFR 1370.2.

SUMMARY: This FOA governs the proposed award of formula grants under the Family Violence Prevention and Services Act (FVPSA) to Native American tribes (including Alaska Native villages) and tribal organizations. The purpose of these grants is to: (1) Assist tribes in efforts to increase public awareness about, and primary and secondary prevention of, family violence, domestic violence, and dating violence; and (2) assist tribes in efforts to provide immediate shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents (42 U.S.C. 10401, *et. seq.*). This FOA announces formula awards and is not open for competition.

DATES: The application due date is April 6, 2015.

FOR FURTHER INFORMATION CONTACT: Shena R. Williams at (202) 205–5932 or email at *Shena.Williams@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is the full, published FOA, available at *http://www.acf.hhs.gov/grants/open/foa/index.cfm?switch=foa&fon=HHS-2015-ACF-ACYF-FVPS-0135:*

I. Funding Opportunity Description

Description

Background

Awards under this FVPSA funding opportunity announcement are administered through the Administration on Children, Youth and Families (ACYF) Family and Youth Services Bureau (FYSB). They are designed to assist Tribes in their efforts to support the establishment, maintenance, and expansion of programs and projects: (1) To prevent incidents of family violence, domestic violence, and dating violence; (2) to provide immediate shelter, supportive services, and access to community-based programs for victims of family violence, domestic violence, or dating violence, and their dependents; and (3) to provide specialized services for children exposed to family violence, domestic violence, or dating violence, underserved populations, and victims who are members of racial and ethnic minority populations (§ 10406(a) as applied pursuant to § 10409(c)).

Funding under this announcement will assist Tribes in safeguarding lives of victims of intimate partner violence and in addressing the unique circumstances and obstacles that may affect responses to intimate partner violence in Tribal communities.

In FY 2014, the Department of Health and Human Services (HHS) agencies, including the Administration for Children and Families (ACF), consulted with Tribal governments on all of the grant programs administered by ACF. FVPSA-related issues such as grant award dates, extending project periods, and the recent shift in award amounts were addressed during each of the consultations.

During FY 2014, ACF awarded FVPSA formula grants to 120 Tribes or Tribal organizations in support of 243 Tribes; 53 states and territories; and 56 nonprofit State Domestic Violence Coalitions. In addition, ACF supplied additional funding for multi-year FVPSA discretionary grants to one National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women; other national, special issue, and culturally specific resource centers; and the National Domestic Violence Hotline.

Ensuring the Well-Being of Vulnerable Children and Families/Adults

ACYF is committed to facilitating healing and recovery and promoting the social and emotional well-being of children, youth, and families/adults who have experienced maltreatment, exposure to violence, and/or trauma. Awards governed by this funding opportunity announcement and other current fiscal year expenditures are designed to ensure that effective interventions are in place to build skills and capacities that contribute to the healthy, positive, and productive functioning of families.

Experiencing trauma can have a profound effect on the overall functioning of individuals and families. Thus, efforts to address the impact of trauma are essential in cultivating social and emotional well-being. ACYF therefore promotes a trauma-informed approach, which involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress, as well as the behavioral and mental health consequences of trauma.

ACYF expects to maintain a continued focus on social and emotional well-being as a critical component of its overall mission to ensure positive outcomes for all individuals and families. Tribal grantees have a critical role in incorporating ACYF priorities by helping to ensure trauma-informed interventions are embedded within the service provision framework of all services funded by FVPSA. Tribes and Tribal organizations are strongly encouraged to leverage the expertise of the FVPSA-funded National Indigenous Women's Resource Center, Inc. (NIWRC). NIWRC is a Native nonprofit organization created specifically to serve as the National Indian Resource Center Addressing Domestic Violence and Safety for Indian Women (see *http://www.niwrc.org/about-us/mission-work-and-philosophy* for more information) and the National Center on Domestic Violence, Trauma and Mental Health to infuse programs with best and promising practices on trauma-informed interventions as they seek to promote the social and emotional well-being of families seeking shelter and supportive services.

Use of Funds

Grantees should ensure that not less than 70 percent of the funds distributed are used for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents. Not less than 25 percent of the funds must be used for the purpose of providing supportive services and prevention services (§ 10408(b)(2) as applied pursuant to § 10409(e)).

FVPSA funds awarded to grantees should be used for activities described

in § 10408(b)(1) (as applied pursuant to § 10409(e)):

Shelter

• Provision of immediate shelter and related supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, including paying for the operating and administrative expenses of the facilities for such shelter.

Supportive Services

• Provision of individual and group counseling, peer support groups, and referral to community-based services to assist family violence, domestic violence, and dating violence victims, and their dependents, in recovering from the effects of the violence.

• Provision of services, training, technical assistance, and outreach to increase awareness of family violence, domestic violence, and dating violence, and increase the accessibility of family violence, domestic violence, and dating violence services.

• Provision of culturally and linguistically appropriate services.

• Provision of services for children exposed to family violence, domestic violence, or dating violence, including age-appropriate counseling, supportive services, and services for the non-abusing parent that support that parent's role as a caregiver, which may, as appropriate, include services that work with the non-abusing parent and child together.

• Provision of advocacy, case management services, and information and referral services, concerning issues related to family violence, domestic violence, or dating violence intervention and prevention, including: (1) Assistance in accessing related federal and state financial assistance programs; (2) legal advocacy to assist victims and their dependents; (3) medical advocacy, including provision of referrals for appropriate health care services (including mental health, alcohol, and drug abuse treatment), but which shall not include reimbursement for any health care services; (4) assistance locating and securing safe and affordable permanent housing and homelessness prevention services; (5) transportation, child care, respite care, job training and employment services, financial literacy services and education, financial planning and related economic empowerment services; and (6) parenting and other educational services for victims and their dependents.

• Provision of prevention services, including outreach to underserved populations. (Note that Tribes and Tribal subpopulations are also considered underserved populations. See Section I. Definitions, for ''underserved'' definition.)

• Assistance in developing safety plans, and supporting efforts of victims of family violence, domestic violence, or dating violence to make decisions related to their ongoing safety and well-being.

Annual FVPSA Tribal Grantee Meeting

One or more grantee representatives should plan to attend FVPSA's Tribal grantee meeting and may use grant funding to support the travel of up to two participants. The meeting is a training and technical assistance activity focusing on FVPSA administrative issues as well as the promotion of evidence-informed and promising practices to address family violence, domestic violence, and dating violence. Subsequent correspondence will advise the grantees of the date, time, and location of their grantee meeting in 2015.

Client Confidentiality

In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, FVPSA-funded programs must establish and implement policies and protocols for maintaining the confidentiality of records pertaining to any individual provided family violence, domestic violence, and dating violence services. Consequently, when providing statistical data on program activities and program services, individual identifiers of client records will not be used (§ 10406(c)(5)) as applied per § 10409(c).

In the annual Performance Progress Report (PPR), grantees must collect unduplicated data from each program. No client-level data should be shared with a third party, regardless of encryption, hashing, or other data security measures, without a written, time-limited release as described in § 10406(c)(5). The address or location of any FVPSA-supported shelter facility shall, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public (§ 10406(c)(5)(H)) and the confidentiality of records pertaining to any individual provided family violence, domestic violence, and dating violence services by any FVPSA-supported program will be strictly maintained.

Coordinated and Accessible Services

The impacts of intimate partner violence may include physical injury and death of primary or secondary victims, psychological trauma, isolation from family and friends, harm to children living with a parent or caretaker who is either experiencing or perpetrating intimate partner violence, increased fear, reduced mobility, damaged credit, employment and financial instability, homelessness, substance abuse, chronic illnesses, and a host of other health and related mental health consequences. In Tribal communities, these dynamics may be compounded by barriers such as the isolation of vast rural and remote areas, the concern for safety in isolated settings, lack of housing and shelter options, and the transportation requirements over long distances. These factors heighten the need for the coordination of the services through an often limited delivery system. To help bring about a more effective response to the problem of family violence, domestic violence, or dating violence, HHS urges Tribes and Tribal organizations receiving funds under this funding opportunity to coordinate activities and related issues and to consider joining a consortium of Tribes to coordinate service delivery where appropriate.

It is essential that community service providers are involved in the design and improvement of intervention and prevention activities. Coordination and collaboration among victim services providers; community-based, culturally specific, and faith-based services providers; housing and homeless services providers; and Tribal, federal, state, and local public officials and agencies are needed to provide more responsive and effective services to victims of family violence, domestic violence, and dating violence, and their families.

To promote a more effective response to family violence, domestic violence, and dating violence, HHS requires states receiving FVPSA funds to collaborate with State Domestic Violence Coalitions, Tribes, Tribal organizations, service providers, and community-based organizations to address the needs of family violence, domestic violence, and dating violence victims, particularly for those who are members of racial and ethnic minority populations and underserved populations (§ 10407(a)(2)). Tribes and Tribal organizations are also encouraged to collaborate with Tribal Coalitions, which are funded by the Department of Justice, through the Office of Violence Against Women. For more information please visit *http://www.justice.gov/ovw/tribal-communities#about-tribal-communities.*

To serve victims most in need and to comply with federal law, services must be widely accessible. Services must not discriminate on the basis of age, disability, sex, race, color, national origin, gender identity, or religion (§ 10406(c)(2)) as applied per § 10409(c). Additionally, Tribes must assist all individuals seeking services and may not restrict services to Tribal members.

The HHS Office for Civil Rights provides guidance that may assist grantees in complying with civil rights laws that prohibit discrimination on these bases. Please see *www.hhs.gov/ocr/civilrights/understanding/index.html.* HHS also provides guidance to recipients of federal financial assistance on meeting the legal obligation to take reasonable steps to provide meaningful access to federally assisted programs by persons with limited English proficiency. Please see *www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html.*

Additionally, HHS provides guidance regarding access to HHS-funded services for immigrant survivors of domestic violence. Access for immigrant victims of family violence or dating violence to HHS-funded services is similar to that for immigrant domestic violence victims. Please see *www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html.*

Services must also be provided on a voluntary basis; receipt of emergency shelter or housing must not be conditioned on participation in supportive services (§ 10408(d)). Please see Appendix B for guidance regarding access to HHS-funded services for lesbian, gay, bisexual, transgender, or questioning (LGBTQ) (also known as ''Two Spirited'') survivors of intimate partner violence.

Additionally, please see Appendix B—LGBTQ (also known as ''Two-Spirit'') Accessibility Policy; this Policy provides that the applicant must consider how its program will be inclusive of and non-stigmatizing toward LGBTQ/Two-Spirit participants in its application for funding. If not already in place, the applicant and, if applicable, subawardees must establish and publicize policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin, as well as provide staff training and implement policies and procedures for documenting work reflecting these assurances.

Definitions—For the Purposes of This Funding Opportunity

Tribes and Tribal organizations should use the following definitions in carrying out their programs.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Family Violence: Any act or threatened act of violence, including any forceful detention of an individual, which (a) results or threatens to result in physical injury; and (b) is committed by a person against another individual (including an elderly person) to whom such person is, or was, related by blood or marriage, or otherwise legally related, or with whom such person is, or was, lawfully residing.

Intimate Partner Violence: Term used in place of ''family violence, domestic violence, or dating violence'' for brevity's sake.

Indian Tribe: Any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Native American Tribe: Alternative term for *Indian Tribe.*

Personally Identifying Information or Personal Information: Any individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including: a first and last name; a home or other physical address; contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); a social security number, driver's license number, passport number, or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that, would serve to identify any individual.

Shelter: The provision of temporary refuge and supportive services in compliance with applicable state law (including regulation) governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents.

State Domestic Violence Coalition: A statewide, nongovernmental nonprofit, private domestic violence service organization with a membership that includes a majority of the primary-purpose domestic violence service providers in the state and has board membership representative of primary-purpose domestic violence service providers and which may include representatives of the communities in which the services are being provided in the state; has as its purpose to provide education, support, and technical assistance to such service providers to enable the providers to establish and maintain shelter and supportive services for victims of domestic violence and their dependents; and serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the state and supports the development of policies, protocols, and procedures to enhance domestic violence intervention and prevention in the state.

Supportive Services: Services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents. Such services are designed to meet the needs of such victims for short-term, transitional, or long-term safety and provide counseling, advocacy, or assistance for victims of family violence, domestic violence, or dating violence, and their dependents.

Tribe: Reference to *Indian Tribe* used for brevity's sake.

Tribal Consortium: A partnership between one or more Tribes or (including qualifying Alaska Native villages and entities) that authorizes a single Tribal organization or nonprofit to submit an application and administer the FVPSA grant funds on their behalf.

Tribally Designated Official: An individual designated by an Indian Tribe, Tribal organization, or nonprofit private organization authorized by an Indian Tribe to administer a grant awarded under § 10409.

Tribal Organization: The recognized governing body of any Indian Tribe; any legally established organization of Indians that is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant.

Underserved Populations: Populations who face barriers in accessing and using victim services, including populations underserved because of geographic location, religion, sexual orientation, gender identity, race and ethnicity, special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of HHS, as appropriate.

II. Award Information

Subject to the availability of federal appropriations and as authorized by law, in FY 2015, ACYF will allocate 10 percent of the appropriation available under § 10403(a) to Tribes for the establishment and operation of shelters (including safe houses), and the provision of supportive services or prevention services to adults and youth victims of family violence, domestic violence, or dating violence, and their dependents.

In addition to Tribal formula grants, HHS will also make available funds to states to support local domestic violence programs to provide immediate shelter and supportive services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents; State Domestic Violence Coalitions to provide technical assistance and training, advocacy services, among other activities with local domestic violence programs; the national resource centers, special issue resource centers, and culturally specific resource centers; the National Domestic Violence Hotline; and to support discretionary projects including training and technical assistance, collaborative projects with advocacy organizations and service providers, data collection efforts, public education activities, research, and other demonstration projects.

In computing Tribal allocations, ACF will use the latest available population figures available from the Census Bureau. The latest Census population counts may be viewed at: *www.census.gov.* Where Census Bureau data are unavailable, ACF will use figures from the Bureau of Indian Affairs' (BIA's) Indian Population and Labor Force Report, which is available at: *www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm.*

The funding formula for the allocation of family violence funds is based upon the Tribe's population. The formula has two parts, the Tribal population base allocation and a population category allocation.

Base allocations are determined by a Tribe's population and a funds allocation schedule. Tribes with populations between 1 and 50,000 people receive a $2,500 base allocation for the first 1,500 people. For each additional 1,000 people above the 1,500 person minimum, a Tribe's base allocation is increased $1,000. Tribes with populations between 50,001 to 100,000 people receive base allocations of $125,000, and Tribes with populations of 100,001 to 150,000 receive a base allocation of $175,000.

Once the base allocations have been distributed to the Tribes that have applied for FVPSA funding, the ratio of the Tribal population category allocation to the total of all base allocations is then considered in allocating the remainder of the funds. By establishing base amounts with distribution of proportional amounts for larger Tribes, FYSB is balancing the need for basic services for all Tribes by interpreting greater demand for services as Tribes with larger populations. In FY 2014, actual grant awards ranged from $16,386 to $1,474,785.

Tribes with smaller populations are encouraged to apply for FVPSA funding as a consortium. In a Tribal consortium, the population of all of the Tribes involved is used to calculate the award amount. The allocations for each of the Tribes included in the consortium will be combined to determine the total grant for the consortium.

Length of Project Periods

FVPSA Tribal formula grant awards will be used to perform or to partially perform functions or activities that take place within a 2-year period. The project period for this award is from October 1, 2014, to September 30, 2016.

Expenditure Period

The project period under this program announcement is 24 months. The FVPSA funds may be used for expenditures starting October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the following fiscal year.

Award year (Federal fiscal year (FY))	Project period (24 months)	Application requirements & expenditure periods
FY 2015	10/01/2014—9/30/2016	Regardless of the date the award is received, these funds may be expended by the grantee for obligations incurred since October 1, 2014. The funds may be expended through September 30, 2016.

Re-allotted funds, if any, are available for expenditure until the end of the fiscal year following the fiscal year that the funds became available for re-allotment. FY 2015 grant funds that are made available to Tribes and Tribal organizations through re-allotment must be expended by the grantee no later than September 30, 2016.

III. Eligibility Information

Tribes, Tribal organizations, and nonprofit private organizations authorized by a Tribe, as defined in *Section I* of this announcement, are eligible for funding under this program. A Tribe has the option to authorize a Tribal organization or a nonprofit private organization to submit an application and administer the grant funds awarded under this grant (§ 10409(b)). Tribes may apply singularly or as part of a Tribal consortium.

Additional Information on Eligibility

DUNS Number and System for Award Management (SAM) Requirement

All applicants must have a DUNS Number (*http://fedgov.dnb.com/*

webform) and an active registration with the Central Contractor Registry (CCR) on the System for Award Management (SAM.gov, *www.sam.gov*).

Obtaining a DUNS Number may take 1 to 2 days.

All applicants are required to maintain an active SAM registration until the application process is complete. If a grant is awarded, registration at SAM.gov must be active throughout the life of the award.

Plan ahead. Allow up to 10 business days after you submit your registration for it to become active in SAM and an additional 24 hours before that registration information is available in other government systems, *i.e.* Grants.gov.

This action should allow you time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application through Grants.gov or prevent the award of a grant. Applicants should maintain documentation (with dates) of your efforts to register for, or renew a registration, at SAM. User Guides are available under the ''Help'' tab at *https://www.sam.gov.*

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with the requirements as described in section V. of this FOA.

IV. Application Requirements

Forms, Assurances, Certifications, and Policy

On October 1, 2013, the Administration for Children and Families implemented required electronic application submission of State and/or Tribal plans via the *Online Data Collection System (OLDC)* for all mandatory grant programs. (See 78 FR 60285–60286, October 1, 2013.) Mandatory grant recipients are required to use the OLDC to submit the Application for Federal Assistance SF–424 Mandatory Form (SF–424M) and upload all required documents. The form is available to applicants and grantees within the OLDC system at *https://extranet.acf.hhs.gov/oldcdocs/materials.html.* ACF will not accept paper applications, or those submitted via email or facsimile, without a waiver.

Request an Exemption From Required Electronic Submission

ACF recognizes that some of the recipient community may have limited or no Internet access, and/or limited computer capacity, which may prohibit uploading large files to the Internet through the OLDC system. To accommodate such recipients, ACF is instituting an exemption procedure, on a case-by-case basis, that will allow such recipients to submit hard copy, paper State and Tribal plans and reporting forms by the United States Postal Service, hand-delivery, recipient courier, overnight/express mail couriers, or other representatives of the recipient.

Additionally, on a case-by-case basis, we will consider requests to accept hard copy, paper submissions of State and Tribal plans and reporting forms when circumstances such as natural disasters occur (floods, hurricanes, etc.); or when there are widespread disruptions of mail service; or in other rare cases that would prevent electronic submission of the documents.

Recipients will be required to submit a written statement to ACF that the recipient qualifies for an exemption under one of these grounds: Lack of Internet access; or limited computer capacity that prevents the uploading of large files to the Internet; the occurrence of natural disasters (floods, hurricanes, etc.); or when there are widespread disruptions of mail service; or in other rare cases that would prevent electronic submission of the documents.

Exemption requests will be reviewed and the recipient will be notified of a decision to approve or deny the request. Requests should state if the exemption is for submission of the SF–424M and State and/or Tribal plan, Performance Progress Reports (PPR), or Federal Financial Reports (FFR). The written statement must be sent to the Program Office (for SF–424M and State and/or Tribal plan, and PPR exemption requests) and/or ACF Grants Management Office (for FFR exemption requests) points of contact shown in *Section VIII. Agency Contact* of this funding opportunity announcement. Requests must be received on or before the due date for applications listed in this funding opportunity announcement. Exemption requests may be submitted by regular mail or by email.

In all cases, the decision to allow an exemption to accept submission of hard copy, paper State/Tribal plans and reporting forms will rest with the Program Office listed in this announcement and/or ACF's Office of Grants Management. Exemptions are applicable only to the Federal fiscal year in which they are received and approved. If an exemption is necessary for a future Federal fiscal year, a request must be submitted during each Federal fiscal year for which an exemption is necessary.

Forms, Assurances, Certifications, and Policy

Applicants seeking financial assistance under this announcement must submit the listed Standard Forms (SFs), assurances, certifications and policy. All required Standard Forms, assurances, and certifications are available at *ACF Funding Opportunities Forms* or at the *Grants.gov Forms Repository* unless specified otherwise.

Forms/Certifications	Description	Where found
SF–424M	This is a required Standard Form. Application for Federal Assistance—Mandatory.	*http://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html.*
Certification (Grants.gov) Regarding Lobbying.	Required of all applicants at the time of their application. If not available with the application, it must be submitted prior to the award of the grant.	Available at *http://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html.*

Forms/Certifications	Description	Where found
SF–LLL—Disclosure of Lobbying Activities.	If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the applicant shall complete and submit the SF–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Applicants must furnish an executed copy of the Certification Regarding Lobbying prior to award.	"Disclosure Form to Report Lobbying" is available at *http://www.grants.gov/web/grants/forms/sf-424-mandatory-family.html.*
The needs of lesbian, gay, bisexual, transgender, and questioning youth are taken into consideration in applicant's program design..	See Appendix B for submission requirements	See Appendix B for the complete policy description.

Assurances and Policy

Each applicant must provide a signed copy of both the assurance and policy. (See Appendices A and B.)

The Project Description

The content of the application should include the following in this order:

A. Cover Letter

The cover letter of the application should include the following information:

(1) The name and mailing address of each Tribe, Tribal organization, or nonprofit private organization applying for the FVPSA grant.

(2) The name of the Tribally Designated Official authorized to administer this grant, along with the Official's telephone number, fax number, and email address.

(3) The name of a Program Contact designated to administer and coordinate programming, including the telephone number, fax number, and email address.

(4) The Employee Identification Number (EIN) of the entity submitting the application.

(5) The D–U–N–S number of the entity submitting the application (see *Section III. Eligibility*).

(6) The signature of the Tribally Designated Official (see *Section I. Definitions*).

For Consortium applications only:

(7) The EIN of the consortium Tribes.

(8) The D–U–N–S number of the consortium Tribes.

B. Program Description

An overview of the project including:

(1) A description of the service area(s) and population(s) to be served.

(2) A description of the services and activities to be provided with FVPSA funds.

(3) A description of barriers that challenge the effective operation of program activities and/or services provided to victims of domestic violence, family violence, and dating violence, and their dependents.

(4) A description of the technical assistance needed to address the described barriers.

C. Capacity

A description of the applicant's operation of and/or capacity to carry out a FVPSA program. This might be demonstrated in ways such as the following:

(1) The current operation of a shelter (including a safe house), or domestic and dating violence prevention program;

(2) The establishment of joint or collaborative service agreements with a local public agency or a private nonprofit agency for the operation of family violence, domestic violence, or dating violence activities or services; or

(3) The operation of other social services programs.

D. Services To Be Provided

A description of the activities and services to be provided, including:

(1) How the grant funds will be used to provide shelter, supportive services, and prevention services for victims of family violence, domestic violence, and dating violence.

(2) How the services are designed to reduce family violence, domestic violence, and dating violence.

(3) A plan describing how the organization will provide specialized services for children exposed to family violence, domestic violence, or dating violence.

(4) An explanation of how the program plans to document and track services provided, as well as any outcomes that can be linked to the program's logic model.

(5) A description of how the funds are to be spent. For example, costs of employing a half-time Domestic Violence Advocate, costs for transportation to shelter, etc.

E. Involvement of Individuals and Organizations

A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services funded under FVPSA. For example, knowledgeable individuals and interested organizations may include Tribal officials or social services staff involved in family violence prevention, Tribal law enforcement officials, representatives of State or Tribal Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

F. Involvement of Community-Based Organizations

(1) A description of how the applicant will involve community-based organizations whose primary purpose is to provide culturally appropriate services to underserved populations.

(2) A description of how these community-based organizations can assist the Tribe in addressing the unmet needs of such populations.

G. Current Signed Tribal Resolution

A copy of a current Tribal resolution or an equivalent document that:

(1) Covers the entirety of FY 2015, including a date when the resolution or equivalent document expires, which can be no more than 5 years.

(2) States that the Tribe or Tribal organization has the authority to submit an application on behalf of the individuals in the Tribe(s) and to administer programs and activities funded.

Note: An applicant that received no funding in the immediately preceding fiscal year must submit a new Tribal resolution or its equivalent. An applicant funded as part of a consortium in the immediately preceding year that is now seeking funds as a single Tribe must also submit a new resolution or its equivalent. Likewise, an applicant funded as a single Tribe in the immediately preceding fiscal year that is now seeking

funding as a part of a consortium must submit a new resolution or its equivalent.

H. Policies and Procedures

Written documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that the safety and confidentiality of clients and their dependents served is maintained as described in *Section I.*

Paperwork Reduction Disclaimer

As required by the Paperwork Reduction Act, 44 U.S.C. 3501–3520, the public reporting burden for the project description is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The Project Description information collection is approved under OMB control number 0970–0280, which expires September 30, 2017. 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.

Intergovernmental Review of Federal Programs

The review and comment provisions of the Executive Order (E.O.) 12372 and 45 CFR part 100 do not apply. Federally recognized Tribes are exempt from all provisions and requirements of E.O. 12372.

Funding Restrictions

The Consolidated Appropriations Act, 2014 (Pub. L. 113–76), enacted January 17, 2014, limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the Federal Executive Pay scale is $181,500 (*http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2014/EX.pdf*). This amount reflects an individual's base salary *exclusive* of fringe benefits and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an ACF mandatory and discretionary grant.

Please see Appendix A ''Assurances of Compliance with Grant Requirements'' for additional program-specific funding restrictions.

V. Award Administration Information

Administrative and National Policy Requirements

For the terms and conditions that apply to all mandatory grants, as well as ACF program-specific terms and conditions please go to: *http://www.acf.hhs.gov/grants/mandatory-formula-block-and-entitlement-grants.*

Approval/Disapproval of an Application

The Secretary of HHS shall approve any application that meets the requirements of the FVPSA and this announcement. The Secretary shall not disapprove an application unless the Secretary gives the applicant reasonable notice of the Secretary's intention to disapprove and a 6-month period providing an opportunity for correction of any deficiencies. The Secretary shall give such notice within 45 days after the date of submission of the application if any of the provisions of the application have not been satisfied. If the Tribe does not correct the deficiencies in such application within the 6-month period following the receipt of the Secretary's notice, the Secretary shall withhold payment of any grant funds to such tribe until such date as the tribe provides documentation that the deficiencies have been corrected (See § 10407(b)(1) and (2) and § 10409(d)).

VI. Reporting Requirements

Performance Progress Reports (PPR)

ACF grantees must submit a PPR using the standardized format provided by FVPSA and approved by OMB (0970–0280). This report will describe the grant activities carried out during the year, report the number of people served, and contain a plan to document and track services provided, as well as any outcomes that can be linked to the program's logic model. Consortia grantees should compile the information from the individual report of each participating Tribe into a comprehensive PPR for submission. A copy of the PPR is available on the FYSB Web site at: *www.acf.hhs.gov/programs/fysb/resource/ppr-Tribal-fvpsa.*

PPRs for Tribes and Tribal organizations are due on an annual basis at the end of the calendar year (December 30) and will cover from October 1 through September 30. Grantees should submit their reports online through the Online Data Collection (OLDC) system at the following address: *https://extranet.acf.hhs.gov/ssi.*

Federal Financial Reports (FFR)

Grantees must submit annual Financial Status Reports. The first SF–425A is due December 30, 2015. The final SF–425A is due December 30, 2016. SF–425A can be found at: *www.whitehouse.gov/omb/grants/grants_forms.html, www.forms.gov.*

Grantees should submit their reports online through the Online Data Collection (OLDC) system at the following address: *https://extranet.acf.hhs.gov/ssi.* Failure to submit reports on time may be a basis for withholding grant funds, or suspending or terminating the grant. All funds reported as unobligated after the obligation period will be recouped.

VII. FFATA Subaward and Executive Compensation

Awards issued as a result of this funding opportunity may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR 170. See ACF's *Award Term for Federal Financial Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Reporting Requirement* implementing this requirement and additional award applicability information.

ACF has implemented the use of the SF–428 *Tangible Property Report* and the SF–429 *Real Property Status Report* for all grantees. Both standard forms are available at *www.whitehouse.gov/omb/grants_forms/.*

VIII. Agency Contact

Program Office Contact

Shena R. Williams, Senior Program Specialist at (202) 205–5932 or email at *Shena.Williams@acf.hhs.gov*.

Grants Management Contact

Yan Rong, Division of Mandatory Grants at (202) 401–5154 or email at *Yan.Rong@acf.hhs.gov*

IX. Appendices

A. Assurances of Compliance with Grant Requirements
B. LGBTQ (also known as ''Two-Spirited'') Accessibility Policy

Appendix A

Assurances of Compliance With Grant Requirements

By signing and returning the document, the applicant or grantee agrees to comply with all pertinent requirements of the Family Violence Prevention and Services Act (FVPSA) and specifically assures that it will fulfill the following conditions imposed by the FVPSA, 42 U.S.C. 10401–10414 (cited herein by the applicable section number only):

(1) Family Violence Prevention and Services Act (FVPSA) grant funds will be used to provide shelter, supportive services, or prevention services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents (§ 10408(b)(1)).

(2) Not less than 70 percent of the funds distributed shall be for the primary purpose of providing immediate shelter and supportive services as defined in § 10402(9) and (12) to adult and youth victims of family violence, domestic violence, or dating violence as defined in §§ 10402(2), (3), and (4), and their dependents (§ 10408(b)(2)).

(3) Not less than 25 percent of the funds distributed shall be for the purpose of providing supportive services and prevention services as described in § 10408(b)(1)(B) through (H), to victims of family violence, domestic violence, or dating violence, and their dependents (§ 10408(b)(2)).

(4) Grant funds will not be used as direct payment to any victim of family violence, domestic violence, or dating violence, or to any dependent of such victim (§ 10408(d)(1)).

(5) No income eligibility standard will be imposed on individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out the FVPSA (§ 10406(c)(3)).

(6) No fees will be levied for assistance or services provided with funds appropriated to carry out the FVPSA (§ 10406(c)(3)).

(7) The address or location of any shelter or facility assisted under the FVPSA that otherwise maintains a confidential location will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public (§ 10406(c)(5)(H)).

(8) Procedures are established to ensure compliance with the provisions of § 10406(c)(5) regarding non-disclosure of confidential of private information (§ 10407(a)(2)(A)).

(9) The applicant or grantee will comply with the conditions set forth in the FVPSA at § 10406(c)(5) and all other FVPSA obligations regarding non-disclosure of confidential or private information. These include, but are not limited to, the following requirements: (A) Grantees shall not disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantee's funded activities or reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for the FVPSA-funded activities or any other federal or state program (additional consent requirements have been omitted *but see § 10406(c)(5)(B)(ii)(I)* for further requirements); (B) grantees may not release information compelled by statutory or court order unless adhering to the requirements of § 10406(c)(5)(C); (C) grantees may share non-personally identifying information in the aggregate for the purposes enunciated in § 10406(c)(5)(D)(i) as well as for other purposes found in § 10406(c)(5)(D)(ii) and (iii).

(10) As prescribed by § 10406(c)(2) of the FVPSA, the Tribe will use grant funds in a manner that avoids prohibited discrimination on the basis of age, disability, sex, race, color, national origin, or, as appropriate, religion.

(11) Funds made available under the FVPSA will be used to supplement and not supplant other federal, state, Tribal and local public funds expended to provide services and activities that promote the objectives of the FVPSA (§ 10406(c)(6)).

(12) Receipt of supportive services under the FVPSA will be voluntary. No condition will be applied for the receipt of emergency shelter (§ 10408(d)(2)).

(13) The Tribe has a law or procedure to bar an abuser from a shared household or a household of the abused person, which may include eviction laws or procedures, where appropriate (§ 10407(a)(2)(H)).

Tribally Designated Official

Tribe or Tribal Organization

Appendix B

LGBTQ (also known as ''Two-Spirited'') Accessibility Policy

As the Authorized Organizational Representative (AOR) signing this application on behalf of [*Insert full, formal name of applicant organization*]

I hereby attest and certify that:

The needs of lesbian, gay, bisexual, transgender, and questioning (also known as ''Two-Spirited'') program participants are taken into consideration in applicant's program design. Applicant considered how its program will be inclusive of and non-stigmatizing toward such participants. If not already in place, awardee and, if applicable, subawardees must establish and publicize policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin. The submission of an application for this funding opportunity constitutes an assurance that applicants have or will put such policies in place within 12 months of the award. Awardees should ensure that all staff members are trained to prevent and respond to harassment or bullying in all forms during the award period. Programs should be prepared to monitor claims, address them seriously, and document their corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation. In addition, any subawardees or subcontractors:

- Have in place or will put into place within 12 months of the award policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin;
- Will enforce these policies;
- Will ensure that all staff will be trained during the award period on how to prevent and respond to harassment or bullying in all forms, and;
- Have or will have within 12 months of the award, a plan to monitor claims, address them seriously, and document their corrective action(s).

Insert Date of Signature:

Print Name and Title of the AOR:

Signature of AOR:

[End of full FOA]

Authority: The statutory authority for this program is 42 U.S.C. 10401–10414.

Mary M. Wayland,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2015–05010 Filed 3–4–15; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0300]

John D. Noonan; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a request for a hearing submitted by Dr. John D. Noonan (Dr. Noonan), and is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Dr. Noonan for 2 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Noonan was convicted of a misdemeanor under Federal law for conduct relating to the regulation of a drug product under the FD&C Act and that the type of conduct underlying the conviction undermines the process for the regulation of drugs. In determining the appropriateness and period of Dr. Noonan's debarment, FDA has considered the relevant factors listed in the FD&C Act. Dr. Noonan has failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: The order is effective March 5, 2015.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathan Doty, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On August 11, 2009, in the U.S. District Court for the Northern District

of New York, Dr. Noonan, a physician, pled guilty to a misdemeanor under the FD&C Act, namely misbranding a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act (21 U.S.C. 331(k), 352(i)(3), 333(a)(1)) and 18 U.S.C. 2. The basis for this conviction was conduct surrounding his injection of patients seeking treatment with BOTOX/BOTOX Cosmetic (BOTOX) with a product, TRI-toxin, distributed by Toxin Research International, Inc. BOTOX is a biological product derived from Botulinum Toxin Type A that is manufactured by Allergan, Inc., and was approved by FDA for use on humans for the treatment of facial wrinkles in 1991. According to the records of the criminal proceedings, Dr. Noonan's colleague in the same medical practice, The Plastic Surgery Group (TPSG), directed a nurse to obtain 31 vials of TRI-toxin, an unapproved drug product, which was represented by its distributor as ''Botulinum Toxin Type A.'' Dr. Noonan then proceeded to inject approximately 10 patients, who believed they were being injected with BOTOX, with TRI-toxin as a substitute.

Dr. Noonan is subject to debarment based on a finding, under section 306(b)(2)(B)(i)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(i)(I)): (1) That he was convicted of a misdemeanor under Federal law relating to the regulation of a drug product under the FD&C Act and (2) that the type of conduct underlying the conviction undermines the process for the regulation of drugs. By notice to Dr. Noonan dated November 30, 2010, FDA's Office of Regulatory Affairs (ORA) proposed to debar him for 4 years from providing services in any capacity to a person having an approved or pending drug product application.

In a letter dated December 30, 2010, through counsel, Dr. Noonan requested a hearing on the proposal. In his request for a hearing, Dr. Noonan acknowledges his conviction under Federal law, as alleged by FDA. By letter dated January 28, 2011, Dr. Noonan submitted materials and arguments in support of his request. Dr. Noonan acknowledges that he was convicted of a Federal misdemeanor, as found in the proposal to debar, but argues that he should not be debarred for reasons related to the factual basis set forth in the proposal to debar. In particular, with respect to the considerations for determining the appropriateness and period of debarment under section 306(c)(3) of the FD&C Act, he argues that there are genuine and substantial issues of fact for resolution at a hearing, namely factual issues bearing on whether he participated in or even knew of certain conduct that resulted in his violation of the FD&C Act.

Hearings are granted only if there is a genuine and substantial issue of fact. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged or the action requested (see 21 CFR 12.24(b)).

The Chief Scientist has considered Dr. Noonan's arguments, as well as the proposal to debar itself, and concludes that, although Dr. Noonan has failed to raise a genuine and substantial issue of fact requiring a hearing, the appropriate period of debarment is 2 years.

II. Arguments

In support of his hearing request, Dr. Noonan first asserts that he is not subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act. He contends that he pled guilty to a misdemeanor violation of the FD&C Act (see section 303(a)(1)), which is a strict liability offense, and that thus there was no demonstration or admission of criminal intent or knowledge underlying the conviction. Dr. Noonan concludes, therefore, that the conduct underlying his conviction did not undermine the process for the regulation of drugs.

Section 306(b)(2)(B)(i)(I) of the FD&C Act specifically provides for the debarment of individuals convicted of Federal misdemeanors related to the regulation of drug products under the FD&C Act. Given that misdemeanor violations of the FD&C Act themselves are strict liability offenses, it stands to reason that criminal intent is not a critical component to debar an individual under section 306(b)(2)(B)(i)(I). During his criminal proceedings, Dr. Noonan pled guilty to misbranding and causing the misbranding of a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act by offering an unapproved drug, TRI-toxin, for sale as an approved drug product, BOTOX. Dr. Noonan's conduct undermined the process for the regulation of drugs in that it permitted an unapproved drug to be substituted for an approved drug without the knowledge of the patient. As a result, Dr. Noonan is, in fact, subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act.

Dr. Noonan next challenges the manner in which ORA applied the considerations under section 306(c)(3) of the FD&C Act in determining the appropriateness and period of his debarment. In the proposal to debar Dr. Noonan, ORA stated that there are four applicable considerations under section 306(c)(3) of the FD&C Act: (1) The nature and seriousness of his offense under section 306(c)(3)(A); (2) the nature and extent of management participation in the offense under section 306(c)(3)(B); (3) the nature and extent of voluntary steps taken to mitigate the impact on the public under section 306(c)(3)(C); and (4) prior convictions involving matters within the jurisdiction of FDA under section 306(c)(3)(F). ORA found with respect to Dr. Noonan that the first two considerations weigh in favor of debarment and noted that the third and fourth considerations would be treated as favorable factors for him. In making all of its findings under section 306(c)(3) of the FD&C Act, ORA characterized Dr. Noonan's conduct based on records from his criminal proceedings.

Under section 306(c)(3)(A) of the FD&C Act, in determining the appropriateness and period of debarment, FDA considers ''the nature and seriousness of the offense involved.'' In the proposal to debar, ORA relied on the criminal information to which Dr. Noonan pled guilty to find that the conduct underlying his convictions:

> created a risk of injury to consumers due to the use of an unapproved drug, undermined [FDA's] oversight of an approved drug product by representing that [he] used the approved drug while actually substituting an unapproved drug in its place, and seriously undermined the integrity of [FDA's] regulation of drug products.

Under section 306(c)(3)(B) of the FD&C Act, ORA also considered the ''nature and extent of [Dr. Noonan's] management participation in the offense'' and specifically found that he was a corporate principal who ''pleaded guilty to misbranding TRI-toxin'' and ''participated in the [TPSG's] unlawful conduct of administering [an] unapproved drug on multiple occasions to patients.'' ORA concluded, therefore, that the nature and seriousness of Noonan's offenses and the nature and extent of management participation were unfavorable factors with respect to him.

Dr. Noonan counters ORA's findings with respect to those two considerations in section 306(c)(3) of the FD&C Act with the following arguments: (1) That he did not admit any criminal intent or intentional wrongdoing when he pled guilty to a misdemeanor offense under the FD&C Act; (2) that, in fact, another physician at TPSG took unilateral action in ordering the TRI-toxin and directing a nurse to substitute it for BOTOX; (3) that the TRI-toxin vials that they used for injecting patients with TRI-toxin

were identical to the vials he used for BOTOX before the substitution; and (4) that since the conviction for the underlying misdemeanor was of an individual, that there was no management participation and that, thus, the nature and extent of management participation is inapplicable as a factor in determining appropriateness and period of debarment. Dr. Noonan concedes that he pled guilty to the misdemeanor offense because he was, in fact, guilty of offering TRI-toxin for sale to their patients as BOTOX. He argues, however, that the criminal records do not establish any intent or knowledge on his part and that thus the conduct underlying his conviction does not warrant debarment in light of the considerations in section 306(c)(3) of the FD&C Act.

As noted previously, ORA relied on the records of Dr. Noonan's criminal proceedings for its findings in the proposal to debar. There is nothing definitive in the criminal records before FDA to contradict Dr. Noonan's assertions with respect to the nature of his involvement in the misdemeanor offense to which he pled guilty. The criminal information to which Dr. Noonan pled guilty alleges that TPSG, as opposed to Dr. Noonan, began ordering TRI-toxin for use in the medical practice, and there are no allegations that Dr. Noonan took part in the ordering process. Indeed, the proposal to debar states that, as claimed by Dr. Noonan, another physician in the practice, William F. DeLuca, Jr., was responsible for authorizing a nurse to substitute TRI-toxin for BOTOX, not Dr. Noonan. At Dr. Noonan's sentencing hearing, at which six other codefendants, including DeLuca, were also sentenced, the presiding judge also made clear that he believed DeLuca was the physician responsible for making the ''mistake'' that led to the other physician's offenses. In addressing DeLuca, the court stated:

> And we're here because of your actions and inactions. As I said, your mistakes were different in kind and degree from those of your colleagues. It was you who brought this drug into the practice, and it was your conduct and your failure to check out either the company or the drug that you were ordering, as you should have done, your negligence in doing that that has brought us here today in the end.

In addressing Dr. Noonan, the court further stated: ''There have been disputes on how in the past over who knew what and at what point in time. It is clear from the facts in this case that you had no knowledge that the substance was anything other than [BOTOX] until your discovery of it in November of 2004.''

In short, consistent with the proposal to debar Dr. Noonan for 4 years, the records of his criminal proceedings establish that the misdemeanor convictions for the physicians in TPSG other than DeLuca were not based on any affirmative involvement in ordering the TRI-toxin or substituting the TRI-toxin for BOTOX. Furthermore, in proposing to debar Dr. Noonan for 4 years, ORA did not rely on any findings with respect to Dr. Noonan's intent or knowledge. Rather, citing the records of Dr. Noonan's criminal proceedings, the proposal to debar simply rests on Dr. Noonan's position of authority within TPSG and his conduct in misbranding TRI-toxin by administering it to patients who believed they were receiving BOTOX. As a result, under § 12.24(b), there is no genuine and substantial issue of fact raised by Dr. Noonan's arguments for resolution at a hearing.

As set forth in the proposal to debar and summarized previously, Dr. Noonan pled guilty to a misdemeanor under the FD&C Act for his role in offering a drug under the name of another. Based on the undisputed record before the Agency, the consideration in section 306(c)(3)(A) of the FD&C Act with respect to the nature and seriousness of the offense involved is a favorable factor. As reflected in the records of the criminal proceedings, Dr. Noonan's offense did not rest on any intent or knowledge of wrongdoing on his part, nor may such intent or knowledge be inferred from the circumstances of his offense or the findings in the proposal to debar. Although, as a practicing physician, Dr. Noonan should be expected to take the appropriate steps to avoid administering an unapproved new drug to patients or misrepresenting the drug being administered, his failure to do so over a 10-month period does not warrant considering the nature and seriousness of his offense as an unfavorable factor, relative to the range of conduct that might underlie a Federal misdemeanor conviction.

On the other hand, because of Dr. Noonan's position of authority within TPSG and, thus, presumed ability to prevent the series of events that resulted in the offense underlying his misdemeanor conviction, the nature and extent of management participation in the offense is an unfavorable factor, for the purposes of the consideration under 306(c)(3)(B) of the FD&C Act. Dr. Noonan asserts that there was no management participation, and that, thus, this factor is inapplicable because the underlying conviction was of an individual. However, the criminal information to which Dr. Noonan pled guilty alleges that TPSG began ordering TRI-toxin for use in the medical practice. It is undisputed that Dr. Noonan is a principal in TPSG, and this is the basis for considering the nature and extent of management participation as a factor in determining the appropriateness and period of debarment. FDA has relied on this factor in other debarment cases where the underlying conviction was of an individual (see 78 FR 68455 (November 14, 2013), 77 FR 27236 (May 9, 2012)).

The limited scope of his direct actions in committing the underlying misdemeanor offense does not mitigate the extent of his management participation, as established during his criminal proceedings and as set out in the proposal to debar. It is true that nothing in the criminal proceedings or the proposal to debar reflects any involvement by him in the decision to order the TRI-toxin and substitute it for BOTOX, and the proposal to debar specifically finds that another physician authorized a nurse to place that order. However, Dr. Noonan, as a principal of TPSG, was responsible for failing to ensure that there were controls and procedures in place to prevent other physicians or a nurse from ordering unapproved drugs for administration to patients. His own admitted inaction on that front warrants treating his management participation as an unfavorable factor.[1]

Consistent with the proposal to debar, the record establishes that the medical practice of which Dr. Noonan was a part ultimately took voluntary steps to mitigate the effect on the public health from its unlawful conduct (see section 306(c)(3)(C) of the FD&C Act). Furthermore, it is undisputed that Dr. Noonan had no previous criminal convictions related to matters within the jurisdiction of FDA (see section 306(c)(3)(F) of the FD&C Act). Therefore, these will be treated as favorable factors. In light of the foregoing four considerations, one of which weighs against Dr. Noonan, debarment for 2 years is appropriate.

III. Findings and Order

Therefore, the Chief Scientist, under section 306(b)(2)(B)(i)(I) of the FD&C Act and under authority delegated to him, finds that Dr. Noonan has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval of a drug

[1] See *United States* v. *Park,* 421 U.S. 658, 673–74 (1975) (holding that a high-level manager within a business entity bears a responsibility to prevent and correct violations of the FD&C Act).

product or otherwise relating to the regulation of a drug product under the FD&C Act and that the conduct underlying the conviction undermines the regulation of drugs. FDA has considered the relevant factors listed in section 306(c)(3) of the FD&C Act and determined that a debarment of 2 years is appropriate.

As a result of the foregoing findings, Dr. Noonan is debarred for 2 years from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see DATES) (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved, or pending, drug product application, who knowingly uses the services of Dr. Noonan, in any capacity during his period of debarment, will be subject to civil money penalties. If Dr. Noonan, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Noonan during his period of debarment.

Any application by Dr. Noonan for termination of debarment under section 306(d) of the FD&C Act should be identified with Docket No. FDA–2010–N–0300 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents in the Docket at *http://www.regulations.gov/.*

Dated: February 24, 2015.

Stephen Ostroff,

Director, Office of the Chief Scientist.

[FR Doc. 2015–05042 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Clinical Outcomes Assessment Development and Implementation: Opportunities and Challenges; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop entitled ''Clinical Outcomes Assessment Development and Implementation: Opportunities and Challenges.'' The purpose of the public workshop is to provide updates on accomplishments, challenges, and ongoing efforts in the use of clinical outcome assessments (COAs), and plan for the future of COA development and utilization in drug development programs, including how to incorporate the patient voice in drug development using well-defined and reliable patient-centered outcome measures. The public workshop will also discuss standards for COA use and collaborative processes for COA development and dissemination.

Date and Time: The public workshop will be held on April 1, 2015, from 8:30 a.m. to 5 p.m. Participants are encouraged to arrive early to ensure time for parking and routine security checks before the workshop.

Location: The public workshop will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, The Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.* Attendees are responsible for their own accommodations.

The public workshop will also be available to be viewed online via Webcast at *https://collaboration.fda.gov/COApublicworkshop2015.* Persons interested in participating by Webcast must register online by March 27, 2015.

Contact Person: Michelle Campbell, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6471, Silver Spring, MD 20993–0002, 240–402–6019, email: *COApublicworkshop@fda.hhs.gov.*

Registration: Registration is free for the public workshop. Interested parties are encouraged to register early because space is limited to 150 attendees. Workshop space will be filled in order of receipt of registration. Those accepted in to the workshop will receive confirmation. Registration will close after the workshop is filled. Registration at the site is not guaranteed but may be possible on a space available basis on the day of the public workshop beginning at 7:30 a.m. If registration is filled, attendance to the workshop will be available only through the Webcast.

To register, visit *http://www.fda.gov/Drugs/NewsEvents/ucm431040.htm.* For those without Internet access, please call Michelle Campbell (See *Contact Person*) to register.

If you need special accommodations due to a disability, please contact Michelle Campbell (See *Contact Person*) at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The Center for Drug Evaluation and Research (CDER) reviews COAs, including patient-reported outcome measures, clinician-reported outcome measures, and observer-reported outcome measures, when submitted with an investigational new drug application, a new drug application, or a biologics licensing application. CDER also reviews a COA when submitted for qualification as a drug development tool. Qualification of a COA is a regulatory determination that the COA is well-suited for a specific context of use in drug development. Following a public announcement of the qualification decision by FDA, the COA will be publicly available for use in any appropriate drug development program.

This workshop will focus on current challenges and opportunities in COA development and use, including establishing appropriate standards for use; current efforts to encourage inclusion of well-defined and reliable patient-centered outcome measures in drug development; use of collaborative efforts in developing and utilizing COAs through various partnerships; and future efforts to address challenges and gaps of COA development and use for patient-centered drug development and medical product labeling.

For more information on this public workshop, visit *http://www.fda.gov/Drugs/NewsEvents/ucm431040.htm.*

The Agency encourages patient advocates, health care providers, researchers, regulators, individuals from academia, industry, and other interested persons to attend this public workshop.

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20857. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Transcripts will also be available on the Internet at *http://www.fda.gov/Drugs/NewsEvents/ucm431040.htm* approximately 45 days after the workshop.

Dated: February 27, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05017 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0147]

Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions; Guidance for Industry; 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 entitled ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions.'' This guidance provides information in response to questions that FDA has received from manufacturers on demonstrating the substantial equivalence of a new tobacco product, including questions on when a modification to the label requires a premarket submission and review by FDA.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions'' to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance document.

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: Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002; 1–877–287–1373, *CTPRegulations@fda.hhs.gov,* email: *annette.marthaler@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Demonstrating the Substantial Equivalence of a New Tobacco Product: Responses to Frequently Asked Questions.'' In this guidance, FDA addresses questions from manufacturers on demonstrating the substantial equivalence of a new tobacco product. In the **Federal Register** of September 9, 2011 (76 FR 55927), FDA announced the availability of the draft guidance of the same title. After carefully reviewing and considering comments and information submitted in response to the draft guidance, which covered a range of topics on demonstrating the substantial equivalence of a new tobacco product, FDA is finalizing this guidance on many of the topics, including modifications to labels and changes to product quantity and intends to address the other topics in future regulatory documents.

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 this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved information collections 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 sections 905(j) and 910 of the FD&C Act (21 U.S.C. 387e(j) and 387j), as amended by the Tobacco Control Act, have been approved under OMB control number 0910–0673; the collections of information in 21 CFR part 25 have been approved under OMB control number 0910–0322.

IV. 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.*

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.regulations.gov* or *http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/default.htm.*

Dated: February 27, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–05023 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0303]

William F. DeLuca, Jr.; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a request for a hearing submitted by Dr. William F. DeLuca, Jr. and is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Dr. DeLuca for 5 years from providing

services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. DeLuca was convicted of a misdemeanor under Federal law for conduct relating to the regulation of a drug product under the FD&C Act and that the type of conduct underlying the conviction undermines the process for the regulation of drugs. In determining the appropriateness and period of Dr. DeLuca's debarment, FDA has considered the relevant factors listed in the FD&C Act. Dr. DeLuca has failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: The order is effective March 5, 2015.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathan Doty, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On August 11, 2009, in the U.S. District Court for the Northern District of New York, Dr. DeLuca, a physician, pled guilty to a misdemeanor under the FD&C Act, namely misbranding a drug in violation of sections 301(k), 502(i)(3), and 303(a)(1) of the FD&C Act (21 U.S.C. 331(k), 352(i)(3), 333(a)(1)) and 18 U.S.C. 2. The basis for this conviction was conduct surrounding his injection of patients seeking treatment with BOTOX/BOTOX Cosmetic (BOTOX) with a product, TRI-toxin, distributed by Toxin Research International, Inc. BOTOX is a biological product derived from Botulinum Toxin Type A that is manufactured by Allergan, Inc., and was approved by FDA for use on humans for the treatment of facial wrinkles in 1991. According to the records of the criminal proceedings, Dr. DeLuca directed a nurse to obtain 31 vials of TRI-toxin, an unapproved drug product, which was represented by its distributor as ''Botulinum Toxin Type A.'' Dr. DeLuca then proceeded to inject approximately 62 patients, who believed they were being injected with BOTOX, with TRI-toxin as a substitute.

Dr. DeLuca is subject to debarment based on a finding, under section 306(b)(2)(B)(i) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(i)): (1) That he was convicted of a misdemeanor under Federal law relating to the regulation of a drug product under the FD&C Act and (2) that the type of conduct underlying the conviction undermines the process for the regulation of drugs. By letter dated November 30, 2010, FDA notified Dr. DeLuca of its proposal to debar him for 5 years from providing services in any capacity to a person having an approved or pending drug product application.

In a letter dated December 28, 2010, through counsel, Dr. DeLuca requested a hearing on the proposal. In his request for a hearing, Dr. DeLuca acknowledges his convictions under Federal law, as alleged by FDA. However, he argues that section 306(b)(2)(B)(i) of the FD&C Act, which was added by the Generic Drug Enforcement Act (GDEA), does not apply to him because he was never involved in the development, approval, or regulation of drug products, nor was the conduct underlying his conviction related to the development, approval, or regulation of drug products.

We reviewed Dr. DeLuca's request for a hearing and find that Dr. DeLuca has not created a sufficient basis for a hearing. Hearings are granted only if there is a genuine and substantial issue of fact. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged (see 21 CFR 12.24(b)).

The Chief Scientist has considered Dr. DeLuca's arguments and concludes that they are unpersuasive and fail to raise a genuine and substantial issue of fact requiring a hearing.

II. Arguments

In support of his hearing request, Dr. DeLuca asserts that section 306(b)(2)(B)(i)(I) of the FD&C Act does not apply to him because he was never involved in the development, approval, or regulation of drug products, nor was the underlying conduct of his conviction related to those activities. He argues that application of the permissive debarment provisions to him expands the intended scope of section 306(b)(2)(b)(i)(I) of the FD&C Act beyond congressional intent. Dr. DeLuca further asserts that the statutory provision is limited to conduct that directly or indirectly affects FDA's regulatory efforts associated with drug approval, that the intended targets of GDEA are those who manufacture and distribute drugs, and that the court's decision in *Bhutani* v. *U.S. Food and Drug Administration,* 161 Fed. Appx. 589, 591 (7th Cir. 2006) and FDA's debarment order for Premchand Girdhari (65 FR 3454, January 21, 2000) also expressed this limitation. He asserts that, because his conduct did not fall within any such activities and he was not a company manufacturing or distributing drugs, but merely a physician using a drug, albeit an unapproved drug, section 306(b)(2)(B)(i)(I) if the FD&C Act is inapplicable to him.

During his criminal proceedings, Dr. DeLuca pled guilty to misbranding and causing the misbranding of a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act by offering TRI-toxin, a drug not approved for use, in place of an approved drug product, BOTOX. This conduct clearly relates to the regulation of drugs under the FD&C Act because it was in direct violation of the FD&C Act. The conduct also undermined the process for the regulation of drugs in that it permitted an unapproved drug to be substituted for an approved drug without the knowledge of the patient. As a result, Dr. DeLuca is subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act.

Dr. DeLuca's narrow interpretation of section 306(b)(2)(B)(i) of the FD&C Act, as well as the other provisions added to the statute by GDEA, is unpersuasive. Under well-recognized rules of statutory construction, the starting point in interpreting a statute is the text of the statute itself. (*BedRoc Limited LLC.* v. *United States,* 541 U.S. 176, 183 (2004), on remand, 368 F.3 1149 (9th Cir. 2004)). It is clear from section 306(b)(2)(B)(i) of the FD&C Act that the ''regulation of drugs'' is not limited to activities related to the approval of drugs. If that were the case, there would be no need for the language ''or otherwise relating to the regulation of drug products'' as the provision already clearly covers approval activities with the language ''relating to the development, or approval, including the process for development or approval.'' Under rules of statutory construction, all the words in a statute are to be given meaning and no words or provisions are to be rendered superfluous. (*Montclair* v. *Ramsdell,* 107 U.S. 147, 152 (1883), *Astoria Federal Savings and Loan Ass'n* v. *Solimino,* 501 U.S. 104, 112 (1991).)

Dr. DeLuca's arguments regarding the legislative history and intent of GDEA also are unpersuasive. Dr. DeLuca cites to the House Report for the bill passed by the House. However, that bill did not ultimately become section 306(b)(2)(B)(i) of the FD&C Act. If the language of the statute is clear, there is no need to look outside the statute to its

legislative history in order to ascertain the statute's meaning. (*Chamber of Commerce of United States* v. *Whiting,* 131 S. Ct. 1968 (2011).) Dr. DeLuca's conduct in misbranding Tri-toxin by holding it for sale and administering it to patients as the approved drug BOTOX clearly relates to FDA's regulation of approved drugs. Likewise, his argument that section 306(b)(2)(B)(i) of the FD&C Act could not have been intended to cover him because he did not work for a person with a pending or approved drug product application when he was convicted or that section 306(b)(2)(B)(i) applies to only individuals who manufacture and distribute drugs ignores both the plain language of the statute and the remedial purpose of the Agency's debarment authority. Furthermore, Dr. DeLuca's argument that *Bhutani* v. *U.S. Food and Drug Administration,* 161 Fed. Appx. 589, 591 (7th Cir. 2006), and FDA's debarment order for Premchand Girdhari (65 FR 3454) evidence the court's and FDA's view that the statute is to be interpreted to exclude him is without merit. Both the court decision and FDA's debarment order address the specific fact situations at issue. Both situations involved persons who manufactured and distributed drugs. The decision and order did not purport to define the full scope of section 306(b)(2)(B)(i) of the FD&C Act or hold that conduct such as Dr. DeLuca's was not within the scope of the statutory provision.

Finally, Dr. DeLuca argues that FDA does not typically debar physicians for criminal violations of the FD&C Act. FDA has, however, debarred several other physicians under section 306(b)(2)(B)(i)(I) of the FD&C Act for convictions under the FD&C Act on the basis of similar conduct. (See, *e.g.,* 77 FR 27235, May 9, 2012; 76 FR 69272, November 8, 2011; 76 FR 30947, May 27, 2011; 76 FR 21910, April 19, 2011; 76 FR 13192, March 10, 2011; 76 FR 11789, March 3, 2011 (debarring physicians for felony violations of the FD&C Act for substituting TRI-toxin for BOTOX); 77 FR 27236, May 9, 2012; 76 FR 66072, October 25, 2011; 76 FR 48168, August 8, 2011; 76 FR 37126, June 24, 2011; 76 FR 30946, May 27, 2011; 76 FR 18556, April 4, 2011; 76 FR 18557, April 4, 2011; 76 FR 12971, March 9, 2011 (debarring physicians for a misdemeanor violations of the FD&C Act for substituting TRI-toxin for BOTOX).

Dr. DeLuca's arguments do not raise any genuine and substantial issue of fact for a hearing. Furthermore, Dr. DeLuca's legal arguments do not create a basis for a hearing and, in any event, are unpersuasive. Accordingly, the Chief Scientist denies Dr. DeLuca's request for a hearing.

As set forth in the proposal to debar and summarized in this document, Dr. DeLuca pled guilty to a misdemeanor under the FD&C Act for his role in offering a drug under the name of another. Based on the undisputed record before the Agency, the consideration in section 306(c)(3)(A) and (B) of the FD&C Act with respect to the nature and seriousness of the offense and extent in management participation involved are unfavorable in light of Dr. DeLuca's conduct in bringing the unapproved drug into the medical practice and his management position in The Plastic Surgery Group. At Dr. DeLuca's sentencing hearing, at which six other codefendants were also sentenced, the presiding judge in addressing Dr. DeLuca stated:

> And we're here because of your actions and inactions. As I said, your mistakes were different in kind and degree from those of your colleagues. It was you who brought this drug into the practice, and it was your conduct and your failure to check out either the company or the drug that you were ordering, as you should have done, your negligence in doing that that has brought us here today in the end.

Consistent with the proposal to debar, the record established that the medical practice of which Dr. DeLuca was a part ultimately took voluntary steps to mitigate the effect on the public health from its unlawful conduct and that Dr. DeLuca had no previous criminal convictions related to matters within FDA's jurisdictions. As such, the considerations in sections 306(c)(3)(C) and (F) of the FD&C Act will be treated as favorable factors.

In light of the totality of the circumstances underlying the foregoing four considerations, the seriousness of the offense and Dr. DeLuca's management participation make debarment for 5 years, consistent with the proposal to debar, appropriate in spite of the favorable factors under 306(c)(3)(C) and (F) of the FD&C Act.

III. Findings and Order

Therefore, the Chief Scientist, under section 306(b)(2)(B)(i)(I) of the FD&C Act and under authority delegated to him by the Commissioner of Food and Drugs, finds: (1) That Dr. DeLuca has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval of a drug product or otherwise relating to the regulation of a drug product under the FD&C Act and (2) that the conduct underlying the conviction undermines the regulation of drugs. FDA has considered the relevant factors listed in section 306(c)(3) of the FD&C Act and determined that a debarment of 5 years is appropriate.

As a result of the foregoing findings, Dr. DeLuca is debarred for 5 years from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see DATES) (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved or pending drug product application who knowingly uses the services of Dr. DeLuca, in any capacity during his period of debarment, will be subject to civil money penalties. If Dr. DeLuca, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. DeLuca during his period of debarment.

Any application by Dr. DeLuca for termination of debarment under section 306(d) of the FD&C Act should be identified with Docket No. FDA–2010–N–0303 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents in the Docket at *http://www.regulations.gov/.*

Dated: February 24, 2015.

Stephen Ostroff,

Director, Office of the Chief Scientist.

[FR Doc. 2015–05043 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0301]

Steven M. Lynch; Denial of Hearing; Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying a request for a hearing submitted by Dr. Steven M. Lynch, and is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Dr. Lynch for 2 years from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Lynch was convicted of a misdemeanor under Federal law for conduct relating to the regulation of a drug product under the FD&C Act and that the type of conduct underlying the conviction undermines the process for the regulation of drugs. In determining the appropriateness and period of Dr. Lynch's debarment, FDA has considered the relevant factors listed in the FD&C Act. Dr. Lynch has failed to file with the Agency information and analyses sufficient to create a basis for a hearing concerning this action.

DATES: The order is effective March 5, 2015.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nathan Doty, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On August 11, 2009, in the U.S. District Court for the Northern District of New York, Dr. Lynch, a physician, pled guilty to a misdemeanor under the FD&C Act, namely misbranding a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act (21 U.S.C. 331(k), 352(i)(3), 333(a)(1)) and 18 U.S.C. 2. The basis for this conviction was conduct surrounding his injection of patients seeking treatment with BOTOX/BOTOX Cosmetic (BOTOX) with a product, TRI-toxin, distributed by Toxin Research International, Inc. BOTOX is a biological product derived from Botulinum Toxin Type A that is manufactured by Allergan, Inc., and was approved by FDA for use on humans for the treatment of facial wrinkles in 1991. According to the records of the criminal proceedings, Dr. Lynch's colleague in the same medical practice, The Plastic Surgery Group (TPSG), directed a nurse to obtain 31 vials of TRI-toxin, an unapproved drug product, which was represented by its distributor as ''Botulinum Toxin Type A.'' Dr. Lynch then proceeded to inject approximately 18 patients, who believed they were being injected with BOTOX, with TRI-toxin as a substitute.

Dr. Lynch is subject to debarment based on a finding, under section 306(b)(2)(B)(i)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(i)(I)): (1) That he was convicted of a misdemeanor under Federal law relating to the regulation of a drug product under the FD&C Act and (2) that the type of conduct underlying the conviction undermines the process for the regulation of drugs. By notice to Dr. Lynch dated November 30, 2010, FDA's Office of Regulatory Affairs (ORA) proposed to debar him for 4 years from providing services in any capacity to a person having an approved or pending drug product application.

In a letter dated December 30, 2010, through counsel, Dr. Lynch requested a hearing on the proposal. In his request for a hearing, Dr. Lynch acknowledges his conviction under Federal law, as alleged by FDA. By letter dated February 4, 2011, Dr. Lynch submitted materials and arguments in support of his request. Dr. Lynch acknowledges that he was convicted of a Federal misdemeanor, as found in the proposal to debar, but argues that he should not be debarred for reasons related to the factual basis set forth in the proposal to debar. In particular, with respect to the considerations for determining the appropriateness and period of debarment under section 306(c)(3) of the FD&C Act, he argues that there are genuine and substantial issues of fact for resolution at a hearing, namely factual issues bearing on whether he participated in or even knew of certain conduct that resulted in his violation of the FD&C Act.

Hearings are granted only if there is a genuine and substantial issue of fact. Hearings will not be granted on issues of policy or law, on mere allegations, denials, or general descriptions of positions and contentions, or on data and information insufficient to justify the factual determination urged or the action requested (see 21 CFR 12.24(b)).

The Chief Scientist has considered Dr. Lynch's arguments, as well as the proposal to debar itself, and concludes that, although Dr. Lynch has failed to raise a genuine and substantial issue of fact requiring a hearing, the appropriate period of debarment is 2 years.

II. Arguments

In support of his hearing request, Dr. Lynch first asserts that he is not subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act. He contends that he pled guilty to a misdemeanor violation of the FD&C Act (see section 303(a)(1)), which is a strict liability offense, and that thus there was no demonstration or admission of criminal intent or knowledge underlying the conviction. Dr. Lynch concludes, therefore, that the conduct underlying his conviction did not undermine the process for the regulation of drugs.

Section 306(b)(2)(B)(i)(I) of the FD&C Act specifically provides for the debarment of individuals convicted of Federal misdemeanors related to the regulation of drug products under the FD&C Act. Given that misdemeanor violations of the FD&C Act themselves are strict liability offenses, it stands to reason that criminal intent is not a critical component to debar an individual under section 306(b)(2)(B)(i)(I). During his criminal proceedings, Dr. Lynch pled guilty to misbranding and causing the misbranding of a drug in violation of sections 301(k), 502(i)(3) and 303(a)(1) of the FD&C Act by offering an unapproved drug, TRI-toxin, for sale as an approved drug product, BOTOX. Dr. Lynch's conduct undermined the process for the regulation of drugs in that it permitted an unapproved drug to be substituted for an approved drug without the knowledge of the patient. As a result, Dr. Lynch is, in fact, subject to debarment under section 306(b)(2)(B)(i)(I) of the FD&C Act.

Dr. Lynch next challenges the manner in which ORA applied the considerations under section 306(c)(3) of the FD&C Act in determining the appropriateness and period of his debarment. In the proposal to debar Dr. Lynch, ORA stated that there are four applicable considerations under section 306(c)(3) of the FD&C Act: (1) The nature and seriousness of his offense under section 306(c)(3)(A); (2) the nature and extent of management participation in the offense under section 306(c)(3)(B); (3) the nature and extent of voluntary steps taken to mitigate the impact on the public under section 306(c)(3)(C); and (4) prior convictions involving matters within the jurisdiction of FDA under section 306(c)(3)(F). ORA found with respect to Dr. Lynch that the first two considerations weigh in favor of debarment and noted that the third and fourth considerations would be treated as favorable factors for him. In making all of its findings under section 306(c)(3) of the FD&C Act, ORA characterized Dr. Lynch's conduct based on records from his criminal proceedings.

Under section 306(c)(3)(A) of the FD&C Act, in determining the appropriateness and period of

debarment, FDA considers ''the nature and seriousness of the offense involved.'' In the proposal to debar, ORA relied on the criminal information to which Dr. Lynch pled guilty to find that the conduct underlying his convictions:

> created a risk of injury to consumers due to the use of an unapproved drug, undermined [FDA's] oversight of an approved drug product by representing that [he] used the approved drug while actually substituting an unapproved drug in its place, and seriously undermined the integrity of [FDA's] regulation of drug products.

Under section 306(c)(3)(B), ORA also considered the ''nature and extent of [Dr. Lynch's] management participation in the offense'' and specifically found that he was a corporate principal who ''pleaded guilty to misbranding TRI-toxin'' and ''participated in the [TPSG's] unlawful conduct of administering [an] unapproved drug on multiple occasions to patients.'' ORA concluded, therefore, that the nature and seriousness of Lynch's offenses and the nature and extent of management participation were unfavorable factors with respect to him.

Dr. Lynch counters ORA's findings with respect to those two considerations in section 306(c)(3) of the FD&C Act with the following arguments: (1) That he did not admit any criminal intent or intentional wrongdoing when he pled guilty to a misdemeanor offense under the FD&C Act; (2) that, in fact, another physician at TPSG took unilateral action in ordering the TRI-toxin and directing a nurse to substitute it for BOTOX; (3) that the TRI-toxin vials that they used for injecting patients with TRI-toxin were identical to the vials he used for BOTOX before the substitution; and (4) that since the conviction for the underlying misdemeanor was of an individual, that there was no management participation and that, thus, the nature and extent of management participation is inapplicable as a factor in determining appropriateness and period of debarment. Dr. Lynch concedes that he pled guilty to the misdemeanor offense because he was, in fact, guilty of offering TRI-toxin for sale to their patients as BOTOX. He argues, however, that the criminal records do not establish any intent or knowledge on his part and that thus the conduct underlying his conviction does not warrant debarment in light of the considerations in section 306(c)(3) of the FD&C Act.

As noted previously, ORA relied on the records of Dr. Lynch's criminal proceedings for its findings in the proposal to debar. There is nothing definitive in the criminal records before FDA to contradict Dr. Lynch's assertions with respect to the nature of his involvement in the misdemeanor offense to which he pled guilty. The criminal information to which Dr. Lynch pled guilty alleges that TPSG, as opposed to Dr. Lynch, began ordering TRI-toxin for use in the medical practice, and there are no allegations that Dr. Lynch took part in the ordering process. Indeed, the proposal to debar states that, as claimed by Dr. Lynch, another physician in the practice, William F. DeLuca, Jr., was responsible for authorizing a nurse to substitute TRI-toxin for BOTOX, not Dr. Lynch. At Dr. Lynch's sentencing hearing, at which six other codefendants, including DeLuca, were also sentenced, the presiding judge also made clear that he believed DeLuca was the physician responsible for making the ''mistake'' that led to the other physician's offenses. In addressing DeLuca, the court stated:

> And we're here because of your actions and inactions. As I said, your mistakes were different in kind and degree from those of your colleagues. It was you who brought this drug into the practice, and it was your conduct and your failure to check out either the company or the drug that you were ordering, as you should have done, your negligence in doing that that has brought us here today in the end.

In addressing one of the other three physicians who pled guilty under circumstances similar to Dr. Lynch's, the court further stated: ''There have been disputes on how in the past over who knew what and at what point in time. It is clear from the facts in this case that you had no knowledge that the substance was anything other than [BOTOX] until your discovery of it in November of 2004.''

In short, consistent with the proposal to debar Dr. Lynch for 4 years, the records of his criminal proceedings establish that the misdemeanor convictions for the physicians in TPSG other than DeLuca were not based on any affirmative involvement in ordering the TRI-toxin or substituting the TRI-toxin for BOTOX. Furthermore, in proposing to debar Dr. Lynch for 4 years, ORA did not rely on any findings with respect to Dr. Lynch's intent or knowledge. Rather, citing the records of Dr. Lynch's criminal proceedings, the proposal to debar simply rests on Dr. Lynch's position of authority within TPSG and his conduct in misbranding TRI-toxin by administering it to patients who believed they were receiving BOTOX. As a result, under § 12.24(b), there is no genuine and substantial issue of fact raised by Dr. Lynch's arguments for resolution at a hearing.

As set forth in the proposal to debar and summarized above, Dr. Lynch pled guilty to a misdemeanor under the FD&C Act for his role in offering a drug under the name of another. Based on the undisputed record before the Agency, the consideration in section 306(c)(3)(A) of the FD&C Act with respect to the nature and seriousness of the offense involved is a favorable factor. As reflected in the records of the criminal proceedings, Dr. Lynch's offense did not rest on any intent or knowledge of wrongdoing on his part, nor may such intent or knowledge be inferred from the circumstances of his offense or the findings in the proposal to debar. Although, as a practicing physician, Dr. Lynch should be expected to take the appropriate steps to avoid administering an unapproved new drug to patients or misrepresenting the drug being administered, his failure to do so over a 10-month period does not warrant considering the nature and seriousness of his offense as an unfavorable factor, relative to the range of conduct that might underlie a Federal misdemeanor conviction.

On the other hand, because of Dr. Lynch's position of authority within TPSG and, thus, presumed ability to prevent the series of events that resulted in the offense underlying his misdemeanor conviction, the nature and extent of management participation in the offense is an unfavorable factor, for the purposes of the consideration under 306(c)(3)(B) of the FD&C Act. Dr. Lynch asserts that there was no management participation, and that, thus, this factor is inapplicable because the underlying conviction was of an individual. However, the criminal information to which Dr. Lynch pled guilty alleges that TPSG began ordering TRI-toxin for use in the medical practice. It is undisputed that Dr. Lynch is a principal in TPSG, and this is the basis for considering the nature and extent of management participation as a factor in determining the appropriateness and period of debarment. FDA has relied on this factor in other debarment cases where the underlying conviction was of an individual (see 78 FR 68455 (November 14, 2013); 77 FR 27236 (May 9, 2012)).

The limited scope of his direct actions in committing the underlying misdemeanor offense does not mitigate the extent of his management participation, as established during his criminal proceedings and as set out in the proposal to debar. It is true that nothing in the criminal proceedings or the proposal to debar reflects any involvement by him in the decision to

order the TRI-toxin and substitute it for BOTOX, and the proposal to debar specifically finds that another physician authorized a nurse to place that order. However, Dr. Lynch, as a principal of TPSG, was responsible for failing to ensure that there were controls and procedures in place to prevent other physicians or a nurse from ordering unapproved drugs for administration to patients. His own admitted inaction on that front warrants treating his management participation as an unfavorable factor.[1]

Consistent with the proposal to debar, the record establishes that the medical practice of which Dr. Lynch was a part ultimately took voluntary steps to mitigate the effect on the public health from its unlawful conduct (see section 306(c)(3)(C) of the FD&C Act). Furthermore, it is undisputed that Dr. Lynch had no previous criminal convictions related to matters within the jurisdiction of FDA (see section 306(c)(3)(F) of the FD&C Act). Therefore, these will be treated as favorable factors. In light of the foregoing four considerations, one of which weighs against Dr. Lynch, debarment for 2 years is appropriate.

III. Findings and Order

Therefore, the Chief Scientist, under section 306(b)(2)(B)(i)(I) of the FD&C Act and under authority delegated to him, finds that Dr. Lynch has been convicted of a misdemeanor under Federal law for conduct relating to the development or approval of a drug product or otherwise relating to the regulation of a drug product under the FD&C Act and that the conduct underlying the conviction undermines the regulation of drugs. FDA has considered the relevant factors listed in section 306(c)(3) of the FD&C Act and determined that a debarment of 2 years is appropriate.

As a result of the foregoing findings, Dr. Lynch is debarred for 2 years from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see DATES) (see 21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(iii) and 21 U.S.C. 321(dd)). Any person with an approved, or pending, drug product application, who knowingly uses the services of Dr. Lynch, in any capacity during his period of debarment, will be subject to civil money penalties. If Dr. Lynch, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Lynch during his period of debarment.

Any application by Dr. Lynch for termination of debarment under section 306(d) of the FD&C Act should be identified with Docket No. FDA–2010–N–0301 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain documents in the Docket at *http://www.regulations.gov/.*

Dated: February 24, 2015.

Stephen Ostroff,

Director, Office of the Chief Scientist.

[FR Doc. 2015–05044 Filed 3–4–15; 8:45 am]

BILLING CODE 4164–01P

[1] See *United States* v. *Park,* 421 U.S. 658, 673–74 (1975) (holding that a high-level manager within a business entity bears a responsibility to prevent and correct violations of the FD&C Act).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at Section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on January 1, 2015, through January 31, 2015. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: February 25, 2015.

Mary K. Wakefield,

Administrator.

List of Petitions Filed

1. Jason Chevalier, Wakefield, Rhode Island, Court of Federal Claims No: 15–0001V
2. Juan Alvarado, Rockaway Park, New York, Court of Federal Claims No: 15–0002V
3. Kimberly Durgala, Johnson City, New York, Court of Federal Claims No: 15–0003V
4. Leanell Jones, Fairfield, California, Court of Federal Claims No: 15–0004V
5. Marion Eugene Hayward, Wellesley Hills, Massachusetts, Court of Federal Claims No: 15–0005V
6. Kathleen Konen on behalf of Joseph Konen, Lexington, Michigan, Court of Federal Claims No: 15–0006V
7. Deborah Valles, Oak Lawn, Illinois, Court of Federal Claims No: 15–0007V
8. William Davis and Nicole Davis on behalf of Z.D., Lexington, North Carolina, Court of Federal Claims No: 15–0008V
9. Wyatt Tanner, Columbus, Ohio, Court of Federal Claims No: 15–0011V
10. John Ford, Charleston, South Carolina, Court of Federal Claims No: 15–0012V
11. Martin Crowley, Parris Island, North Carolina, Court of Federal Claims No: 15–0015V
12. Candie Decker on behalf of A.D., Great Neck, New York, Court of Federal Claims No: 15–0017V
13. Norman Reed, Bridgewater, Massachusetts, Court of Federal Claims No: 15–0018V
14. Erica Vancleave, Mill Creek, Washington, Court of Federal Claims No: 15–0019V
15. Linda Schorel, Hudson, Florida, Court of Federal Claims No: 15–0021V
16. Oscar A. Dighero, Garden Grove, California, Court of Federal Claims No: 15–0022V
17. Brandie Terry, Brazoria, Texas, Court of Federal Claims No: 15–0023V
18. Randall Ho, Chicago, Illinois, Court of Federal Claims No: 15–0025V
19. Elaine Stout, Centreville, Virginia, Court of Federal Claims No: 15–0026V
20. Rachael Hanna, Boston, Massachusetts, Court of Federal Claims No: 15–0031V
21. Julie Reiling, Phoenix, Arizona, Court of Federal Claims No: 15–0032V
22. Sherry Smith, Sarasota, Florida, Court of Federal Claims No: 15–0033V
23. Rachel Faucher, Berlin, New Hampshire, Court of Federal Claims No: 15–0034V
24. Cynthia Kuhn, Boston, Massachusetts, Court of Federal Claims No: 15–0035V
25. Wahib Mashini, Irvine, California, Court of Federal Claims No: 15–0036V
26. Patricia Lynne Spilman, Towson, Maryland, Court of Federal Claims No: 15–0037V
27. Linda Roche, Boston, Massachusetts, Court of Federal Claims No: 15–0038V
28. Audra Najera, San Diego, California, Court of Federal Claims No: 15–0039V
29. Jamie Emerson, Boston, Massachusetts, Court of Federal Claims No: 15–0042V
30. Todd Carlson and Carrie Carlson on behalf of E.C., Vienna, Virginia, Court of Federal Claims No: 15–0043V
31. Willard First, Langhorne, Pennsylvania, Court of Federal Claims No: 15–0047V
32. Louis Danni, Niagara Falls, New York, Court of Federal Claims No: 15–0048V
33. Violet Wilson, Auburn, California, Court of Federal Claims No: 15–0049V
34. Douglas Tullio, Washington, District of Columbia, Court of Federal Claims No: 15–0051V
35. Timothy Kelly, Jackson, Michigan, Court of Federal Claims No: 15–0052V
36. Craig Richardson, Princeton, New Jersey, Court of Federal Claims No: 15–0053V
37. Thomas Steffens on behalf of William K. Woll, Deceased, Venice, Florida, Court of Federal Claims No: 15–0059V
38. Rebeca Vega Henchys, Aguadilla, Puerto Rico, Court of Federal Claims No: 15–0060V
39. Finnettia Garner, Houston, Texas, Court of Federal Claims No: 15–0063V
40. Margaret Carpenter, Easton, Pennsylvania, Court of Federal Claims No: 15–0064V
41. Leah Hawkins Bennett on behalf of Varnadora McNeal Hawkins, Deceased, Winter Haven, Florida, Court of Federal Claims No: 15–0065V
42. Jillaine Burghardt, Lake Success, New York, Court of Federal Claims No: 15–0067V
43. David Hoskins, Jr. on behalf of Annabelle Hoskins, Deceased, Huber Heights, Ohio, Court of Federal Claims No: 15–0071V
44. Leslie Hammond, Ephraim, Utah, Court of Federal Claims No: 15–0072V
45. Jose De La Cruz Herrera, Birmingham, Alabama, Court of Federal Claims No: 15–0076V
46. Laura Williams, Farmville, Virginia, Court of Federal Claims No: 15–0080V
47. Phyllis Webb, Millsboro, Delaware, Court of Federal Claims No: 15–0081V
48. Gail A. Clements on behalf of Ronald Clements, Deceased, Murrieta, California, Court of Federal Claims No: 15–0083V
49. Angelika Belgrade, Wilmington, Delaware, Court of Federal Claims No: 15–0084V
50. Sevela DePlush and Mykelle D'Tiole on behalf of M.J.D., Bayside, California, Court of Federal Claims No: 15–0085V
51. Michelle Schneider on behalf of R.S., Leander, Texas, Court of Federal Claims No: 15–0086V
52. Jacqueline Haim, Weston, Florida, Court of Federal Claims No: 15–0089V
53. James Moore, Weston, Florida, Court of Federal Claims No: 15–0090V
54. James Bojan on behalf of J.D.B., Baraboo, Wisconsin, Court of Federal Claims No: 15–0091V
55. Laurie Dart, St. Petersburg, Florida, Court of Federal Claims No: 15–0092V
56. Colleen Dotson, El Cajon, California, Court of Federal Claims No: 15–0093V
57. Gloria Massey Chinea, Irvine, California, Court of Federal Claims No: 15–0095V
58. Anthony Forziati, Belmont, Massachusetts, Court of Federal Claims No: 15–0096V

[FR Doc. 2015–05089 Filed 3–4–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering (NIBIB) Announcement of Requirements and Registration for the 2015 Design by Biomedical Undergraduate Teams (DEBUT) Challenge

Authority: 15 U.S.C. 3719.

SUMMARY: The National Institute of Biomedical Imaging and Bioengineering

(NIBIB) Design by Biomedical Undergraduate Teams (DEBUT) Challenge is open to teams of undergraduate students working on projects that develop innovative solutions to unmet health and clinical problems. NIBIB's mission is to improve health by leading the development and accelerating the application of biomedical technologies. The goals of the DEBUT Challenge are (1) to provide undergraduate students valuable experiences such as working in teams, identifying unmet clinical needs, and designing, building and debugging solutions for such open-ended problems; (2) to generate novel, innovative tools to improve healthcare, consistent with NIBIB's purpose to support research, training, the dissemination of health information, and other programs with respect to biomedical imaging and engineering and associated technologies and modalities with biomedical applications; and (3) to highlight and acknowledge the contributions and accomplishments of undergraduate students.

DATES: The competition begins March 5, 2015.

Submission Period: March 16, 2015 to May 29, 2015, 11:59 p.m. EDT.

Judging Period: June 8, 2015 to August 7, 2015.

Winners announced: August 21, 2015.

Award ceremony: October 9, 2015, Biomedical Engineering Society Conference, Tampa Florida.

FOR FURTHER INFORMATION CONTACT: *info@nibib.nih.gov* or (301) 451–4792.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: The NIBIB DEBUT Challenge solicits design projects that develop innovative solutions to unmet health and clinical problems. Areas of interest for the biomedical engineering projects include, but are not limited to: Diagnostics, therapeutics, technologies for underserved populations and low resource settings, point-of-care systems, precision medicine, preventive medicine, and technologies to aid individuals with disabilities.

Rules

1. Who can win: To be eligible to win a prize under this challenge, an individual on the Student Team must:

(a) Be a citizen or permanent resident of the United States; and

(b) Meet all the conditions below for eligibility to compete under this challenge.

2. Who can compete: This is a team challenge. To be eligible to compete in this challenge, an individual must:

(a) Be an undergraduate student enrolled full-time in an undergraduate curriculum during at least one full semester (or quarter if the institution is on a quarter system) of the 2013–2015 academic year;

(b) Form or join a ''Student Team'' with at least two other individuals for the purpose of developing an entry for submission to this challenge. Each student on the Student Team must satisfy all the requirements for competing in this challenge. While it is expected that most of the individuals participating in the competition may be students from biomedical engineering departments, interdisciplinary teams including students from other fields are welcome and encouraged;

(c) Acknowledge understanding and acceptance of the DEBUT challenge rules by signing the *NIBIB DEBUT Challenge Certification Form* found at *https://www.nibib.nih.gov/sites/default/files/NIBIB%20DEBUT%20Certification%20Form.pdf*. Each entry must include one NIBIB DEBUT Challenge Certification Form, completed with: The printed names of Student Team members, an indication of whether the team member is either a U.S. citizen or permanent resident (as opposed to a foreign student on a visa), and be signed and dated by each individual member of the Student Team. Entries that do not provide a complete Certification Form will be disqualified from the challenge;

(a) Be 13 years of age or older.

(b) Not be a Federal employee acting within the scope of their employment. Federal employees seeking to participate in this challenge outside the scope of their employment should consult their ethics official prior to developing a submission; and

(c) Comply with all the requirements under this section (Section 2).

3. Foreign students who are studying in the United States on a visa are eligible to be part of the competing Student Teams. However, they will not receive a monetary prize if they are part of a winning Student Team. See Prize section below for the distribution of prizes. As acknowledgement of their participation, however, the names of foreign students who are part of winning Student Teams will be listed among the winning team members when results are announced and at the award ceremony.

4. By participating in this challenge, each individual agrees to abide by all rules of this challenge.

5. Each entry into this challenge must have been conceived, designed, and implemented by the Student Team. Student Teams participating in capstone design projects are especially encouraged to enter the challenge.

6. Each Student Team may submit only one entry into this challenge through one member of the Student Team appointed as ''Team Captain'' by that Student Team. The Team Captain will carry out all correspondence regarding the Student Team's entry. The Team Captain must be a citizen or permanent resident of the United States.

7. The Team Captain will submit a Student Team's entry on behalf of the Student Team by following the links and instructions at *http://www.nibib.nih.gov/training-careers/undergraduate-graduate/design-biomedical-undergraduate-teams-debut-challenge/* and certify that the entry meets all the challenge rules.

8. Each entry must comply with Section 508 standards that require federal agencies' electronic and information technology be accessible to people with disabilities, *http://www.section508.gov/*.

9. Individuals who are younger than 18 must have their parent or legal guardian complete the *Parental Consent Form* found at *https://www.nibib.nih.gov/sites/default/files/Parental%20Consent%20Form.pdf*.

10. Each entry must be submitted as *a single pdf file* and must include the following:

- Sponsor letter, on department letterhead, from a faculty member from the Biomedical Engineering, Bioengineering or similar department of the institution in which the Student Team members are enrolled, verifying a) that the entry was achieved by the named Student Team, b) that each member of the team was enrolled full-time in an undergraduate curriculum during at least one semester or quarter of the academic year 2014–2015, and c) describing clearly any contribution from the advisor or any other individual outside the Student Team (especially when the submitted entry is part of a bigger/ongoing project, the specific components designed and implemented by the competing Student Team must be clarified and distinguished from those accomplished by others).
- The *NIBIB DEBUT Challenge Certification Form* (downloadable from *https://www.nibib.nih.gov/sites/default/files/NIBIB%20DEBUT%20Certification%20Form.pdf* completed with the printed names, indication of U.S. citizenship or permanent residency, dates, and signatures of each individual member of the Student Team.
- Completed *Cover Page* (downloadable from *https://www.nibib.nih.gov/sites/default/files/*

NIBIB%20DEBUT%20Cover%20Page.pdf listing project title and team member information.

• Project Description (not to exceed 6 pages using Arial font and a font size of at least 11 points) that includes the following 4 sections:

(1) Abstract
(2) Description of clinical need or problem, including background and current methods available
(3) Design, including a discussion of the innovative aspects
(4) Evidence of a working prototype (results/graphics obtained with the designed solution)

When the submitted entry is part of a bigger/ongoing project, the specific components designed and implemented by the competing Student Team must be clarified and distinguished from those accomplished by others (*e.g.* other students, advisor, collaborators).

The 6-page limit includes any graphics, but excludes the cover page, certification form, parental consent form, and any references. Submissions exceeding 6 pages for the Project Description will not be accepted. An optional 3-minute video displaying the operation of the device/method may be included. However, the 6-page Project Description must be a stand-alone explanation of the project.

• A completed Parental Consent Form, accessible at *https://www.nibib.nih.gov/sites/default/files/Parental%20Consent%20Form.pdf,* for each individual on the Student Team who is under the age of 18.

11. NIBIB will claim no rights to intellectual property. Individuals on the Student Team will retain intellectual property ownership as applicable arising from their entry. By participating in this challenge, such individuals grant to NIBIB an irrevocable, paid-up, royalty-free, nonexclusive worldwide license to post, link to, share, and display publicly the entry on the Web, newsletters or pamphlets, and other information products. It is the responsibility of the individuals on the Student Team to obtain any rights necessary to use, disclose, or reproduce any intellectual property owned by third parties and incorporated in the entry for all anticipated uses of the entry.

12. All entries must be submitted by the challenge deadline, May 29, 2015, 11:59 p.m. EDT. Entries must not infringe upon any copyright or any other rights of any third party.

13. By participating in this challenge, each individual agrees to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this prize challenge, whether the injury, death, damage, or loss arises through negligence or otherwise.

14. Based on the subject matter of the challenge, the type of work that it will possibly require, as well as an analysis of the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from challenge participation, individuals are not required to obtain liability insurance or demonstrate financial responsibility in order to participate in this challenge.

15. By participating in this challenge, each individual agrees to indemnify the Federal Government against third party claims for damages arising from or related to challenge activities.

16. An individual shall not be deemed ineligible because the individual used Federal facilities or consulted with Federal employees during this challenge if the facilities and employees are made available to all individuals participating in the challenge on an equitable basis.

17. NIBIB reserves the right to cancel, suspend, modify the challenge, and/or not award a prize if no entries are deemed worthy.

Prize: The 1st, 2nd, and 3rd place prizes will be $20,000, $15,000, and $10,000, respectively, to be distributed only among the members of the winning Student Team eligible to win a prize in this challenge. The prize will be distributed equally among the prize-eligible Student Team members, *i.e.,* students who are either citizens or permanent residents of the United States. Each prize-eligible member of the winning Student Teams must provide his/her bank information to enable electronic transfer of funds. Six honorable mentions will also be awarded, without an accompanying monetary prize.

Winning Student Teams will be honored at the NIBIB DEBUT Award Ceremony during the 2015 Annual Meeting of the Biomedical Engineering Society (BMES) in Tampa, Florida on October 9, 2015. Updated information on the BMES annual meeting can be found at *http://bmes.org/annualmeeting*. NIBIB will not provide financial support for winning Student Teams or Honorable Mention awardees to attend the award ceremony. However they are welcome and encouraged to attend the award ceremony, or designate a representative to attend on their behalf.

Basis upon Which Winner Will Be Selected: The winning entries will be selected based on the following criteria:

• Significance of the problem addressed—Does the entry address an important problem or a critical barrier to progress in clinical care or research?

• Impact on potential users and clinical care—How likely is it that the entry will exert a sustained, powerful influence on the problem and medical field addressed?

• Innovative design (creativity and originality of concept)—Does the entry utilize novel theoretical concepts, approaches or methodologies, or instrumentation?

• Working prototype that implements the design concept and produces targeted results—Has evidence been provided (in the form of results, graphs, photographs, films, etc.) that a working prototype has been achieved?

Additional Information: For more information and to submit entries, visit *http://www.nibib.nih.gov/training-careers/undergraduate-graduate/design-biomedical-undergraduate-teams-debut-challenge/*.

The NIBIB prize-approving official will be the Director of NIBIB. Prizes will be paid using electronic funds transfer and may be subject to federal income taxes. NIH will comply with the Internal Revenue Service (IRS) withholding and reporting requirements, where applicable.

Dated: February 27, 2015.

Roderic I. Pettigrew,

Director, National Institute of Biomedical Imaging and Bioengineering.

[FR Doc. 2015–05092 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Point of Care, SBIR.

Date: March 24, 2015.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725 *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (R13/U13).

Date: March 24–25, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive Room 7184, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–435–0277, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Point of Care, STTR.

Date: March 24, 2015.

Time: 3:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Effect of age on heart, lung, blood, and sleep disorders.

Date: March 27, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 27, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05007 Filed 3–4–15; 8:45 am]

BILLING CODE 4140–01P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1473]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The

flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Connecticut: New Haven.	Town of Branford (15–01–0490P).	Mr. James B. Cosgrove, First Selectman, Town of Branford, 1019 Main Street, Branford, CT 06405.	1019 Main Street Branford, CT 06405.	*http://www.msc.fema.gov/lomc*	April 22, 2015	090073
Illinois:						
Kane	City of Elgin (14–05–4054P).	The Honorable Dave Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL.	150 Dexter Court Elgin, IL	*http://www.msc.fema.gov/lomc*	May 6, 2015	170087
Adams	City of Quincy (14–05–9049P).	The Honorable Kyle Moore, Mayor, City of Quincy, 730 Main Street, Quincy, IL 62301.	730 Main Street, Quincy, IL 62301.	*http://www.msc.fema.gov/lomc*	May 22, 2015	17003
Adams	Unincorporated Areas of Adams County (14–05–9049P).	The Honorable Les Post, Chairman, Adams County, 101 North 54th Street, Quincy, IL 62305.	101 North 54th Street, Quincy, IL 62305.	*http://www.msc.fema.gov/lomc*	May 22, 2015	17001
Indiana:						
Clark	City of Jefferson (14–05–9401P).	The Honorable Mike Moore, Mayor, City of Jeffersonville, 500 Quartermaster Court, Suite 250, Jeffersonville, IN 47130.	500 Quartermaster Court, Jeffersonville, IN 47130.	*http://www.msc.fema.gov/lomc*	April 17, 2015	180027
Clark	Town of Utica (14–05–9401P).	The Honorable Hank Dorman, Board President, Town of Utica, 736 Utica Charlestown Road, Utica, IN 47130.	736 Utica Charlestown Road, Utica, IN 47130.	*http://www.msc.fema.gov/lomc*	April 17, 2015	180487
Clark	Unincorporated Areas of Clark County (14–05–9401P).	The Honorable Jack Coffman, President, County Commissioners, 501 East Court Avenue, Room 404, Jeffersonville, IN 47130.	501 East Court Avenue Jeffersonville, IN 47130.	*http://www.msc.fema.gov/lomc*	April 17, 2015	180426
Missouri: Jasper	City of Joplin (14–07–0736P).	The Honorable Michael Seibert, Mayor, City of Joplin, 602 South Main Street, Joplin, MO 64801.	602 South Main Street Joplin, MO 64801.	*http://www.msc.fema.gov/lomc*	May 26, 2015	290183
Ohio:						
Franklin	City of Columbus (15–05–0192X).	The Honorable Michael B. Coleman, Mayor, City of Columbus, 90 West Broad Street, 2nd Floor, Columbus, OH 43215.	90 West Broad Street Columbus, OH 43215.	*http://www.msc.fema.gov/lomc*	May 14, 2015	390170
Delaware	Unincorporated Areas of Delaware County (14–05–3856P).	The Honorable Gary Merrell, President, Delaware County Board of Commissioners, 101 North Sandusky Street, Delaware, OH 43015.	101 North Sandusky Street, Delaware, OH 43015.	*http://www.msc.fema.gov/lomc*	May 13, 2015	390146
Marion	Unincorporated Areas of Marion County (14–05–3856P).	The Honorable Daniel L. Russell, Marion County Board of Commissioners, 222 West Center Street, Marion, OH 43302.	222 West Center Street Marion, OH 43302.	*http://www.msc.fema.gov/lomc*	May 13, 2015	390774
Oregon:						
Washington	City of Hillsboro (14–10–1501P).	The Honorable Jerry Willey, Mayor, City of Hillsboro, 150 East Main Street, Hillsboro, OR 97123.	150 East Main Street, Hillsboro, OR 97123.	*http://www.msc.fema.gov/lomc*	May 18, 2015	410243

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Washington	Unincorporated Areas of Washington County (14–10–1501P).	The Honorable Andy Duyck, Chairman, Board of Directors, Washington County, 155 North 1st Avenue, Suite 300, Hillsboro, OR 97124.	155 North 1st Avenue, Hillsboro, OR 97124.	*http://www.msc.fema.gov/lomc*	May 18, 2015	410238
Wisconsin: Portage	City of Stevens Point (13–05–4844P).	The Honorable Gary Wescott, Mayor, City of Steven Point, 1515 Strongs Avenue, Stevens Point, WI 54481.	1515 Strongs Avenue, Stevens Point, WI 54481.	*http://www.msc.fema.gov/lomc*	May 15, 2015	550342

[FR Doc. 2015–05067 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Maryland:					
Worcester (FEMA Docket No.: B–1444).	Town of Ocean City (14–03–1372P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21843.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	December 26, 2014	245207
Worcester (FEMA Docket No.: B–1444).	Town of Ocean City (14–03–1373P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21843.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	December 26, 2014	245207

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Worcester (FEMA Docket No.: B–1444).	Town of Ocean City (14–03–1375P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21843.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	December 26, 2014	245207
New Mexico:					
Bernalillo (FEMA Docket No.: B–1444).	City of Albuquerque (14–06–0305P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Development and Review Services Division, 600 2nd Street Northwest, Suite 201, Albuquerque, NM 87102.	January 2, 2015	350002
Bernalillo (FEMA Docket No.: B–1444).	Unincorporated areas of Bernalillo County (14–06–0097P).	The Honorable Debbie O'Malley, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	December 26, 2014	350001
Texas:					
Burnet (FEMA Docket No.: B–1432).	City of Horseshoe Bay (14–06–4634P [reissued 13–06–4634P]).	The Honorable Steve Jordon, Mayor, City of Horseshoe Bay, P.O. Box 7765, Horseshoe Bay, TX 78657.	City Hall, 1 Community Drive, Horseshoe Bay, TX 78657.	November 26, 2014	480149
Dallas (FEMA Docket No.: B–1444).	City of Farmers Branch (14–06–0555P).	The Honorable Bob Phelps, Mayor, City of Farmers Branch, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	City Hall, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	January 2, 2015	480174
Dallas (FEMA Docket No.: B–1444).	Town of Addison (14–06–0555P).	The Honorable Todd Meier, Mayor, Town of Addison, P.O. Box 9010, Addison, TX 75001.	Public Works Department, 16801 Westgrove Drive, Addison, TX 75001.	January 2, 2015	481089
El Paso (FEMA Docket No.: B–1437).	City of El Paso (14–06–0412P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Land Development, 801 Texas Avenue, El Paso, TX 79901.	November 28, 2014	480214
El Paso (FEMA Docket No.: B–1432).	City of El Paso (14–06–2375P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Land Development, 801 Texas Avenue, El Paso, TX 79901.	October 27, 2014	480214
El Paso (FEMA Docket No.: B–1441).	Unincorporated areas of El Paso County (14–06–1602P).	The Honorable Veronica Escobar, El Paso County Judge, 500 East San Antonio Avenue, Suite 301, El Paso, TX 79901.	El Paso County Public Works Department, 800 East Overland Avenue, Suite 407, El Paso, TX 79901.	December 12, 2014	480212
Galveston (FEMA Docket No.: B–1444).	City of League City (13–06–3403P).	The Honorable Timothy Paulissen, Mayor, City of League City, 300 West Walker Street, League City, TX 77573.	Planning Department, 1535 Dickinson Avenue, League City, TX 77573.	December 26, 2014	485488
Harris (FEMA Docket No.: B–1444).	Unincorporated areas of Harris County (14–06–3038P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	December 26, 2014	480287
Llano (FEMA Docket No.: B–1432).	Unincorporated areas of Llano County (14–06–4634P [reissued 13–06–4634P]).	The Honorable Wayne Brascom, Llano County Judge, 801 Ford Street, Room 101, Llano, TX 78643.	Llano County Courthouse, 801 Ford Street, Llano, TX 78643.	November 26, 2014	481234
Tarrant (FEMA Docket No.: B–1444).	City of Hurst (14–06–1807P).	The Honorable Richard Ward, Mayor, City of Hurst, 1505 Precinct Line Road, Hurst, TX 76054.	Public Works Administration Office, 1505 Precinct Line Road, Hurst, TX 76054.	December 29, 2014	480601

[FR Doc. 2015–05070 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2014–0034; OMB No. 1660–0040]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and

the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 6, 2015.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, facsimile number (202) 212–4701, or email address *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: A Correction 60-day **Federal Register** Notice inviting public comments was published on February 9, 2015 (80 FR 7004), correcting the docket ID in the **ADDRESSES** section and extending the deadline.

Collection of Information

Title: Standard Flood Hazard Determination Form.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0040.

Form Titles and Numbers: FEMA Form 086–0–32, Standard Flood Hazard Determination Form (SFHDF). FEMA received four comments on the form. In response to the comments, FEMA changed FEMA Form 086–0–32 to (1) return it to a single page, (2) clarify the language of the form and the information pages, (3) offer users a wider variety of suggested information so the form will be simpler to use then in the past; (4) indicate that a preparer may add additional comments/pages/data as needed; and (5) to direct the user to the applicable servicer, lender or regulatory entity as applicable if they need guidance regarding their use of the form. A few of the comments asked for changes to the form outside FEMA's authority.

Abstract: FEMA Form 086–0–32, SFHDF is used by regulated lending institutions, federal agency lenders, related lenders/regulators, and the Government. Federally regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose is of determining whether flood insurance is required and available. The form may also be used by property owner, insurance agents, realtors, community officials for flood insurance related documentation.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 46,456,460.

Estimated Total Annual Burden Hours: 15,330,632 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $951,265,715.60. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $5,409.18. The corrected cost reflects an increase of $1,100.18 from the 60-day **Federal Register** Notice because of a clerical error in reporting the correct salary for the federal employee.

Dated: February 27, 2015.

Terry Cochran,

Acting Director, Records Management Division, U.S. Department of Homeland Security, Federal Emergency Management Agency, Mission Support.

[FR Doc. 2015–05074 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1472]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster

Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas:						
Johnson	City of Clarksville (14–06–3379P).	The Honorable Billy Helms, Mayor, City of Clarksville, 205 Walnut Street, Clarksville, AR 72830.	205 Walnut Street, Clarksville, AR 72830.	*http://www.msc.fema.gov/lomc*	Apr. 30, 2015 ...	050112
Johnson	Unincorporated areas of Johnson County (14–06–3379P).	The Honorable Herbert H. Houston, Johnson County Judge, 215 West Main Street, Clarksville, AR 72830.	Johnson County, 215 West Main Street, Clarksville, AR 72830.	*http://www.msc.fema.gov/lomc*	Apr. 30, 2015 ...	050441
Louisiana:						
Ouachita	Unincorporated areas of Ouachita Parish (13–06–0061P).	The Honorable Shane Smiley, Ouachita Parish Police Jury President, 301 South Grand Street, Suite 201, Monroe, LA 71201.	Ouachita Parish Floodplain Manager's Office, 1650 DeSiard Street, Suite 202, Monroe, LA 71201.	*http://www.msc.fema.gov/lomc*	Mar. 27, 2015 ...	220135
Maryland:						
Worcester	Town of Ocean City (14–03–1788P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21843.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	*http://www.msc.fema.gov/lomc*	Apr. 17, 2015 ...	245207
Worcester	Town of Ocean City (14–03–1789P).	The Honorable Richard W. Meehan, Mayor, Town of Ocean City, P.O. Box 158, Ocean City, MD 21843.	Planning and Zoning Division, 301 North Baltimore Avenue, Ocean City, MD 21842.	*http://www.msc.fema.gov/lomc*	Apr. 17, 2015 ...	245207
New Mexico:						
Taos	Unincorporated areas of Taos County (14–06–2951P).	The Honorable Gabriel J. Romero, Chairman, Taos County Commission, 105 Albright Street, Suite A, Taos, NM 87571.	Taos County Administrative Complex, 105 Albright Street, Suite H, Taos, NM 87571.	*http://www.msc.fema.gov/lomc*	Apr. 3, 2015	350078
New York:						
Essex and Franklin.	Village of Saranac Lake (14–02–1850P).	The Honorable Clyde Rabideau, Mayor, Village of Saranac Lake, 39 Main Street, 2nd Floor, Saranac Lake, NY 12983.	Village Office, Community Development Office, 39 Main Street, 2nd Floor, Saranac Lake, NY 12983.	*http://www.msc.fema.gov/lomc*	Jun. 2, 2015	360273
Franklin	Town of Harrietstown (14–02–1850P).	The Honorable Michael Kilroy, Supervisor, Town of Harrietstown, 39 Main Street, Saranac Lake, NY 12983.	Harrietstown Town Hall Building and Planning Department, 39 Main Street, Saranac Lake, NY 12983.	*http://www.msc.fema.gov/lomc*	Jun. 2, 2015	361124
Oklahoma:						
Garfield	City of Enid (14–06–2061P).	Mr. Jerald Gilbert, Manager, City of Enid, 401 West Owen K. Garriott Road, Enid, OK 73701.	City Hall, 401 West Owen K. Garriott Road, Enid, OK 73701.	*http://www.msc.fema.gov/lomc*	Apr. 16, 2015 ...	400062
Texas:						
Bexar	City of San Antonio (14–06–3279P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	Apr. 22, 2015 ...	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Bexar	Unincorporated areas of Bexar County (14–06–3279P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	Apr. 22, 2015	480035
Collin	City of Murphy (14–06–1945P).	The Honorable Eric Barna, Mayor, City of Murphy, 206 North Murphy Road, Murphy, TX 75094.	City Hall, 206 North Murphy Road, Murphy, TX 75094.	*http://www.msc.fema.gov/lomc*	Apr. 10, 2015	480137
Collin	City of Sachse (14–06–1945P).	The Honorable Mike Felix, Mayor, City of Sachse, 3815 Sachse Road, Building B, Sachse, TX 75048.	City Hall, 3815 Sachse Road, Building B, Sachse, TX 75048.	*http://www.msc.fema.gov/lomc*	Apr. 10, 2015	480186
Denton	Town of Trophy Club (14–06–1550P).	The Honorable Nick Sanders, Mayor, Town of Trophy Club, 100 Municipal Drive, Trophy Club, TX 76262.	Town Hall, 100 Municipal Drive, Trophy Club, TX 76262.	*http://www.msc.fema.gov/lomc*	Apr. 7, 2015	481606
El Paso	City of El Paso (14–06–3838P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Land Development, 801 Texas Avenue, El Paso, TX 79901.	*http://www.msc.fema.gov/lomc*	Apr. 24, 2015	480214
Fort Bend	Unincorporated areas of Fort Bend County (14–06–3369P).	The Honorable Robert Hebert, Fort Bend County Judge, 401 Jackson Street, Richmond, TX 77469.	Fort Bend County Engineering Department, 1124 Blume Road, Rosenberg, TX 77471.	*http://www.msc.fema.gov/lomc*	Apr. 23, 2015	480228
Harris	City of Houston (13–06–4126P).	The Honorable Annise D. Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Office, 1002 Washington Avenue, 3rd Floor, Houston, TX 77002.	*http://www.msc.fema.gov/lomc*	Apr. 9, 2015	480296
Harris	Unincorporated areas of Harris County (13–06–4126P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Apr. 9, 2015	480287
Harris	Unincorporated areas of Harris County (14–06–1809P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Apr. 8, 2015	480287
Harris	Unincorporated areas of Harris County (14–06–3886P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	Apr. 8, 2015	480287
Midland	City of Odessa (14–06–2140P).	The Honorable David Turner, Mayor, City of Odessa, P.O. Box 4398, Odessa, TX 79760.	City Hall, 411 West 8th Street, 4th Floor, Odessa, TX 79761.	*http://www.msc.fema.gov/lomc*	Apr. 14, 2015	480206
Midland	Unincorporated areas of Midland County (14–06–2140P).	The Honorable Michael R. Bradford, Midland County Judge, 500 North Loraine Street, Suite 1100, Midland, TX 79701.	Midland County, City of Midland Engineering Services, 300 North Loraine Street, Suite 510, Midland, TX 79701.	*http://www.msc.fema.gov/lomc*	Apr. 14, 2015	481239
Tarrant	City of Grand Prairie (14–06–1709P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053.	Engineering Department, 206 West Church Street, Grand Prairie, TX 75050.	*http://www.msc.fema.gov/lomc*	Apr. 1, 2015	485472
Tarrant	City of River Oaks (14–06–2601P).	The Honorable Herman Earwood, Mayor, City of River Oaks, 4900 River Oaks Boulevard, River Oaks, TX 76114.	4900 River Oaks Boulevard, River Oaks, TX 76114.	*http://www.msc.fema.gov/lomc*	Apr. 3, 2015	480609

[FR Doc. 2015–05087 Filed 3–04–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of April 2, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Jefferson County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Madison	City Hall, Plan Commission Office, 101 West Main Street, Madison, IN 47250.
Town of Brooksburg	County Courthouse, Room 204, 300 East Main Street, Madison, IN 47250.
Town of Hanover	Town Hall, 11 North Madison Avenue, Hanover, IN 47243.
Unincorporated Areas of Jefferson County	County Courthouse, Room 204, 300 East Main Street, Madison, IN 47250.
Jennings County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of North Vernon	Jennings County Area Plan Commission, 200 East Brown Street, Vernon, IN 47282.
Town of Vernon	Jennings County Area Plan Commission, 200 East Brown Street, Vernon, IN 47282.
Unincorporated Areas of Jennings County	Jennings County Area Plan Commission, 200 East Brown Street, Vernon, IN 47282.
Wayne County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Richmond	City Hall, 50 North 5th Street, Richmond, IN 47374.
Town of Cambridge City	Town Hall, 127 North Foote Street, Cambridge City, IN 47327.
Town of Centerville	Municipal Building, 204 East Main Street, Centerville, IN 47330.
Town of Fountain City	Town Hall, 312 West Main Street, Fountain City, IN 47341.
Town of Greens Fork	Town Hall, 12 South Water Street, Greens Fork, IN 47345.
Town of Hagerstown	Town Hall, 49 East College Street, Hagerstown, IN 47346.
Town of Milton	Town Hall, 113 East Main Street, Milton, IN 47357.
Town of Mount Auburn	Town Hall, 1113 National Road, Mount Auburn, IN 47327.
Town of Spring Grove	Office of Planning and Zoning, Wayne County Annex Building, 401 East Main Street, Richmond, IN 47374.

Community	Community map repository address
Unincorporated Areas of Wayne County	Office of Planning and Zoning, Wayne County Annex Building, 401 East Main Street, Richmond, IN 47374.
Mahnomen County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1299	
City of Mahnomen	City Hall, 104 West Madison Avenue, Mahnomen, MN 56557.
City of Waubun	City Hall, 1310 First Street, Waubun, MN 56589.
Unincorporated Areas of Mahnomen County	Planning, Zoning, and Sanitation Department, 1440 Highway 200, Mahnomen, MN 56557.
White Earth Band of Minnesota Chippewa Indian	White Earth Tribal Administration, 35500 Eagle View Road, Ogema, MN 56569.
Lawrence County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1342	
Unincorporated Areas of Lawrence County	111 South 4th Street, Ironton, OH 45638.
Village of South Point	408 2nd Street West, South Point, OH 45680.
Shelby County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1342	
City of Sidney	201 West Poplar Street, Sidney, OH 45365.
Unincorporated Areas of Shelby County	129 East Court Street, Floor 2, Sidney, OH 45365.
Village of Anna	209 West Main Street, Anna, OH 45302.
Village of Botkins	210 South Mill Street, Botkins, OH 45306.
Village of Fort Loramie	14 Elm Street, Fort Loramie, OH 45845.
Village of Jackson Center	122 East Pike Street, Jackson Center, OH 45334.
Village of Lockington	129 East Court Street, Floor 2, Sidney, OH 45365.
Village of Port Jefferson	129 East Court Street, Floor 2, Sidney, OH 45365.
Village of Russia	232 West Main Street, Russia, OH 45363.

[FR Doc. 2015–05026 Filed 3–4–15; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2015–0001]

National Infrastructure Advisory Council

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of an Open Federal Advisory Committee Meeting.

SUMMARY: The National Infrastructure Advisory Council will meet Friday, March 20, 2015, at the U.S. Access Board Building, 1331 F Street NW., Suite 1000, Washington, DC 20004. The meeting will be open to the public.

DATES: The National Infrastructure Advisory Council will meet on Friday, March 20, 2015, from 1:30 p.m. to 4:30 p.m. The meeting may close early if the committee has completed its business. For additional information, please consult the National Infrastructure Advisory Council Web site, *www.dhs.gov/NIAC,* or contact the National Infrastructure Advisory Council Secretariat by phone at (703) 235–2888 or by email at *NIAC@hq.dhs.gov.*

ADDRESSES: U.S. Access Board Building, 1331 F Street NW., Suite 1000, Washington, DC 20004. The meeting will be open to the public. Members of the public will register at the table at the door to the meeting room. For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION, CONTACT:** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the **SUMMARY** section below. Comments must be submitted in writing no later than 12:00 p.m. on March 20, 2015, in order to be considered by the Council in its meeting. The comments must be identified by ''DHS-,'' and may be submitted by any *one* of the following methods:

- Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting written comments.
- Email: *NIAC@hq.dhs.gov.* Include the docket number in the subject line of the message.
- Fax: (703) 603–5098.
- Mail: Nancy Wong, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Infrastructure Advisory Council, go to *www.regulations.gov.* Enter ''NIAC'' in the search line and the Web site will list all relevant documents for your review.

Members of the public will have an opportunity to provide oral comments on the topics on the meeting agenda below, and on any previous studies issued by the National Infrastructure Advisory Council. We request that comments be limited to the issues and studies listed in the meeting agenda and previous National Infrastructure Advisory Council studies. All previous National Infrastructure Advisory Council studies can be located at *www.dhs.gov/NIAC.* Public comments may be submitted in writing or presented in person for the Council to consider. Comments received by Nancy Wong after 12:00 p.m. on March 20, 2015, will still be accepted and reviewed by the members, but not necessarily by the time of the meeting. In-person presentations will be limited

to three minutes per speaker, with no more than 15 minutes for all speakers. Parties interested in making in-person comments should register on the Public Comment Registration list available at the meeting location no later than 15 minutes prior to the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, National Infrastructure Advisory Council Designated Federal Officer, Department of Homeland Security, (703) 235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. Appendix. The National Infrastructure Advisory Council shall provide the President, through the Secretary of Homeland Security, with advice on the security and resilience of the Nation's critical infrastructure sectors. The Council will meet to discuss issues relevant to critical infrastructure security and resilience as directed by the President. At this meeting, the Council will receive a briefing by Administration officials on the implementation progress of recommendations in the Council's 2012 report on ''Intelligence Information Sharing'', followed by an update presentation from the Transportation Resilience Working Group documenting their work to date on a study reviewing the Transportation Sector's resilience against potentially disruptive events. The Council will also receive and deliberate on a Chief Executive Officer (CEO) Engagement Working Group presentation of a draft report and recommendations on a framework for Chief Executive Officer/Senior Executive Engagement within the critical infrastructure community and a communication strategy with this target community. Finally, the Council will discuss and deliberate recommendations to the Administration on potential next topics for study. All presentations will be posted no later than one week prior to the meeting on the Council's public Web site—*www.dhs.gov/NIAC.*

Meeting Agenda:

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks and Introductions
IV. Approval of Meeting Minutes
V. Administration Progress Report on 2012 Intelligence Information Sharing Recommendations
VI. *Working Group Update on Transportation Resilience Study*
VII. *Working Group Presentation on CEO Engagement Study Report and Recommendations*
VIII. Public Comment: Topics Limited to Agenda Topics and Previously Issued National Infrastructure Advisory Council Studies and Recommendations
IX. *Discussion and Deliberation on Recommendations for the Chief Executive Officer Engagement Report*
X. *Discussion and Deliberation on Recommendations for Potential Next Topics for Study*
XI. Closing Remarks

Nancy Wong,

Designated Federal Officer for the National Infrastructure Advisory Council.

[FR Doc. 2015–05094 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of May 18, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Spencer County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1292	
City of Rockport	City Hall, 426 Main Street, Rockport, IN 47635.
Town of Grandview	Town Hall, 316 Main Street, Grandview, IN 47615.
Town of Richland	Town of Richland, 4259 North State Road 161, Richland, IN 47634.
Town of Santa Claus	Town Hall, 90 North Holiday Boulevard, Santa Claus, IN 47579.
Unincorporated Areas of Spencer County	Spencer County Plan Commission, Spencer County Courthouse, 200 Main Street, Room 12, Rockport, IN 47635.
Jones County, Iowa, and Incorporated Areas Docket No.: FEMA–B–1356	
City of Monitcello	City Hall, 200 East 1st Street, Monticello, IA 52310.
Unincorporated Areas of Jones County	Jones County Engineer's Office, 19501 Highway 64, Anamosa, IA 52205.
Wilkin County, Minnesota, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Breckenridge	City Hall, 420 Nebraska Avenue, Breckenridge, MN 56520.
City of Campbell	Post Office, 510 5th Street, Campbell, MN 56522.
City of Doran	City Hall, 1106 4th Street, Doran, MN 56522.
City of Foxhome	City Hall, 303 Main Street, Foxhome, MN 56543.
City of Kent	City Hall, 204 Main Street, Kent, MN 56553.
City of Nashua	Fur House, 217 County Road 19, Nashua, MN 56565.
City of Wolverton	City Hall, 301 King of Trails Parkway, Wolverton, MN 56594.
Unincorporated Areas of Wilkin County	Wilkin County Courthouse, 300 5th Street South, Breckenridge, MN 56520.
Sweet Grass County, Montana, and Incorporated Areas Docket No.: FEMA–B–1404	
City of Big Timber	Sweet Grass County Annex, Sweet Grass County Planning Office, 515 Hooper Street, Big Timber, MT 59011.
Unincorporated Areas of Sweet Grass County	Sweet Grass County Annex, Sweet Grass County Planning Office, 515 Hooper Street, Big Timber, MT 59011.
Accomack County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1401	
Town of Belle Haven	Town Clerk's Office, 2240 Belle Haven Road, Belle Haven, VA 23306.
Town of Chincoteague	Town Hall, 6150 Community Drive, Chincoteague, VA 23336.
Town of Onancock	Town Hall, 15 North Street, Onancock, VA 23417.
Town of Saxis	Town Hall, 8334 Freeschool Lane, Saxis, VA 23427.
Town of Tangier	Town Hall, 4301 Joshua Thomas Lane, Tangier, VA 23440.
Town of Wachapreague	Town Hall, 6 Main Street, Wachapreague, VA 23480.
Unincorporated Areas of Accomack County	Accomack County Department of Building, Planning and Zoning, 23296 Courthouse Avenue, Room 105, Accomac, VA 23301.
Middlesex County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1401	
Town of Urbanna	Town Office, 45 Cross Street, Urbanna, VA 23175.
Unincorporated Areas of Middlesex County	Middlesex County Building Department, 877 General Puller Highway, Saluda, VA 23149.
Pacific County, Washington, and Incorporated Areas Docket No.: FEMA–B–1404	
City of Ilwaco	City Hall, 120 1st Avenue North, Ilwaco, WA 98624.
City of Long Beach	City Hall, 115 Bolstad Avenue West, Long Beach, WA 98631.
City of Raymond	City Hall, 230 2nd Street, Raymond, WA 98577.
City of South Bend	City Hall, 1102 West 1st Street, South Bend, WA 98586.
Shoalwater Bay Indian Tribe	Tribal Center, 2373 Old Tokeland Road, Tokeland, WA 98590.
Unincorporated Areas of Pacific County	Emergency Management Office, 300 Memorial Drive, South Bend, WA 98586.
Natrona County, Wyoming, and Incorporated Areas Docket No.: FEMA–B–1353	
City of Casper	City Hall, 200 North David Street, Casper, WY 82601.
Town of Evansville	Town Hall, 235 Curtis Street, Evansville, WY 82635.
Town of Mills	Town Hall, 704 4th Street, Mills, WY 82644.

Community	Community map repository address
Unincorporated Areas of Natrona County	Natrona County Board of Commissioners, 200 North Center Street, Casper, WY 82601.

[FR Doc. 2015–05065 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket No. FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1459]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On December 31, 2014, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 79 FR 78888. The table provided here represents the proposed flood hazard determinations and communities affected for the Lower Big Blue Watershed.

DATES: Comments are to be submitted on or before June 3, 2015.

ADDRESSES: The Preliminary Flood Insurance Rate Map (FIRM), and where applicable, the Flood Insurance Study (FIS) report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1459, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Correction

In the proposed flood hazard determination notice published at 79 FR 78888 in the December 31, 2014, issue of the **Federal Register**, FEMA published a table titled Lower Little Blue Watershed. This table contained inaccurate information as to the communities affected by the proposed flood hazard determinations featured in the table and the name of the watershed should be titled Lower Big Blue Watershed.

In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

LOWER BIG BLUE WATERSHED

Community	Community map repository address
Gage County, Nebraska, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata.*	
Unincorporated Areas of Gage County	Gage County Highway Department, 823 South 8th Street, Beatrice, NE 68310.
Village of Barneston	Village Hall, 102 Grand Avenue, Barneston, NE 68309.

[FR Doc. 2015–05091 Filed 3–4–15; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of May 4, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov*.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Whitley County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1356	
City of Columbia City	Columbia City/Whitley County Joint Planning and Building Department, Whitley County Government Center, Suite 204, 220 West Van Buren Street, Columbia City, IN 46725.
Town of South Whitley	Columbia City/Whitley County Joint Planning and Building Department, Whitley County Government Center, Suite 204, 220 West Van Buren Street, Columbia City, IN 46725.
Unincorporated Areas of Whitley County	Columbia City/Whitley County Joint Planning and Building Department, Whitley County Government Center, Suite 204, 220 West Van Buren Street, Columbia City, IN 46725.
Cecil County, Maryland and Incorporated Areas Docket No.: FEMA–B–1359	
Town of Charlestown	Town Hall, 241 Market Street, Charlestown, MD 21914.
Town of Chesapeake City	Town Hall, 108 Bohemia Avenue, Chesapeake City, MD 21915.
Town of Elkton	Town Hall, 100 Railroad Avenue, Elkton, MD 21921.
Town of North East	Town Hall, 106 South Main Street, North East, MD 21901.
Town of Perryville	Town Hall, 515 Broad Street, Perryville, MD 21903.
Town of Port Deposit	Town Hall, 64 South Main Street, Port Deposit, MD 21904.
Unincorporated Areas of Cecil County	Cecil County Office Administrative Building, 200 Chesapeake Boulevard, Elkton, MD 21921.
Charles County, Maryland, and Incorporated Areas Docket No.: FEMA–B–1352	
Town of Indian Head	Town Hall, 4195 Indian Head Highway, Indian Head, MD 20640.
Unincorporated Areas of Charles County	Charles County Department of Planning and Growth Management, 200 Baltimore Street, La Plata, MD 20646.

Community	Community map repository address
Allen County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1356	
Unincorporated Areas of Allen County	Allen County Courthouse, 301 North Main Street, Lima, OH 45801.
Village of Bluffton	Village Hall, 154 North Main Street, Bluffton, OH 45817.
Village of Lafayette	Village Hall, 225 East Sugar Street, Lima, OH 45801.
Marion County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1356	
Unincorporated Areas of Marion County	Marion County Building, 222 West Center Street, Marion, OH 43302.
Village of Waldo	Village Hall, 102 North Marion Street, Waldo, OH 43356.
Chambers County, Texas, and Incorporated Areas Docket No.: FEMA–B–1344	
City of Anahuac	City Hall, 501 Miller Street, Anahuac, TX 77514.
City of Baytown	City Hall, 2401 Market Street, Baytown, TX 77522.
City of Beach City	Community Building, 12723 Farm to Market 2354, Beach City, TX 77523.
City of Cove	City Hall, 7911 Cove Road, Cove, TX 77523.
City of Mont Belvieu	City Hall, 11607 Eagle Drive, Mont Belvieu, TX 77580.
City of Old River-Winfree	City Hall, 4818 North Farm to Market 565 Road, Old River-Winfree, TX 77523.
Unincorporated Areas of Chambers County	Chambers County Road and Bridge, 201 Airport Road, Anahuac, TX 77514.
Essex County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1352	
Town of Tappahannock	Town Office, 915 Church Lane, Tappahannock, VA 22560.
Unincorporated Areas of Essex County	Essex County Building and Zoning Department, 202 South Church Lane, Tappahannock, VA 22560.
Surry County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1352	
Town of Claremont	Municipal Building, 4115 Spring Grove Road, Claremont, VA 23899.
Unincorporated Areas of Surry County	Surry County Government Center, 45 School Street, Surry, VA 23883.

[FR Doc. 2015–05059 Filed 3–4–15; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of April 16, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for

floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: February 11, 2015.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Richmond County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1352	
Unincorporated Areas of Richmond County	Richmond County Administrator's Office, 101 Court Circle, Warsaw, VA 22572.
Westmoreland County, Virginia, and Incorporated Areas Docket No.: FEMA–B–1352	
Town of Colonial Beach	Building and Zoning Office, 905 McKinney Boulevard, Colonial Beach, VA 22443.
Unincorporated Areas of Westmoreland County	Westmoreland County Land Use Administration, 111 Polk Street, Montross, VA 22520.

[FR Doc. 2015–05055 Filed 3–4–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17590; 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 January 31, 2015. 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 March 20, 2015. 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: February 9, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ALABAMA

Madison County

Old Town Historic District (Boundary Increase), 305, 309, 310 Dallas St. & 115, 118, 120 Walker Ave., Huntsville, 15000069

ALASKA

Juneau Borough-Census Area

Rudy—Kodzoff House, 2865 Mendenhall Loop Rd., C–0, Juneau, 15000070

Kenai Peninsula Borough-Census Area

Magnetic Island Site, Address Restricted, Pt. Alsworth, 15000071

DISTRICT OF COLUMBIA

District of Columbia

Editors Building, The, 1729 H St., NW., Washington, 15000072

Hill Building, 839 17th or 1636 I Sts., NW., Washington, 15000073

FLORIDA

Madison County

Davis, W.T., Building, 200 SE. Range Ave., Madison, 15000074

Putnam County

Cummings House, 298 Cty. Rd. 10, Palatka, 15000075

INDIANA

Allen County

Hagerman, William C. and Clara, House, 2105 N. Anthony Blvd., Fort Wayne, 15000076

Hamilton County

Archeological Site 12H1052, Address Restricted, Noblesville, 15000077

Marshall County

Gaskill—Erwin Farm, 2595 14–B Rd., Bourbon, 15000078

Pulaski County

Pulaski County Home, 700 W. 60 S., Winamac, 15000079

IOWA

Audubon County

Audubon County Home Historic District, 1891 215th St., Audubon, 15000080

KENTUCKY

Campbell County

Marianne Theater, 609 Fairfield Ave., Bellevue, 15000081

Jefferson County

Louisville Gas and Electric Company Service Station Complex, 1228 S. 7th St., Louisville, 15000082

Lynn Acres Garden Apartments, 100 E. Southland Blvd., Louisville, 15000083

Kenton County

Hellman Lumber and Manufacturing Company, 321 W. 12th St., Covington, 15000084

Pike County

Elkhorn City Elementary and High School, 551 Russell St., Elkhorn City, 15000085

MAINE

Androscoggin County

Record, Judson, House, 22 Church St., Livermore Falls, 15000086

Knox County

Whitney Farm, 215 Whitney Rd., Appleton, 15000087

NEBRASKA

Dodge County

North Broad Street Residential Historic District, Along Broad St., Fremont, 15000088

Pawnee County

Rinne Farm, 71075 617 Ave., Pawnee City, 15000089

Richardson County

Way Side Stock Farm, 64480 718 Rd., Stella, 15000090

NEW JERSEY

Burlington County

Springside Public School, 1508 Mount Holly Rd., Burlington Township, 15000091

Camden County

Lawnside School, 23 N. Warwick Rd., Lawnside Borough, 15000092

Hunterdon County

Whitehouse—Mechanicsville Historic District, Old NJ 28, Mill, Lamington & School Rds., Readington Township, 15000093

NEW YORK

Otsego County

St. Mary's Episcopal Church Complex, 7690 NY 80, Springfield Center, 15000094

OKLAHOMA

Oklahoma County

Oklahoma City National Memorial, Bounded by NW. 6th & NW. 4th Sts., N. Robinson & N. Harvey Aves., Oklahoma City, 01000278

WEST VIRGINIA

Ohio County

Riverside Iron Works Office Building, 1507–1509 Main St., Wheeling, 15000096

In the interest of preservation, a three day comment period has been requested for the following resource:

OHIO

Hamilton County

Windsor Public School, 937 Windsor St., Cincinnati, 15000095

[FR Doc. 2015–05022 Filed 3–4–15; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17677; 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 February 7, 2015. 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 March 20, 2015. 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: February 22, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CALIFORNIA

Alameda County

Oakland Lamp Works, 1614 Campbell St., Oakland, 15000098

Kern County

Sebastian Indian Reserve Discontiguous Archeological District, Address Restricted, Tejon Ranch, 15000099

San Mateo County

POLARIS (research vessel), 597 Seaport Blvd., Redwood City, 15000100

CONNECTICUT

Hartford County

New Britain Public High School Campus, 50 Bassett & 161 S. Main Sts., New Britain, 15000101

GEORGIA

Elbert County

Forest Avenue Historic District, Roughly bounded by Jones, Chestnut & W. Church Sts., Laurel & Oak Drs., Brookwood & Lake Forest Cirs., Forest & College, Elberton, 15000102

McIntosh County

Ashantilly, 15591 GA 99, Darien, 15000103

MONTANA

Carbon County

Hi Bug Historic District (Boundary Decrease), 301 N. Hauser, Red Lodge, 15000104

NEBRASKA

Custer County

Groat, Stillman P., House, 432 N. 10th St., Broken Bow, 15000105

NORTH DAKOTA

Ramsey County

St. Olaf Lutheran Church, 601 6th St. NE., Devils Lake, 15000106

WISCONSIN

Barron County

Franklin School, 1011 S. Main St., Rice Lake, 15000107

Marathon County

Schofield School, 1310 S. Grand Ave., Schofield, 15000108

Sauk County

Harrisburg School, E7646 Cty. Rd. B, Troy, 15000109

A request for removal has been received for the following resources:

MARYLAND

Frederick County

Edgewood, N. of Frederick off Poole Jones Rd., Frederick, 79001129

NORTH DAKOTA

Slope County

Original Slope County Courthouse, (North Dakota County Courthouses TR) 2nd St., Amidon, 85002994

[FR Doc. 2015–05021 Filed 3–4–15; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–Ta–884]

Certain Consumer Electronics With Display and Processing Capabilities; Notice of Commission Determination To Grant a Joint Motion To Terminate the Investigation on the Basis of a Settlement Agreement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant the joint motion to terminate the above-captioned investigation based upon a settlement agreement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this

investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 25, 2013, based on a complaint filed by Graphics Properties Holdings, Inc. of New Rochelle, New York (''GPH''), 78 FR 38072 (June 25, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain consumer electronics with display and processing capabilities by reason of infringement of certain claims of United States Patent Nos. 6,650,327; 8,144,158; and 5,717,881. The notice of investigation named several entities as respondents, including Toshiba Corporation of Tokyo, Japan, and Toshiba America Information Systems, Inc. of Irvine, California (collectively ''Toshiba''); Toshiba America, Inc. of New York, New York (''Toshiba America''). The Office of Unfair Import Investigations is a party to the investigation. The Commission has terminated the investigation with respect to the remaining respondents. *See* Notice (Aug. 16, 2013); Notice (Sept. 13, 2013); Notice (Dec. 20, 2013); Notice (Mar. 10, 2014); Notice (May 6, 2014). The Commission also later terminated the investigation in part with respect to certain claims of the asserted patents. Notice (Mar. 11, 2014); Notice (Apr. 25, 2014).

On August 29, 2014, the presiding administrative law judge issued his final initial determination (''ID''), finding a violation of section 337 with respect to Toshiba but finding no violation with respect to Toshiba America. Toshiba petitioned for review of the final ID, and the Commission determined to review certain aspects of the final ID regarding Toshiba. No party, however, petitioned for review of the final ID's finding regarding Toshiba America, and the Commission determined not to review that issue. *See* 79 FR 65698 (Nov. 5, 2014).

On October 30, 2014, the Commission determined to review the final ID in part with respect to issues of claim construction, validity, infringement, the domestic industry requirement, and Toshiba's affirmative defenses of licensing and RAND. 79 FR 65698 (November 5, 2014). The notice of review requested briefing on various issues of violation, remedy, bonding, and the public interest. *Id.*

The Commission twice extended the target date for completion of the investigation to accommodate the parties' settlement negotiations. Notice (Jan. 9, 2015); Notice (Feb. 4, 2015).

On February 4, 2015, GPH, Toshiba and Toshiba America filed a joint motion to terminate the investigation based on a settlement agreement pursuant to Commission Rule § 210.21(b). On February 18, 2015, the Commission investigative attorney filed a response supporting the joint motion.

The Commission has determined to grant the joint motion and to terminate the investigation in its entirety.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 27, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–05013 Filed 3–4–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–530 (Preliminary)]

Supercalendered Paper From Canada; Institution of a Countervailing Duty Investigation and Scheduling of a Preliminary Phase Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of a preliminary phase countervailing duty investigation No. 701–TA–530 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of supercalendered paper, provided for in subheading 4802.61.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the government of Canada. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by Monday, April 13, 2015. The Commission's views must be transmitted to Commerce within five business days thereafter, or by Monday, April 20, 2015.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective:* Thursday, February 26, 2015.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on Thursday, February 26, 2015, by Madison Paper Industries, Madison, ME and Verso Corporation, Memphis, TN.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven

days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with this investigation for 9:30 a.m. on Thursday, March 19, 2015, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before Tuesday, March 17, 2015. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Tuesday, March 24, 2015, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: February 27, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–05012 Filed 3–4–15; 8:45 am]

BILLING CODE 7020–02P

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Decree Under CERCLA

On February 26, 2014, the Department of Justice lodged a proposed consent decree between the United States and Boulos Family Properties, LLC; National Petroleum Packers Incorporated; National Petroleum Packers, Inc.; National Petroleum Packers of North Carolina, Inc.; Mr. Chehade Boulos; and 2.99 acres of land in Stallings, North Carolina with the United States District Court for the Western District of North Carolina, Charlotte Division, in a case entitled *United States* v. *Boulos Family Properties, LLC, et al.,* No. 2:14–cv–059.

The proposed consent decree resolves claims for response costs under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (''CERCLA''), 42 U.S.C. 9607, against the defendants in connection with the National Petroleum Packers Site, a former glycol reprocessing facility in Stallings, North Carolina. Under the proposed consent decree, the Site (2.99 acres of land in Stallings, North Carolina) will be sold, and the net proceeds will be divided between the Environmental Protection Agency and Mr. Boulos, depending on the amount of the proceeds. The United States will provide the defendants with a covenant not to sue for the Site, conditioned on the accuracy of certain representations made about the defendants' financial condition.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Boulos Family Properties, LLC, et al.,* DJ. Ref. No. #90–11–3–10947. 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 decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–05009 Filed 3–4–15; 8:45 am]

BILLING CODE 4410–CWP

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 03–15]

Sunshine Act Meetings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Thursday, March 12, 2015

10 a.m.—Oral hearing on Objection to Commission's Proposed Decision in Claim No. IRQ–I–008.

11:00 a.m.—Issuance of Proposed Decisions in claims against Libya.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2015–05193 Filed 3–3–15; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Furnishing Documents to the Secretary of Labor on Request Under ERISA Section 104(a)(6)

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Furnishing Documents to the Secretary of Labor on Request Under ERISA Section 104(a)(6),'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201502-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Furnishing Documents to the Secretary of Labor on Request Under ERISA Section 104(a)(6) information collection. Employee Retirement Income Security Act of 1974 (ERISA) section 104(a)(6) and related regulations at 29 CFR 2520.104a–8 require the administrator of an employee benefit plan covered by ERISA Title I to furnish certain documents relating to the plan on request to the Secretary of Labor. *See* 29 U.S.C. 1024.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0112.

OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 15, 2014 (79 FR 61903).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0112. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Furnishing Documents to the Secretary of Labor on Request Under ERISA Section 104(a)(6).

OMB Control Number: 1210–0112.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 558.

Total Estimated Number of Responses: 558.

Total Estimated Annual Time Burden: 41 hours.

Total Estimated Annual Other Costs Burden: $2,732.

Dated: February 27, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–05002 Filed 3–4–15; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Employment and Training Administration

[OMB Control Number 1205–0457]

Comment Request for Information Collection for Form ETA–9127, Foreign Labor Certification Quarterly Activity Report; Revision

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), 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)). This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the collection of data about Form ETA–9127, *Foreign Labor Certification Quarterly Activity Report* (OMB Control Number 1205–0457), which expires May 31, 2015. The Form ETA–9127 solicits information from State Workforce Agencies (SWAs) who are recipients of foreign labor certification grants about program-related activities performed by SWA staff in accordance with the specific fiscal year annual plans. These activities include reviewing and transmitting H–2A and H–2B job orders, conducting H–2A prevailing wage and prevailing practice surveys, and performing H–2A related housing inspections of facilities offered to agricultural workers.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 4, 2015.

ADDRESSES: Submit written comments to Brian Pasternak, National Director of Temporary Programs, Office of Foreign Labor Certification, Room C–4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2768. Email: *ETA.OFLC.Forms@dol.gov* subject line: ETA–9127. A copy of the proposed information collection request (ICR) can be obtained free of charge by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

Under the foreign labor certification programs administered by ETA, SWAs are funded through annually reimbursable grants to conduct certain activities that support the processing of applications for temporary labor certification filed by U.S. employers in order to hire foreign workers in the H–2B or H–2A visa categories to perform agricultural or nonagricultural services or labor. Under the grant agreements, SWAs must review and transmit through the intrastate and interstate systems job orders submitted by employers in order to recruit U.S. workers prior to filling the job openings with foreign workers.

In order to effectively monitor the administration of foreign labor certification activities by the SWAs, the Department requires the SWAs to report their workloads related to these activities on a quarterly basis. This collection of information is conducted through Form ETA–9127, *Foreign Labor Certification Quarterly Activity Report.* This report is critical for ensuring accountability and for future program management, including budget and workload management. ETA intends to revise the information collection by clarifying the ETA–9127 instructions and making minor changes to the PRA disclosure on the form.

II. Review Focus

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Type of Review: Revision.
Title: Form ETA–9127, *Foreign Labor Certification Quarterly Activity Report.*
OMB Number: 1205–0457.
Affected Public: State, local or tribal governments.
Form(s): ETA–9127.
Total Annual Respondents: 54.
Annual Frequency: Quarterly.
Total Annual Responses: 216.
Average Time per Response: 2 hours.
Estimated Total Annual Burden Hours: 432.
Total Annual Burden Cost for Respondents: $9,910.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (*e.g.,* confidential business information or personally identifiable information such as a social security number).

Portia Wu,
Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2015–05116 Filed 3–4–15; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Job Innovation and Accelerator Challenge Grants Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, ''Job Innovation and Accelerator Challenge Grants Evaluation,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation;

including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201412-1205-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Job Innovation and Accelerator Challenge (JIAC) Grants Evaluation information collection that would support an evaluation of the Jobs and Innovation Accelerator Challenge (JIAC) grants. The main objective of the evaluation is to build a better understanding of how multiple Federal and regional agencies work together on these grant initiatives, how the ETA grant is used, training and employment-related outcomes that the clusters are able to achieve, lessons learned through implementation, and plans for sustainability. This ICR seeks PRA authority from the OMB to conduct site visit interviews and grantee and partner surveys.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on October 27, 2014 (79 FR 63945).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201412–1205–003. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Job Innovation and Accelerator Challenge Grants Evaluation.

OMB ICR Reference Number: 201412–1205–003.

Affected Public: Individuals or Households; State, Local, and Tribal Governments; and Private Sector—businesses and other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 525.

Total Estimated Number of Responses: 525.

Total Estimated Annual Time Burden: 284 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: February 27, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–05015 Filed 3–4–15; 8:45 am]

BILLING CODE 4510–FM–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9:00 a.m., March 23, 2015.

PLACE: On board MISSISSIPPI V at City Front, New Madrid, Missouri.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9:00 a.m., March 24, 2015.

PLACE: On board MISSISSIPPI V at Beale Street Landing, Memphis, Tennessee.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 1:00 p.m., March 25, 2015.

PLACE: On board MISSISSIPPI V at City Front, Vicksburg, Mississippi.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9:00 a.m., March 27, 2015.

PLACE: On board MISSISSIPPI V at City Dock above USS Kidd, Baton Rouge, Louisiana.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District, and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Timothy S. Gambrell, telephone 601–634–5766.

Timothy S. Gambrell,

Director, Mississippi River Commission.

[FR Doc. 2015–05295 Filed 3–3–15; 4:15 pm]

BILLING CODE 3720–58–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 184th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held in Salon II of the Ritz Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202. Agenda times are approximate.

DATES: Thursday, March 26, 2015 from 10:45 a.m. to 11:45 a.m. and Friday, March 27, 2015 from 9:00 a.m. to 11:15 a.m.

FOR FURTHER INFORMATION CONTACT: Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public on a space available basis. The tentative agenda is as follows: The session on Thursday, March 26th will be a presentation and discussion with Laura Callanan—Senior Deputy Chairman, NEA; Debora Cullinan—CEO, Yerba Buena Center for the Arts; and Marc Bamuthi Joseph—Chief of Program and Pedagogy, Yerba Buena Center for the Arts. The session on Friday, March 27th will begin at 9:00 a.m. with opening remarks and voting on recommendations for funding and rejection and guidelines, followed by updates from the Chairman. There also will be the following presentations (times are approximate): From 9:30 a.m. to 10:00 a.m.—*Presentation on the NEA's Upcoming 50th Anniversary* (Jessamyn Sarmiento, Director of Public Affairs, NEA) and from 10:00 a.m. to 11:00 a.m.—*Discussion of the Impact of NEA Research Findings* (Sunil Iyengar—Director of Research and Analysis, NEA; Arlynn Fishbaugh—Executive Director, Montana Arts Council; Ned Canty—General Manager, Opera Memphis; Ellin O'Leary—President & Chief Content Officer, Youth Radio). From 11:00–11:15 there will be concluding remarks from the Chairman and announcement of voting results. The meeting will adjourn at 11:15 a.m.

The Friday, March 27th session also will be webcast. To register to watch the webcasting of this open session of the meeting, go to *http://artsgov.adobeconnect.com/nca-march2015-webcast/event/registration.html.*

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the February 15, 2012 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of Accessibility, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

Dated: March 2, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2015–05039 Filed 3–4–15; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0047]

Considerations in Licensing High Burnup Spent Fuel in Dry Storage and Transportation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory issue summary; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking public comment on the draft regulatory issue summary (RIS) addressing considerations for licensing high burnup spent fuel in dry storage and transportation. The purpose of this RIS is to provide information on some approaches acceptable to the NRC for demonstrating compliance with regulations in applications for issuance of dry storage cask certificate of compliance (CoCs), independent spent fuel storage installation (ISFSI) licenses, and CoCs for transportation packages involving high burnup spent fuel (HBF).

DATES: Submit comments by April 20, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

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–2015–0047. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; 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: OWFN–12 H08, 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: Huda Akhavannik, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9241, email: *Huda.Akhavannik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0047 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–2015–0047.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft RIS is available in ADAMS under Accession No. ML14175A203.

• 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–2015–0047 in your comment submission.

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 will post all comment submissions at *http://www.regulations.gov* as well as enter 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. Background

The NRC is issuing this draft RIS to inform addressees of considerations for licensing HBF in dry storage and transportation. When evaluating HBF dry storage and transportation applications, the effects of radial hydrides and creep strain on the cladding must be taken into consideration. The purpose of this RIS is to provide information on some approaches acceptable to the NRC for demonstrating compliance with regulations in applications for issuance of dry storage cask CoCs, ISFSI licenses, and CoCs for transportation packages involving HBF.

The NRC issues RISs to communicate with stakeholders on a broad range of matters. This may include communicating staff technical positions on matters that have not been communicated to or are not broadly understood by the nuclear industry; such is the case with this RIS.

Proposed Action

The NRC is requesting public comments on the draft RIS. The NRC staff will make a final determination regarding issuance of the RIS after it considers any public comments received in response to this request.

Dated at Rockville, Maryland, this 20th day of February 2015.

For the Nuclear Regulatory Commission.

Mark Lombard,

Director, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–05097 Filed 3–4–15; 8:45 am]

BILLING CODE 7590–01P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0273]

Impact of Variation in Environmental Conditions on the Thermal Performance of Dry Storage Casks

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG, NUREG–2174, ''Impact of Variation in Environmental Conditions on the Thermal Performance of Dry Storage Casks.'' This report evaluates spent fuel dry storage cask thermal impact of varying environmental conditions and transient thermal behavior when subjected to a sudden boundary condition change. Different cask designs are evaluated (vertical underground, vertical aboveground, and horizontal aboveground). The NRC staff will consider the analysis results in this report when performing technical reviews, applicants should consider them when applying for cask certification. These results can be used as additional guidance when considering the thermal impact of the environmental factors in the thermal performance of dry storage systems.

DATES: Submit comments by May 4, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

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–2014–0273. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; 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: OWFN–12–H08, 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: Jorge Solis, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission Washington, DC 20005–0001; telephone: 301–287–9094; email: *jorge.solisl@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0273 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–2014–0273.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/*

adams.html. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft NUREG is available in ADAMS under Accession No. ML15054A207.

• 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–2014–0273 in your comment submission.

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. Discussion

The NRC is issuing Draft ''Impact of Variation in Environmental Conditions on the Thermal Performance of Dry Storage Casks.'' The draft NUREG–2174 report evaluates the thermal impact of varying environmental conditions and transient thermal behavior when subjected to a sudden boundary condition change in spent fuel dry storage casks. Different cask designs are evaluated in the draft NUREG report. The NRC will consider the analysis results in the report when performing technical reviews, therefore applicants should consider them when applying for cask certification. The analysis results in draft NUREG–2174 can be used as additional guidance when considering the thermal impact of the environmental factors in the thermal performance of dry storage systems.

The purpose of this notice is to provide the public with an opportunity to review and provide comments on Draft NUREG–2174, ''Impact of Variation in Environmental Conditions on the Thermal Performance of Dry Storage Casks.'' Any comments received will be considered in the final version or subsequent revisions of the draft NUREG.

Dated at Rockville, Maryland, this 24th day of February, 2015.

For the Nuclear Regulatory Commission.

Christian Araguas,

Chief, Containment, Structural, and Thermal Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–05098 Filed 3–4–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–040 and 05–041; NRC–2009–0337]

Combined License Application for Turkey Point Nuclear Plant, Unit Nos. 6 and 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (USACE), Jacksonville District, are issuing for public comment NUREG–2176, ''Draft Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Nuclear Plant, Units 6 and 7,'' to support the environmental review for the COL. Florida Power and Light Company (FPL) submitted an application for COLs to construct and operate two new nuclear power plants at its Turkey Point site near Homestead, Florida.

DATES: Submit comments by May 22, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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–2009–0337. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; 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: OWFN 12 H8, 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: Alicia Williamson, Office of New Reactors, Mail Stop: TWFN 6C32, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1878, email: *Alicia.Williamson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2009–0337 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0337.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The draft environmental impact statement (EIS) is available in ADAMS under Accession Nos. ML15055A103 and ML15055A109.

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

• Project Web site: The draft EIS can be accessed online at the Turkey Point COL specific Web page at: *http://www.nrc.gov/reactors/new-reactors/col/turkey-point/documents.html.*

B. Submitting Comments

Please include Docket ID NRC–2009–0337 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. Background

The NRC is issuing for public comment a draft environmental impact statement (EIS). The application submitted by FPL for COLs for Turkey Point Units 6 and 7 was submitted by letter dated June 30, 2009, pursuant to part 52 of Title 10 of the *Code of Federal Regulations.* A notice of receipt and availability of the application including the environmental report (ER) was published in the **Federal Register** on August 3, 2009 (*74 FR 38477*). A notice of acceptance for docketing of the application for the COL was published in the **Federal Register** on October 7, 2009 (*74 FR 51621*). A notice of intent to prepare a draft EIS and to conduct the scoping process was published in the **Federal Register** on June 15, 2010 (*75 FR 33851*). The draft EIS is a National Environmental Policy Act of 1969, as amended (NEPA) document that also supports the USACE's review of the Department of the Army (DA) permit application from FPL (SAJ–2009–02417). The USACE's Public Interest Review will be part of its Record of Decision and is not addressed in the EIS. As part of the USACE public comment process, the USACE will publish a public notice (in the **Federal Register**) within 30 days of the publication of the draft EIS to solicit comments from the public regarding FPL's DA permit application for proposed work at the Turkey Point site.

III. Public Meetings for Comment

The NRC and the USACE will hold public meetings to present an overview of the draft EIS and to accept public comments on both the document and the associated DA permit in April 2015, in the Homestead, Florida area. A separate meeting notice will be issued as soon as the meeting dates are set. The meetings will be transcribed and will include: (1) A presentation of the contents of the draft EIS; and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. For comments provided at the public meeting to be considered, they must be provided during the transcribed public meeting either orally or in writing. Additionally, the NRC and the USACE will host informal discussions one hour before the start of each meeting, during which time members of the public may meet and talk with staff members on an informal basis. No formal comments on the draft EIS will be accepted during the informal discussions.

Dated at Rockville, Maryland, this 24th day of February 2015.

For the Nuclear Regulatory Commission.

Frank M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2015–05099 Filed 3–4–15; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meetings

Meeting Cancellation Notice—OPIC's March 11, 2015 Annual Public Hearing

OPIC's Sunshine Act notice of its Annual Public Hearing was published in the **Federal Register** (Volume 80, Number 14, Page 3265) on January 22, 2015. No requests were received to provide testimony or submit written statements for the record; therefore, OPIC's Annual Public Hearing scheduled for 2 p.m., March 11, 2015 has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, or via email at *Connie.Downs@opic.gov*.

Dated: March 2, 2015.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2015–05082 Filed 3–3–15; 11:15 am]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Standard Form 1153: Claim for Unpaid Compensation of Deceased Civilian Employee 3206–0234

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: Merit System Accountability and Compliance, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0234, Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee. 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 October 1, 2014, at Volume 79 FR 59308–59309 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 April 6, 2015. 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 send by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or send by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

SUPPLEMENTARY INFORMATION: Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee, is used to collect information from individuals who have been designated as beneficiaries of the unpaid compensation of a deceased Federal employee or who believe that their relationship to the deceased entitles them to receive the unpaid compensation of the deceased Federal employee. OPM needs this information to adjudicate the claim and properly assign a deceased Federal employee's unpaid compensation to the appropriate individual(s).

Analysis

Agency: Merit System Accountability and Compliance, Office of Personnel Management.

Title: Standard Form 1153, Claim for Unpaid Compensation of Deceased Civilian Employee.

OMB Number: 3206–0234.

Affected Public: Individuals.

Number of Respondents: 4,400.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 1,100 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–05124 Filed 3–4–15; 8:45 am]

BILLING CODE 6325–58–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 December 1, 2014, to December 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

06. Department of Defense (Schedule A, 213.3106)

(b) Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—

(11) Not to exceed 3,000 positions that require unique cybersecurity skills and knowledge to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, investigation, investigative analysis and cyber-related infrastructure inter-dependency analysis. This authority may be used to make permanent, time-limited and temporary appointments in the following occupational series: Security (GS–0080), computer engineers (GS–0854), electronic engineers (GS–0855), computer scientists (GS–1550), operations research (GS–1515), criminal investigators (GS–1811), telecommunications (GS–0391), and IT specialists (GS–2210). Within the scope of this authority, the U.S. Cyber Command is also authorized to hire miscellaneous administrative and program (GS–0301) series when those positions require unique cybersecurity skills and knowledge. All positions will be at the General Schedule (GS) grade levels 09–15 or equivalent. No new appointments may be made under this authority after December 31, 2015.

Schedule B

No Schedule B authorities to report during December 2014.

Schedule C

The following Schedule C appointing authorities were approved during December 2014.

Agency name	Organization name	Position title	Authorization no.	Effective date
DEPARTMENT OF AGRICULTURE.	Office of Civil Rights	Special Assistant	DA150022	12/1/2014
	Office of the Under Secretary for Marketing and Regulatory Programs.	Confidential Assistant	DA150023	12/12/2014
	Rural Business Service	Deputy Administrator, Rural Business Cooperative Service.	DA150025	12/12/2014
DEPARTMENT OF COMMERCE	International Trade Administration	Deputy Director, Office of Advisory Committees, Industry and Analysis.	DC150024	12/5/2014
	Office of the Deputy Secretary	Special Assistant	DC150026	12/9/2014
	Office of Business Liaison	Special Advisor	DC150027	12/9/2014
	Office of the Chief of Staff	Director of Scheduling	DC150031	12/12/2014
DEPARTMENT OF DEFENSE	Office of Assistant Secretary of Defense (Public Affairs).	Research Assistant	DD150012	12/5/2014
		Speechwriter	DD150030	12/8/2014

Agency name	Organization name	Position title	Authorization no.	Effective date
	Office of the Assistant Secretary of Defense (International Security Affairs).	Special Assistant for International Security Affairs.	DD150037	12/10/2014
	Office of the General Counsel	Special Counsel (2)	DD150033	12/4/2014
			DD150032	12/11/2014
	Office of Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD150034	12/16/2014
DEPARTMENT OF THE AIR FORCE.	Office of the Under Secretary	Special Assistant	DF150011	12/5/2014
DEPARTMENT OF THE NAVY	Office of the Secretary	Deputy Chief of Staff (2)	DN150008	12/5/2014
			DN150009	12/5/2014
		Special Assistant	DN150004	12/12/2014
DEPARTMENT OF EDUCATION	Office of Communications and Outreach.	Confidential Assistant	DB150026	12/11/2014
	Office of the Secretary	Confidential Assistant	DB150028	12/11/2014
	Office of the General Counsel	Chief of Staff	DB150031	12/12/2014
	Office of the Under Secretary	Deputy Director	DB150027	12/11/2014
		Confidential Assistant	DB150036	12/19/2014
DEPARTMENT OF ENERGY	Office of Nuclear Energy	Chief of Staff and Senior Advisor	DE150013	12/2/2014
	Office of Energy Efficiency & Renewable Energy.	Special Advisor for Technology	DE150017	12/12/2014
FEDERAL ENERGY REGULATORY COMMISSION.	Office of the Chairman	Program Analyst	DR150004	12/17/2014
GENERAL SERVICES ADMINISTRATION.	Public Buildings Service	Special Assistant	GS150008	12/11/2014
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of Intergovernmental and External Affairs.	Special Assistant	DH150044	12/12/2014
	Office of the Assistant Secretary for Legislation.	Special Assistant for Oversight	DH150048	12/12/2014
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Public Affairs.	External Engagement Coordinator	DM150035	12/3/2014
	Office of the Assistant Secretary for Policy.	Policy Advisor	DM150040	12/5/2014
	Immediate Office of the Deputy Secretary.	Special Assistant	DM150041	12/5/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Secretary	Senior Policy Advisor	DU150009	12/1/2014
	Office of Public and Indian Housing.	Chief of Staff/Senior Advisor	DU150008	12/16/2014
	Office of Congressional and Intergovernmental Relations.	Congressional Relations Specialist	DU150016	12/29/2014
	Office of Public Affairs	Director of Speechwriting	DU150019	12/29/2014
DEPARTMENT OF THE INTERIOR	United States Fish and Wildlife Service.	Chief of Staff—To the Assistant Secretary for Fish Wildlife and Parks.	DI150016	12/3/2014
DEPARTMENT OF LABOR	Office of the Secretary	Special Assistant	DL150015	12/2/2014
		Director of Public Engagement	DL150017	12/5/2014
	Office of the Assistant Secretary for Policy.	Senior Policy Advisor	DL150018	12/11/2014
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts	White House Liaison/Advisor	NA150002	12/5/2014
NATIONAL ENDOWMENT FOR THE HUMANITIES.	National Endowment for the Humanities.	Director of Congressional Affairs	NH150002	12/12/2014
OFFICE OF MANAGEMENT AND BUDGET.	Office of Information and Regulatory Affairs.	Confidential Assistant	BO150007	12/11/2014
DEPARTMENT OF STATE	Bureau of Public Affairs	Staff Assistant	DS150009	12/10/2014
DEPARTMENT OF THE TREASURY.	Office of Financial Markets	Senior Advisor	DY150014	12/3/2014

The following Schedule C appointing authorities were revoked during December 2014.

Agency name	Organization name	Position title	Authorization No.	Vacate date
DEPARTMENT OF COMMERCE	Office of White House Liaison	Special Assistant	DC140087	12/14/2014
DEPARTMENT OF HOMELAND SECURITY.	Federal Emergency Management Agency.	Special Assistant	DM140127	12/5/2014
	Immediate Office of the Deputy Secretary.	Special Assistant to the Deputy Secretary.	DM140108	12/13/2014

Agency name	Organization name	Position title	Authorization No.	Vacate date
	Office of the Assistant Secretary for Policy.	Policy Advisor	DM140227	12/13/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Public and Indian Housing.	Special Assistant	DU090110	12/27/2014
	Office of Congressional and Intergovernmental Relations.	General Deputy Assistant Secretary for Congressional Relations.	DU130050	12/27/2014
DEPARTMENT OF THE NAVY	Office of the Under Secretary of the Navy.	Special Assistant	DN120047	12/13/2014
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of General Counsel	Special Assistant	NN120002	12/13/2014

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. 2015–05185 Filed 3–4–15; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

January 2015 Pay Schedules

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: The President has signed an Executive order containing the 2015 pay schedules for certain Federal civilian employees. Pursuant to the President's alternative plan issued under 5 U.S.C. 5303(b) and 5304a on August 29, 2014, the Executive order authorizes a 1-percent across-the-board increase for statutory pay systems and provides that locality percentages remain at 2014 levels. This notice serves as documentation for the public record.

FOR FURTHER INFORMATION CONTACT: Lisa Dismond, Pay and Leave, Employee Services, U.S. Office of Personnel Management; (202) 606–2858 or *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: On December 19, 2014, the President signed Executive Order 13686 (79 FR 77361), which implemented the January 2015 pay adjustments. The Executive order provides an across-the-board increase of 1 percent in the rates of basic pay for the statutory pay systems.

The publication of this notice satisfies the requirement in section 5(b) of Executive Order 13686 that the U.S. Office of Personnel Management (OPM) publish appropriate notice of the 2015 locality payments in the **Federal Register**.

Schedule 1 of Executive Order 13686 provides the rates for the 2015 General Schedule (GS) and reflects a 1-percent increase from 2014. Executive Order 13686 also includes the percentage amounts of the 2015 locality payments, which remain at 2014 levels. (See Section 5 and Schedule 9 of Executive Order 13686.)

GS employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the United States (as defined in 5 U.S.C. 5921(4)) and its territories and possessions. In 2015, locality payments ranging from 14.16 percent to 35.15 percent apply to GS employees in the 34 locality pay areas. The 2015 locality pay area definitions can be found at: *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2015/locality-pay-area-definitions/.*

The 2015 locality pay percentages became effective on the first day of the first pay period beginning on or after January 1, 2015 (January 11, 2015). An employee's locality rate of pay is computed by increasing his or her scheduled annual rate of pay (as defined in 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.609.)

Executive Order 13686 establishes the new Executive Schedule (EX), which incorporates a 1-percent increase required under 5 U.S.C. 5318 (rounded to the nearest $100). By law, Executive Schedule officials are not authorized to receive locality payments.

Executive Order 13686 establishes the 2015 range of rates of basic pay for members of the Senior Executive Service (SES) under 5 U.S.C. 5382. The minimum rate of basic pay for the SES is $121,956 in 2015. The maximum rate of the SES rate range is $183,300 (level II of the Executive Schedule) for SES members who are covered by a certified SES performance appraisal system and $168,700 (level III of the Executive Schedule) for SES members who are not covered by a certified SES performance appraisal system.

The minimum rate of basic pay for the senior-level (SL) and scientific and professional (ST) rate range was increased by 1 percent ($121,956 in 2015), which is the amount of the across-the-board GS increase. The applicable maximum rate of the SL/ST rate range is $183,300 (level II of the Executive Schedule) for SL or ST employees who are covered by a certified SL/ST performance appraisal system and $168,700 (level III of the Executive Schedule) for SL or ST employees who are not covered by a certified SL/ST performance appraisal system. Agencies with certified performance appraisal systems for SES members and employees in SL and ST positions must also apply a higher aggregate limitation on pay—up to the Vice President's salary ($235,300 in 2015.)

Note: Section 738 of title VII of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235, December 16, 2014), continues the freeze on the payable pay rates for the Vice President and certain senior political appointees at 2013 levels during calendar year 2015. The section 738 pay freeze does not affect the 2015 rates (or ranges) of pay officially established by Executive Order 13686. Rather, it temporarily bars covered officials from receiving pay increases based on the 2015 increases in those officially established rates (or ranges).

Executive Order 13686 provides that the rates of basic pay for administrative law judges (ALJs) under 5 U.S.C. 5372 are increased by 1 percent, rounded to the nearest $100 in 2015. The rate of basic pay for AL–1 is $158,700 (equivalent to the rate for level IV of the Executive Schedule). The rate of basic pay for AL–2 is $154,800. The rates of basic pay for AL–3/A through 3/F range from $105,900 to $146,600.

The rates of basic pay for members of Contract Appeals Boards are calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, these rates of basic pay are increased by 1 percent in 2015.

On November 24, 2014, OPM issued a memorandum on behalf of the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget (OMB) and OPM) that continues GS locality payments for ALJs and certain other

non-GS employee categories in 2015. By law, EX officials, SES members, employees in SL/ST positions, and employees in certain other equivalent pay systems are not authorized to receive locality payments. (Note: An exception applies to certain grandfathered SES, SL, and ST employees stationed in a nonforeign area on January 2, 2010.) The locality pay percentages continued for non-GS employees have not been increased in 2015. The memo is available at: *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2014/continuation-of-locality-payments-for-non-general-schedule-employees-november-24-2014.pdf.*

On December 19, 2014, OPM issued a memorandum (CPM 2014–17) on the January 2015 pay adjustments. (See *http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=6604.*) The memorandum transmitted Executive Order 13686 and provided the 2015 salary tables, locality pay areas and percentages, and information on general pay administration matters and other related information. The ''2015 Salary Tables'' posted on OPM's Web site at *http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/* are the official rates of pay for affected employees and are hereby incorporated as part of this notice.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–05115 Filed 3–4–15; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–44; Order No. 2374]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 9, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

On February 26, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–44 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than March 9, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–44 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than March 9, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–05064 Filed 3–4–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, February 26, 2015 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74394; File No. 600–33]

Self-Regulatory Organizations; Bloomberg STP LLC; Notice of Filing of Application for Exemption From Registration as a Clearing Agency

February 27, 2015.

I. Introduction

On March 15, 2013, Bloomberg STP LLC (''BSTP'') filed with the Securities and Exchange Commission (''Commission'') an application on Form CA–1 for exemption from registration as a clearing agency pursuant to section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 17Ab2–1 thereunder. BSTP amended its application on May 7, 9, and 10, July 11, August 8, September 18, and November 21, 2013, December 19, 2014, and January 22, 2015. BSTP is requesting an exemption from clearing agency registration in connection with its proposal to offer an electronic trade confirmation (''ETC'') service and a matching service. The Commission is publishing this notice in order to solicit comments from interested persons on the exemption request.[1] The Commission will consider any comments it receives in making its determination whether to grant BSTP's request for an exemption from clearing agency registration.

II. Background

A. BSTP Organization

BSTP is a limited liability company organized under the laws of the State of Delaware, and is wholly-owned by Bloomberg L.P. (''BLP''). BLP is a global business and financial information and news company that is headquartered in New York, with offices around the world. BLP's principal product is the Bloomberg Professional service, which provides financial market information, data, news and analytics to banks, broker-dealers, institutional investors,

[1] The descriptions set forth in this notice regarding the structure and operations of BSTP have been largely derived from information contained in BSTP's amended Form CA–1 application and publicly available sources. The application and non-confidential exhibits thereto are available on the Commission's Web site.

governmental bodies and other business and financial professionals worldwide.[2]

BSTP proposes to provide ETC and matching services for fixed-income and equity trades as described in its Form CA–1 application. An overview of BSTP's proposed matching service is presented in Part III below. BSTP will enter into a Software License Agreement and a License and Services Agreement with its parent, BLP. Under the terms and conditions of such agreements, BLP will provide BSTP with software, hardware, administrative, operational and other support services. BSTP has established a Board of Directors to oversee its operations, and intends to establish an Advisory Board consisting of industry members and users of the matching service, including representatives from sell-side firms, buy-side institutions and custodians.[3] The mission of the Advisory Board of BSTP is to provide advice and recommendations to the Board of Directors of BSTP that will assist BSTP in fulfilling the policy goals of the Exchange Act in a manner that meets all applicable legal requirements and serves the interests of users of the confirmation matching service and the public at large.[4]

B. Matching as a Clearing Agency Function

On April 6, 1998, the Commission issued an interpretive release regarding matching services[5] (the ''Matching Release'').[6] In the Matching Release, the Commission concluded that matching constitutes a clearing agency function, specifically the ''comparison of data respecting the terms of settlement of securities transactions,'' within the meaning of section 3(a)(23)(A) of the Exchange Act.[7] Therefore, any person providing independent matching services must either register with the Commission as a clearing agency or obtain an exemption from registration pursuant to section 17A of the Exchange Act and Rule 17Ab2–1 thereunder.[8] In 2001, the Commission granted an exemption from registration as a clearing agency to Omgeo, a subsidiary of The Depository Trust and Clearing Corporation (''DTCC'') and Thomson Financial, to conduct ETC and matching services.[9] BSTP has applied for a similar exemption from registration as a clearing agency to provide ETC and matching services.

III. BSTP's Proposed Matching Service

BSTP's proposed matching service for fixed-income and equity trades will compare post-trade information from a broker-dealer and the broker-dealer's institutional customer and reconcile such information to generate an affirmed confirmation. It will operate as follows[10]:

1. A customer routes an order to its firm.
2. The firm executes the order and then sends a notice of execution (''NOE'') to the customer.
3. For voice executed trades, the customer affirms to the firm the trade details contained in the NOE. For trades executed electronically, the electronic trading platform records the trade in the blotters of the customer and the firm.
4. The customer sends to the matching service, the firm, and the customer's custodian allocation information for the trade.
5. The firm then submits to the matching service trade data corresponding to each allocation, including settlement instructions and, as applicable, commissions, taxes, and fees.
6. The matching service next compares the customer's allocation information (containing multiple fields of data)[11] with the firm's trade data to determine whether the information contained in each field matches. If all required fields match, the matching service generates a matched confirmation and sends it to the firm, the customer, and other entities designated by the customer (*e.g.,* the customer's custodian). The matching service will typically perform this step in less than one second.
7. After the matching service creates the matched confirmation, the matching service submits it to DTC as an ''affirmed confirmation.''[12] From there, the trade goes into DTC's settlement process.

According to BSTP, a customer will be eligible to use the matching service once its broker-dealer and, as applicable, its fund service provider have enabled the customer to use the matching service. A customer may also subscribe to the matching service directly. BSTP will make available to matching service users an interactive reporting tool that will display matching statistics, and users will be able to access specific details regarding matched and unmatched allocations filtered by counterparty, investment type, and status.

Other than the matching service, BSTP states it will not perform any other functions of a clearing agency requiring registration under section 17A of the Exchange Act, such as net settlement, maintaining a balance of open positions between buyers and sellers, marking securities to the market, or handling funds or securities.[13]

IV. BSTP's Request for an Exemption

A. Introduction

BSTP believes its proposed matching service would improve reliability and stability in the post-trade processing of securities transactions. According to BSTP, the matching service will offer tangible benefits to the securities industry by: (i) Adding choice and

[2] *See* Exhibit C for a graphic description of the BSTP's organizational structure.

[3] *See* Exhibit S at 8–12.

[4] *See* Exhibit S at 11–12.

[5] The term ''matching service'' as used here means an electronic service to centrally match trade information between a broker-dealer and its institutional customer.

[6] *See* Confirmation and Affirmation of Securities Trades; Matching, Exchange Act Release No. 34–39829 (Apr. 6, 1998), 63 FR 17943 (Apr. 13, 1998).

[7] In addition, on July 1, 2011, the Commission published a conditional temporary exemption from clearing agency registration for entities that perform for security-based swap transactions certain post-trade processing services, including matching services. *See* Exchange Act Release No. 34–64796 (Jul. 1, 2011), 76 FR 39963 (Jul. 7, 2011) (providing an exemption from registration under Section 17A(b) of the Exchange Act, and stating that ''[t]he Commission is using its authority under section 36 of the Exchange Act to provide a conditional temporary exemption, until the compliance date for the final rules relating to registration of clearing agencies that clear security-based swaps pursuant to sections 17A(i) and (j) of the Exchange Act, from the registration requirement in section 17A(b)(1) of the Exchange Act to any clearing agency that may be required to register with the Commission solely as a result of providing Collateral Management Services, Trade Matching Services, Tear Up and Compression Services, and/or substantially similar services for security-based swaps''). The order facilitated the Commission's identification of entities that operate in that area and that accordingly may fall within the clearing agency definition.

[8] *See* 15 U.S.C. 78q–1 and 17 CFR 240.17Ab2–1.

[9] *See* Global Joint Venture Matching Services—U.S., LLC; Order Granting Exemption From Registration as a Clearing Agency, Exchange Act Release No. 34–44188 (Apr. 17, 2001), 66 FR 20494 (Apr. 23, 2001) (''Omgeo Exemptive Order''). On July 24, 2013, DTCC announced that it had entered into an agreement with Thomson Financial to acquire full ownership of Omgeo.

[10] BSTP provides an additional matching workflow in which custodians send matched confirmations to the matching service and the matching service submits such matched confirmations as affirmed confirmations to The Depository Trust Company (''DTC'').

[11] According to its application, BSTP notes that it will follow DTC's format for delivering matched confirmations to DTC. Further, BSTP will obtain a control number from DTC for each trade record, cross-reference such control number to the confirmation and subsequent affirmation of the trade, and include such control number when delivering the affirmation of the trade to the depository at DTC. *See* Exhibit S at 12.

[12] BSTP notes that its proposed confirmation matching process eliminates multiple steps in the manual workflow, such as DTC's producing a confirmation for the institution to review and the institution's reviewing and affirming the confirmation.

[13] *See* Exhibit J at 9.

redundancy and eliminating a single point of dependency, thereby increasing the reliability and stability of matching service support available to market participants; (ii) decreasing overall costs to market participants; and (iii) by introducing competition, increasing the potential for development of new and enhanced functionality.[14]

BSTP believes that the proposed matching service will increase the speed and accuracy of confirmation matching, as the proposed matching service will be ''seamlessly integrated with other tools used by the financial industry, including the Bloomberg Professional service, BLP's and third-party order management systems, electronic trading functionality and other post-trade functionality.'' [15] BSTP states that these synergies will help to improve the speed, accuracy and reliability of the post-trade environment by reducing the number of required connections and therefore the potential for error in the matching process. As a result, the speed of confirmation matching is improved and the accuracy of allocations processing is enhanced, resulting in prompt and accurate clearance and settlement of trades.

BSTP believes that the market will benefit from the availability of functions to be provided by BSTP along with the existing functions provided by BLP that together will allow professional investors to analyze potential trades, route an order to a broker, receive an execution notice from the broker, enter trade details and allocations, receive a matched confirmation, and send an affirmed confirmation to the depository at DTC using the same provider. By making available a confirmation matching service accessible via the Bloomberg Professional service, which is commonly also used for electronic trading and post-trade processing, BSTP states that its proposed matching service will afford the securities industry the opportunity to use complementary services from start to finish.

BSTP states that it will devote resources to helping users and potential users of the matching service further the goal of straight-through-processing, compressed settlement cycles and, ultimately, a reduction of risk throughout the financial markets. In sum, BSTP believes that its matching service will increase overall matching capacity in the market, eliminate a single point of dependency, and introduce price competition to the market, which will reduce costs to market participants.

B. Conditions to Exemption From Registration

BSTP represents in its Form CA–1 that it would comply with the list of conditions found below regarding its operations and interoperability with other matching providers.[16] The Commission preliminarily believes that the conditions are important tools to facilitate effective systems interoperability. By establishing a framework that allows the customers of multiple service providers to conduct transactions without having to join each matching provider, the Commission preliminarily believes that the interoperability conditions help facilitate the linking of clearance and settlement facilities.[17]

C.1. Operational Conditions

(1) Before beginning the commercial operation of its matching service, BSTP shall provide the Commission with an audit report that addresses all the areas discussed in the Commission's Automation Review Policies (''ARP'').[18]

(2) BSTP shall provide the Commission with annual reports and any associated field work prepared by competent, independent audit personnel that are generated in accordance with the annual risk assessment of the areas set forth in the ARP. BSTP shall provide the Commission (beginning in its first year of operation) with annual audited financial statements prepared by competent independent audit personnel.

(3) BSTP shall report all significant systems outages to the Commission. If it appears that the outage may extend for thirty minutes or longer, BSTP shall report the systems outage immediately. If it appears that the outage will be resolved in less than thirty minutes, BSTP shall report the systems outage within a reasonable time after the outage has been resolved.

(4) BSTP shall provide the Commission with 20 business days advance notice of any material changes that BSTP makes to the matching service. These changes will not require the Commission's approval before they are implemented.

(5) BSTP shall respond and require its service providers (including BLP) to respond to requests from the Commission for additional information relating to the matching service and ETC service, and provide access to the Commission to conduct on-site inspections of all facilities (including automated systems and systems environment), records, and personnel related to the matching service and the ETC service. The requests for information shall be made and the inspections shall be conducted solely for the purpose of reviewing the matching service's and the ETC service's operations and compliance with the federal securities laws and the terms and conditions in any exemptive order issued by the Commission with respect to BSTP's matching service and the ETC service.

(6) BSTP shall supply the Commission or its designee with periodic reports regarding the affirmation rates for institutional transactions effected by institutional investors that utilize its matching service and ETC service.[19]

(7) BSTP shall preserve a copy or record of all trade details, allocation instructions, central trade matching results, reports and notices sent to customers, service agreements, reports

[14] *See* Exhibit J at 10.

[15] As BSTP's application notes, a Bloomberg Professional service subscription includes a post-trade trade affirmation function known as ''VCON,'' which is used by a substantial number of buy-side and sell-side firms. VCON allows an institution and its broker-dealer that agree to a trade over the telephone, by email, or otherwise to reconcile the economics of the trade in a thorough manner. In response to requests from multiple buy-side and sell-side customers, Bloomberg decided to enhance its existing VCON function by adding a confirmation matching service for DTC-eligible securities. *See* Exhibit S at 7–8.

[16] *See* Exhibit S at 13–19. On November 19, 2014, the Commission adopted Regulation Systems Compliance and Integrity (''Reg SCI''), which would require ''SCI entities'' to comply with requirements for policies and procedures with respect to their automated systems that support the performance of their regulated activities. *See* Exchange Act Release No. 34–73639 (Nov. 19, 2014), 79 FR 72251, 72271 (Dec. 5, 2014). Rule 1000(a) of Reg SCI would define an ''SCI entity'' to include, among other things, a registered clearing agency and an exempt clearing agency subject to the Commission's Automation Review Policies (''ARP''). In particular, the term ''exempt clearing agency subject to ARP'' includes ''an entity that has received from the Commission an exemption from registration as a clearing agency under section 17A of the Exchange Act, and whose exemption contains conditions that relate to the Commission's [ARP] Policies, or any Commission regulation that supersedes or replaces such policies.'' The Commission notes that the below conditions would meet the definition described in Rule 1000(a) of Reg SCI, requiring an exempt clearing agency subject to ARP to meet the applicable requirements set forth in Reg SCI.

[17] *See* 15 U.S.C. 78q–1(a)(1)(D).

[18] *See* Exchange Act Release Nos. 34–27445 (Nov. 16, 1989), 54 FR 48703 (Nov. 24, 1989) (''ARP I''), and 34–29185 (May 9, 1991), 56 FR 22490 (May 15, 1991) (''ARP II''); *see also* Memorandum from the Securities and Exchange Commission Division of Market Regulation to SROs and NASDAQ (June 1, 2001) (''Guidance for Systems Outages and System Change Notifications''), *available at http://www.sec.gov/divisions/marketreg/sro-guidance-for-systems-outage-06-01-2001.pdf.*

[19] DTC submits monthly affirmation/confirmation reports to the appropriate self-regulatory organizations. The Commission anticipates a similar schedule for BSTP.

regarding affirmation rates that are sent to the Commission or its designee, and any complaint received from a customer, all of which pertain to the operation of its matching service and ETC service. BSTP shall retain these records for a period of not less than five years, the first two years in an easily accessible place.

(8) BSTP shall not perform any clearing agency function (such as net settlement, maintaining a balance of open positions between buyers and sellers, or marking securities to the market) other than as permitted in an exemption issued by the Commission.

(9) Before beginning the commercial operation of its matching service, BSTP shall provide the Commission with copies of the service agreement between BLP and BSTP and shall notify the Commission of any material changes to the service agreement.

C.2. Interoperability Conditions

(1) BSTP shall develop, in a timely and efficient manner, fair and reasonable linkages between BSTP's matching service and other matching services that are registered with the Commission or that receive or have received from the Commission an exemption from clearing agency registration that, at a minimum, allow parties to trades that are processed through one or more matching services to communicate through one or more appropriate effective interfaces with other matching services.

(2) BSTP shall devise and develop interfaces with other matching services that enable end-user clients or any service that represents end-user clients to BSTP (''end-user representative'') to gain a single point of access to BSTP and other matching services. Such interfaces must link with each other matching service so that an end-user client of one matching service can communicate with all end-user clients of all matching services, regardless of which matching service completes trade matching prior to settlement.

(3) If any intellectual property proprietary to BSTP is necessary to develop, build, and operate links or interfaces to BSTP's matching service, as described in these conditions, BSTP shall license such intellectual property to other matching services seeking linkage to BSTP on fair and reasonable terms for use in such links or interfaces.

(4) BSTP shall not engage in any activity inconsistent with the purposes of section 17A(a)(2) of the Exchange Act,[20] which section seeks the establishment of linked or coordinated facilities for clearance and settlement of transactions. In particular, BSTP will not engage in activities that would prevent any other matching service from operating a matching service that it has developed independently from BSTP's matching service.

(5) BSTP shall support industry standards in each of the following categories: communication protocols (*e.g.,* TCP/IP, SNA); message and file transfer protocols and software (*e.g.,* FIX, WebSphere MQ, SWIFT); message format standards (*e.g.,* FIX); and message languages and metadata (*e.g.,* XML). However, BSTP need not support all existing industry standards or those listed above by means of example. Within three months of regulatory approval, BSTP shall make publicly known those standards supported by BSTP's matching service. To the extent that BSTP decides to support other industry standards, including new and modified standards, BSTP shall make these standards publicly known upon making such decision or within three months of updating its system to support such new standards, whichever is sooner. Any translation to/from these published standards necessary to communicate with BSTP's system shall be performed by BSTP without any significant delay or service degradation of the linked parties' services.

(6) BSTP shall make all reasonable efforts to link with each other matching service in a timely and efficient manner, as specified below. Upon written request, BSTP shall negotiate with each other matching service to develop and build an interface that allows the two to link matching services (''interface''). BSTP shall involve neutral industry participants in all negotiations to build or develop interfaces and, to the extent feasible, incorporate input from such participants in determining the specifications and architecture of such interfaces. Absent adequate business or technological justification,[21] BSTP and the requesting other matching service shall conclude negotiations and reach a binding agreement to develop and build an interface within 120 calendar days of BSTP's receipt of the written request. This 120-day period may be extended upon the written agreement of both BSTP and the other matching service engaged in negotiations. For each other matching service with whom BSTP reaches a binding agreement to develop and build an interface, BSTP shall begin operating such interface within 90 days of reaching a binding agreement and receiving all the information necessary to develop and operate it. This 90-day period may be extended upon the written agreement of both BSTP and the other matching service. For each interface and within the same time BSTP must negotiate and begin operating each interface, BSTP and the other matching service shall agree to ''commercial rules'' for coordinating the provision of matching services through their respective interfaces, including commercial rules: (A) Allocating responsibility for performing matching services; and (B) allocating liability for service failures. BSTP shall also involve neutral industry participants in negotiating applicable commercial rules and, to the extent feasible, take input from such participants into account in agreeing to commercial rules. At a minimum, each interface shall enable BSTP and the other matching service to transfer between them all trade and account information necessary to fulfill their respective matching responsibilities as set forth in their commercial rules (''trade and account information''). Absent an adequate business or technological justification, BSTP shall develop and operate each interface without imposing conditions that negatively impact the other matching service's ability to innovate its matching service or develop and offer other value-added services relating to its matching service or that negatively impact the other matching service's ability to compete effectively against BSTP.

(7) In order to facilitate fair and reasonable linkages between BSTP and other matching services, BSTP shall publish or make available to any other matching service the specifications for any interface and its corresponding commercial rules that are in operation within 20 days of receiving a request for such specifications and commercial rules. Such specifications shall contain all the information necessary to enable any other matching services not already linked to BSTP through an interface to establish a linkage with BSTP through an interface or a substantially similar interface. BSTP shall link to any other matching service, if the other matching service so opts, through an interface substantially similar to any interface and its corresponding commercial rules that BSTP is currently operating. BSTP shall begin operating such substantially similar interface and commercial rules with the other matching service within 90 days of receiving all the information necessary to operate that link. This 90-

[20] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[21] The failure of neutral industry participants to be available or to submit their input within the 120 day or 90 day time periods set forth in this paragraph shall not constitute an adequate business or technological justification for failing to adhere to the requirements set forth in this paragraph.

day period may be extended upon the written agreement of both BSTP and the other matching service that plans to use that link.

(8) BSTP and respective other matching services shall bear their own costs of building and maintaining an interface, unless otherwise negotiated by the parties.

(9) BSTP shall provide to all other matching services and end-user representatives that maintain linkages with BSTP sufficient advance notice of any material changes, updates, or revisions to its interfaces to allow all parties who link to BSTP through affected interfaces to modify their systems as necessary and avoid system downtime, interruption, or system degradation.

(10) BSTP and each other matching service shall negotiate fair and reasonable charges and terms of payment for the use of their interface with respect to the sharing of trade and account information (''interface charges''). In any fee schedule adopted under conditions C.2(10), C.2(11), or C.2(12) herein, BSTP's interface charges shall be equal to the interface charges of the respective other matching service.

(11) If BSTP and the other matching service cannot reach agreement on fair and reasonable interface charges within 60 days of receipt of the written request, BSTP and the other matching service shall submit to binding arbitration under the rules promulgated by the American Arbitration Association. The arbitration panel shall have 60 days to establish a fee schedule. The arbitration panel's establishment of a fee schedule shall be binding on BSTP and the other matching service unless and until the fee schedule is subsequently modified or abrogated by the Commission or BSTP and the other matching service mutually agree to renegotiate.

(12)(A) The following parameters shall be considered in determining fair and reasonable interface charges: (i) The variable cost incurred for forwarding trade and account information to other matching services; (ii) the average cost associated with the development of links to end-users and end-user representatives; and (iii) BSTP's interface charges to other matching services. (B) The following factors shall not be considered in determining fair and reasonable interface charges: (i) The respective cost incurred by BSTP or the other matching service in creating and maintaining interfaces; (ii) the value that BSTP or the other matching service contributes to the relationship; (iii) the opportunity cost associated with the loss of profits to BSTP that may result from competition from other matching services; (iv) the cost of building, maintaining, or upgrading BSTP's matching service; or (v) the cost of building, maintaining, or upgrading value added services to BSTP's matching service. (C) In any event, the interface charges shall not be set at a level that unreasonably deters entry or otherwise diminishes price or non-price competition with BSTP by other matching services.

(13) BSTP shall not charge its customers more for use of its matching service when one or more counterparties are customers of other matching services than BSTP charges its customers for use of its matching service when all counterparties are customers of BSTP. BSTP shall not charge customers any additional amount for forwarding to or receiving trade and account information from other matching services called for under applicable commercial rules.

(14) BSTP shall maintain its quality, capacity, and service levels in the interfaces with other matching services (''matching services linkages'') without bias in performance relative to similar transactions processed completely within BSTP's service. BSTP shall preserve and maintain all raw data and records necessary to prepare reports tabulating separately the processing and response times on a trade-by-trade basis for (A) completing its matching service when all counterparties are customers of BSTP; (B) completing its matching service when one or more counterparties are customers of other matching services; or (C) forwarding trade information to other matching services called for under applicable commercial rules. BSTP shall retain the data and records for a period not less than six years. Sufficient information shall be maintained to demonstrate that the requirements of condition C.2(15) below are being met. BSTP and its service providers shall provide the Commission with reports regarding the time it takes BSTP to process trades and forward information under various circumstances within thirty days of the Commission's request for such reports. However, BSTP shall not be responsible for identifying the specific cause of any delay in performing its matching service where the fault for such delay is not attributable to BSTP.

(15) BSTP shall process trades or facilitate the processing of trades by other matching services on a first-in-time priority basis. For example, if BSTP receives trade and account information that BSTP is required to forward to other matching services under applicable commercial rules (''pass-through information'') prior to receiving trade and account information from BSTP's customers necessary to provide matching services for a trade in which all parties are customers of BSTP (''intra-hub information''), BSTP shall forward the pass-through information to the designated other matching service prior to processing the intra-hub information. If, on the other hand, the information were to come in the reverse order, BSTP shall process the intra-hub information before forwarding the pass-through information.

(16) BSTP shall sell access to its databases, systems or methodologies for transmitting settlement instructions (including settlement instructions from investment managers, broker-dealers, and custodian banks) and/or transmitting trade and account information to and receiving authorization responses from settlement agents on fair and reasonable terms to other matching services and end-user representatives. Such access shall permit other matching services and end-user representatives to draw information from those databases, systems, and methodologies for transmitting settlement instructions and/or transmitting trade and account information to and receiving authorization responses from settlement agents for use in their own matching services or end-user representatives' services. The links necessary for other matching services and end-user representatives to access BSTP's databases, systems or methodologies for transmitting settlement instructions and/or transmitting trade and account information to and receiving authorization responses from settlement agents will comply with conditions C.2(3), C.2(5), C.2(9), C.2(14) and C.2(15) above.

(17) For the first five years from the date of an exemptive order issued by the Commission with respect to BSTP's matching service, BSTP shall provide the Commission with reports every six months sufficient to document BSTP's adherence to the obligations relating to interfaces set forth in conditions C.2(6) through C.2(13) and C.2(16) above. BSTP shall incorporate into such reports information including but not limited to: (A) All other matching services linked to BSTP; (B) the time, effort, and cost required to establish each link between BSTP and other matching services; (C) any proposed links between BSTP and other matching services as well as the status of such proposed links; (D) any failure or inability to establish such proposed links or fee schedules for interface charges; (E) any written complaint received from other matching services

relating to its established or proposed links with BSTP; and (F) if BSTP failed to adhere to any of the obligations relating to interfaces set forth in conditions C.2(6) through C.2(13) and C.2(16) above, its explanation for such failure. The Commission shall treat information submitted in accordance with this condition as confidential, non-public information, subject to the provisions of applicable law. If any other matching service seeks to link with BSTP more than five years after issuance of an exemptive order issued by the Commission with respect to BSTP's matching service, BSTP shall notify the Commission of the other matching service's request to link with BSTP within ten days of receiving such request. In addition, BSTP shall provide reports to the Commission in accordance with this paragraph commencing six months after the initial request for linkage is made until one year after BSTP and the other matching service begin operating their interface. The Commission reserves the right to request reports from BSTP at any time. BSTP shall provide the Commission with such updated reports within thirty days of the Commission's request.

(18) BSTP shall also publish or make available upon request to any end-user representative the necessary specifications, protocols, and architecture of any interface created by BSTP for any end-user representative.

V. Statutory Standards

A. Statutory Process for Registering or Exempting Clearing Agencies

Section 17A(b)(1) of the Exchange Act requires all clearing agencies to register with the Commission before performing any of the functions of a clearing agency.[22] However, section 17A(b)(1) also states that, upon its own motion or upon a clearing agency's application, the Commission may conditionally or unconditionally exempt said clearing agency from any provisions of section 17A or the rules or regulations thereunder if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of section 17A, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.

In the Matching Release, the Commission noted that an entity that limited its clearing agency functions to providing matching services might not have to be subject to the full range of clearing agency regulation. The Matching Release stated that the Commission anticipated that an entity seeking an exemption from clearing agency registration for matching would be required to: (1) Provide the Commission with information on its matching services and notice of material changes to its matching services; (2) establish an electronic link to a registered clearing agency that provides for the settlement of its matched trades; (3) allow the Commission to inspect its facilities and records; and (4) make periodic disclosures to the Commission regarding its operations.

In 2001, the Commission approved an application by Omgeo, then a joint venture between DTCC and Thomson Financial, for an exemption from registration as a clearing agency to provide matching services.[23] Omgeo's exemption from clearing agency registration was subject to conditions that were substantially similar to the conditions set forth in Part IV.C above.

B. BSTP's Compliance With Statutory Standards

BSTP's matching service would be the only clearing agency function that it would perform under an exemptive order. BSTP believes that the undertakings it has proposed as a condition of obtaining an exemption from clearing agency registration are consistent with the public interest, the protection of investors, and the purposes of section 17A of the Exchange Act.

BSTP represents in its Form CA–1 that it will comply with all of the conditions described in Part IV.C above. Preliminarily, the Commission does not believe, however, that BSTP, in the absence of performing the functions of a clearing agency other than the matching service described here, raises the same concerns as an entity that performs a wider range of clearing agency functions. For example, BSTP would not be operating as a self-regulatory organization with the powers to enforce its rules against its members. Accordingly, the Commission preliminarily believes it may not be necessary to require BSTP to satisfy all of the standards for registrants under section 17A of the Exchange Act because the proposed conditions should establish a sufficiently robust regulatory framework. Further, the Commission preliminarily believes that granting BSTP an exemption from registration as a clearing agency would be consistent with the Commission's past practice, and that additional matching service providers should promote innovation and reduce costs for investors.

In evaluating BSTP's application, the Commission intends to consider whether BSTP is so organized and has the capacity to be able to facilitate prompt and accurate matching services. Subject to the specific operational, interoperability and access conditions to which it has agreed, the Commission preliminarily believes this to be the case. In particular, BSTP has represented that the addition of a new matching service into a single provider market will not adversely affect current users of the existing matching service offered by Omgeo. BSTP states that the proposed matching service will ensure that users will have full flexibility to use the central matching service of their choice at any time, and will have the ability to choose whether or not to use the matching service or another service on a per-trade basis. BSTP represents that users will not be locked into using BSTP's matching service over any alternative, whether by contract, functionality or otherwise.[24] BSTP believes that market participants seek ''interoperability'' through the ability to connect to multiple providers and the resulting improvements to reliability and stability in the post-trade space that would flow from this type of service offering.

The Commission requests comment on whether the conditions are sufficient to promote the purposes of section 17A of the Exchange Act and to allow the Commission to adequately monitor the effects of BSTP's proposed activities on the national system for the clearance and settlement of securities transactions. In addition, the Commission invites commenters to address whether granting BSTP an exemption from clearing agency registration would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of section 17A of the Exchange Act.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed exemption is consistent with the public interest, the protection of investors, and the purposes of section 17A of the Exchange Act. To the extent possible, commenters are requested to provide empirical data and other factual support for their views. In addition, the Commission seeks comment generally on the following issues:

[22] *See* 15 U.S.C. 78q–1(b) and 17 CFR 240.17Ab2–1.

[23] *See supra* note 9.

[24] *See* Exhibit J at 10.

1. In light of the passage of time since the adoption of the Omgeo Exemptive Order, developments in technology, and enhancements in market practices, are the proposed conditions to the exemptive order appropriate? Specifically, are all of the conditions designed to facilitate interoperability necessary? Could the Commission continue to promote the purposes of section 17A of the Exchange Act by additional modification or elimination of some or all of the conditions? If so, which conditions should be modified or eliminated?

2. What, if any, effect will moving from a single provider to two or more providers have on the efficiency of the trade settlement process?

3. What, if any, impact will the introduction of a second provider have on pricing, quality of service, and innovation?

4. Will the introduction of one or more additional providers increase or reduce risk in the marketplace?

5. Does BSTP's application for exemption from registration help achieve the underlying policy objectives of the Exchange Act? Why or why not? In particular, please address whether granting an exemption from registration does or does not further the goals of promoting investor protection and the integrity of the securities markets.

6. Are the proposed conditions to the exemptive order sufficient to promote the purposes of section 17A of the Exchange Act and to allow the Commission to adequately monitor the effects of BSTP's proposed activities on the national system for the clearance and settlement of securities transactions? Why or why not?

7. Would the links and interfaces with other matching services as described in BSTP's application have a positive or negative effect on other matching services that are registered with the Commission or that receive from the Commission an exemption from clearing agency registration? Why or why not? Should the proposed condition to develop an interface with another matching service provider be made mandatory, rather than only upon request from another provider?

8. Would the links and interfaces with other matching services as described in BSTP's application have a positive or negative effect on end-user clients of all matching services, regardless of which matching service completes trade matching prior to settlement? Why or why not?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number 600–33 on the subject line; or

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 600–33.

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/other.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the application that are filed with the Commission, and all written communications relating to the application between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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 600–33 and should be submitted on or before April 6, 2015.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05053 Filed 3–4–15; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74388; File No. 4–657]

Joint Industry Plan; Notice of Designation of a Longer Period for Commission Action on the Proposed National Market System Plan To Implement a Tick Size Pilot Program on a One-Year Pilot Basis by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

February 26, 2015.

On August 25, 2014, NYSE Group, Inc., on behalf of BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, and The Nasdaq Stock Market LLC and New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. (collectively, the ''Participants''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 608 of Regulation NMS thereunder,[2] a proposed national market system (''NMS'') Plan to Implement a Tick Size Pilot Program On a One-Year Pilot Basis (''Plan'').[3] The proposed Plan was published for comment in the **Federal Register** on November 7, 2014.[4] The Commission has received 74 comment letters on the proposed Plan.[5]

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Brendon J. Weiss, Vice President, NYSE Group Inc., to Secretary, Commission, dated August 25, 2014.

[4] *See* Securities Exchange Act Release No. 73511 (November 3, 2014), 79 FR 66423.

[5] *See* Letters from Shawn Leary, dated August 24, 2014; Tony BenBrahim, dated August 24, 2014; John Richardson, dated August 26, 2014; Arthur T. Ling, dated August 26, 2014; Dan Blecha, dated August 26, 2014; Tom Sosnoff, dated August 27, 2014; Michael Choffy, dated August 28, 2014; Joseph Runsdorf, dated August 29, 2014; Tony J. Gagliano, dated September 1, 2014; Howard L. Greenblatt, dated September 2, 2014; Ernest Callipari, dated September 2, 2014 ; Ali Bangura, dated September 3, 2014; Tony J. Gagliano, dated September 3, 2014; Theodore R. Lazo, Managing Director and Associate General Counsel of SIFMA, dated September 9, 2014; John C. Nagel, Managing Director and Sr. Deputy General Counsel of Citadel, LLC, dated September 12, 2014; Christopher Nagy, CEO, and Dave Lauer, President, KOR Group LLC, dated September 15, 2014; Stuart J. Kaswell, Executive Vice President & Managing Director,

General Counsel of Managed Funds Association, dated September 20, 2014; John Daley, Chairman of the Board and James Toes, President & CEO of Security Traders Association, dated September 23, 2014; Brian A. Johnson, Executive Director for Research of Committee on Capital Markets Regulation, dated September 26, 2014; Jeffrey P. Ricker, dated October 6, 2014; David Adorney, Professional Equity Trader, dated November 11, 2014; Richard B. Gorelick, CEO of RGM Advisors, LLC, dated November 13, 2014; Representative Sean P. Duffy, U.S. House of Representatives, dated November 17, 2014; Joseph Galinskie, dated November 18, 2014; Tom Quaadman, Vice President, U.S. Chamber of Commerce Center for Capital Markets Competitiveness, dated November 20, 2014; David Shields, Vice Chairman & Co-CEO, Wellington Shields & Co., dated December 2, 2014; Dave Weild, Chairman & CEO, IssuWorks, Inc., dated December 3, 2014; Tim Quast, President, ModernNetworks IR, LLC, dated December 8, 2014; Larry Tabb, Founder & CEO, Tabb Group, dated December 10, 2014; John Endean, President, American Business Conference, dated December 12, 2014; Scott Kupor, Managing Partner, Andreessen Horowitz and Jeffrey M. Solomon, CEO Cowen and Company, Equity Capital Formation Task Force, dated December 18, 2014; Eduardo A. Repetto, Vice Chairman & Co-CEO, Dimensional Fund Advisors, Co-Chief Executive Officer and Co-Chief Investment Officer, Dimensional Fund Advisors, dated December 18, 2014; Sal Arnuk & Joseph Saluzzi, Partners and Co-Founders, Themis Trading, LLC, dated December 19, 2014; Simon D. Yates, CEO, Two Sigma Securities, LLC, dated December 19, 2014; Mortimer J. Buckley, Managing Director and Chief and Investment Officer, The Vanguard Group, Inc., dated December 19, 2014; Rob Flatley, CEO and Dave Weisberger, Managing Director, Head of Market Structure Analysis, CoreOne Technologies LLC, submitted December 19, 2014; Alan F. Hill, CEO and William K. Jones, Executive Chairman, JonesTrading Institutional Services LLC, dated December 19, 2014; R. Glenn Hubbard, Co-Chair, John L. Thornton, Co-Chair and Hal S. Scott, Director, Committee on Capital Markets Regulation, dated December 19, 2014; John Daley, Chairman of the Board and James Toes, President & CEO, Security Traders Association, dated December 19, 2014; John McCarthy, General Counsel, KCG Holdings, Inc., dated December 19, 2014; Douglas A. Cifu, Chief Executive Officer, Virtu Financial, dated December 19, 2014; E. Cartier Esham, Executive Vice President, Emerging Companies, Biotechnology Industry Organization (BIO), dated December 22, 2014; Micah Hauptman, Financial Services Counsel, Consumer Federation of America, dated December 22, 2014; Bobby Franklin, President & CEO, National Venture Capital Association, dated December 22, 2014; Eric Swanson, General Counsel & Secretary, BATS Global Markets, Inc. dated December 22, 2014; Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated December 22, 2014; Daniel G. Weaver, Ph.D., Professor of Finance, Director, Master of Financial Analysis Program, Associate Director, Whitcomb Center for Research in Financial Services, Rutgers, The State University of New Jersey, dated December 22, 2014; Stuart J. Kaswell, Executive Vice President & Managing Director, General Counsel, Managed Funds Association, dated December 22, 2014; Kurt N. Schacht, Managing Director and James C. Allen, Head; CFA Institute, dated December 22, 2014; Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, LLC, dated December 22, 2014; Daniel Keegan, Managing Director, Head of Equities for the Americas, Citigroup Global Markets Inc., dated December 22, 2014; Richie Prager, Managing Director; Hubert DeJesus, Managing Director; Supurna Vedbrat, Managing Director; Joanne Medero, Managing Director, BlackRock, Inc., dated December 22, 2014; Adam Sussman, Head of Market Structure, Liquidnet, Inc., dated December 22, 2014; Manisha Kimmel, Managing Director, Financial Information Forum, dated December 22, 2014; Tom Quaadman, Vice President, U.S. Chamber of Commerce, Center for Capital Markets Competitiveness, dated December 22, 2014; Ari Burstein, Senior Counsel, Investment Company Institute, dated December 22, 2014; Jeff Brown, Senior Vice President, Legislative and Regulatory Affairs, Charles Schwab & Co., Inc., dated December 22, 2014; Kimberly Unger, CEO and Executive Director, Security Traders Association of New York, dated December 22, 2014; Scott C. Goebel, Senior Vice President & General Counsel, Fidelity Management & Research Co., dated December 22, 2014; Dennis Dick, CFA, Head, Equity Market Structure, Bright Trading LLC, dated December 22, 2014; Raymond M. Tierney III, President and Chief Executive Officer, Gary Stone, Chief Strategy Officer, Bloomberg Tradebook LLC dated December 22, 2014; Mao Ye, Assistant Professor of Finance, University of Illinois, Urbana-Champaign, dated December 22, 2014; Paul J. Jiganti, Managing Director, Market Structure and Client Advocacy and John S. Markle, Deputy General Counsel—Retail and Clearing Operations, TD Ameritrade, Inc., dated December 22, 2014; James J. Angel, Ph.D., CFA, Associate Professor of Finance, Georgetown University dated December 22, 2014; Christopher Nagy and Dave Lauer, KOR Group, LLC dated December 22, 2014; James G. Ongena, General Counsel, Chicago Stock Exchange, Inc., dated December 22, 2014; Andrew Stevens, General Counsel, IMC Financial Markets, dated December 30, 2014; Michael Jacejko, Chief Executive Manager, Birch Bay Capital, LLC, dated December 31, 2014; James P. Selway III, Managing Director, Head of Electronic Brokerage, ITG Inc., dated January 5, 2015; John C. Nagel, Managing Director & Sr. Deputy General Counsel, Citadel LLC, dated January 5, 2015; Thomas Wittman, Executive Vice President, The NASDAQ OMX Group, LLC, dated January 16, 2015; Brendon J. Weiss, Co-Head Government Affairs, NYSE, LLC, dated January 16, 2015; Senators Mark R. Warner and Pat Toomey, The United States Senate, dated January 23, 2015; Daniel Zinn, General Counsel, OTC Markets Group Inc., dated February 24, 2015. Copies of all comment letters received on the proposed Plan are available on the Commission's Web site located at *http://www.sec.gov/comments/4-657/4-657.shtml and http://www.sec.gov/comments/jobs-title-i/tick-size-study/tick-size-study.shtml*. Comments are also 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. EST.

Rule 608 [6] under Section 11A of the Act [7] provides that within 120 days of the date of publication of notice of filing of a NMS plan or an amendment to an effective NMS plan, or within such longer period as the Commission may designate up to 180 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the sponsors consent, the Commission shall approve such plan or amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. The 120th day for the proposed Plan is March 7, 2015.

The Commission hereby extends the time period for Commission action on the proposed Plan from the 120th day and designates May 6, 2015, which is the 180th day for the proposed Plan, as the time period for Commission action. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed Plan because the extension will provide the Commission with additional time to consider, and take action in light of, among other things, the comments received on the proposed Plan.

Accordingly, pursuant to Section 11A of the Act [8] and Rule 608 thereunder,[9] the Commission designates May 6, 2015 as the date for Commission action on the proposed Plan.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–05052 Filed 3–4–15; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 242.608.

[7] 15 U.S.C. 78k–1.

[8] *Id.*

[9] 17 CFR 242.608.

[10] 17 CFR 200.30–3(a)(42).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors Meeting.

TIME AND DATE: The meeting will be held on April 9, 2015, from 12:00 Noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–422–1931, passcode 2855443940, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may

consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Dated: March 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–05199 Filed 3–3–15; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. MCF 21060]

Academy Bus LLC—Acquisition of the Properties of Evergreen Trails Inc. d/b/a Horizon Coach Lines

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: Academy Bus LLC, a motor carrier of passengers (Academy), has filed an application under 49 U.S.C. 14303 to acquire property of Evergreen Trails Inc. d/b/a Horizon Coach Lines (Evergreen), a motor carrier of passengers. The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8.

DATES: Comments must be filed by April 20, 2015. Applicant may file a reply by May 4, 2015. If no comments are filed by April 20, 2015, this notice shall be effective on April 21, 2015.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21060 to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, send one copy of comments to Academy's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street NW., 7th Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm, (202) 245–0391. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Academy is a motor carrier licensed by the Federal Motor Carrier Safety Administration (FMCSA) (MC–646780) and primarily provides charter bus operations in Florida. Academy is owned by Academy Bus (Florida) ESB Trust, which is controlled by Francis Tedesco, sole trustee. The Tedesco Family ESB Trust, a separate trust of which Francis Tedesco and Mark Tedesco are beneficiaries, directly controls the following noncarriers: Academy Bus, L.L.C. (ABL) [1]; Franmar Logistics, Inc.; Franmar Equities, Inc.; and Log Re, Inc. ABL owns the following carriers: Academy Express, L.L.C., Academy Lines, L.L.C., and Number 22 Hillside, L.L.C. Evergreen, a motor carrier licensed by FMCSA (MC–107638), provides charter operations in North Carolina and other locations. Evergreen is owned by TMS West Coast, Inc., a noncarrier holding company, which is in turn owned by FSCS Corporation, another noncarrier holding company. Francis W. Sherman is the controlling shareholder of FSCS Corporation, which also owns noncarriers TMS Canada Holdings, Ltd. and Horizon Coach Lines NC, Inc.

Under the proposed transaction, Academy seeks to acquire the sublease to Evergreen's Durham, N.C. terminal, certain charter contracts, all furniture, fixtures, equipment, computers, machinery apparatus, appliances, signage, supplies, parts inventory, forklifts, shop tools, office equipment, desks, telephones, telex and telephone facsimile numbers and other directory listings, goodwill and other intangible assets, advertising, marketing and promotional materials, studies, reports, and all other printed or written materials used in and relating solely and exclusively to Evergreen's business operations from its Durham terminal.[2] Academy states that this acquisition would allow it to expand its charter operations to serve the southeastern area of the United States. Academy further states that if the transaction is approved, it would continue to serve potential charter parties in the vicinity of the Durham terminal.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Academy has submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that Academy and its motor carrier affiliated companies and Francis W. Sherman and his motor carrier affiliated companies have aggregate gross annual operating revenues in excess of $2 million.[3]

Applicant asserts that the proposed transaction is in the public interest because the acquisition would allow continued operations from the Durham terminal by an ''experienced and successful motorbus operator.'' [4] Academy states that the proposed transaction would not diminish competition, as Evergreen would continue to operate from other locations in North Carolina. Academy further states that the proposed transaction would not result in an increase to total fixed charges. Finally, Academy states that the transaction would have no adverse effect upon the Durham terminal's employees, as these employees would have the opportunity to gain employment with Academy.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

The party's application and Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective April 21, 2015, unless opposing comments are timely filed.

4. A copy of this decision will be served on: (1) U.S. Department of Transportation, Federal Motor Carrier

[1] Please note that while applicant Academy Bus LLC is a Florida motor carrier, Academy Bus, L.L.C. –ABL– is a New Jersey noncarrier holding company.

[2] The application states that 30 vehicles that had been operated from the Durham terminal by Evergreen are being sold to Franmar Leasing, Inc., a noncarrier engaged in the business of leasing buses.

[3] The showing of $2 million gross operating revenue is required under 49 U.S.C. 14303(g) for the Board to have jurisdiction over the transaction.

[4] Application 5.

Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: March 2, 2015.

By the Board, Acting Chairman Miller and Vice Chairman Begeman.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–05080 Filed 3–4–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meeting; RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Program Management Committee.

DATES: The meeting will be held March 24th 2015 from 8:30 a.m.–3:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a Program Management Committee meeting. The agenda will include the following:

March 24th

- WELCOME AND INTRODUCTIONS
- REVIEW/APPROVE Meeting Summary
  - December 16, 2014, RTCA Paper No. 030–14/PMC–1296
- PUBLICATION CONSIDERATION/APPROVAL
  - Final Draft, New Document, *Minimum Operational Performance Standards for Flight Information Services—Broadcast (FIS–B) with the Universal Access Transceiver (UAT),* prepared by SC–206
  - Final Draft, Supplement to New Document, *Minimum Operational Performance Standards for Flight Information Services—Broadcast (FIS–B) with the Universal Access Transceiver (UAT),* Test Procedures/Electronic File only, prepared by SC–206
  - Final Draft, New Document, *Enhanced Flight Vision Systems and Synthetic Vision Systems,* prepared by SC–213
  - Final Draft, Change 4 to DO–210D, *Minimum Operational Performance Standards for Geosynchronous Orbit Aeronautical Mobile Satellite Services (AMSS) Avionics,* prepared by SC–222
- INTEGRATION and COORDINATION COMMITTEE (ICC)
- ACTION ITEM REVIEW
  - PMC Ad Hoc—Standards Overlap and Alignment—Discussion—Workshop Status.
  - RTCA Policy on Propriety Information—Discussion—Update
- DISCUSSION
  - SC–147—Traffic Alert and Collision Avoidance System—Co-Chair Nomination—Review/Approve
  - SC–214—Standards for Air Traffic Data ommunication Services—Discussion—Revised Terms of Reference (TOR)
  - SC–216—Aeronautical Systems Security—Discussion—Revised TOR
  - SC–224—Airport Security Access Control Systems—Discussion—Revised TOR—Development of Operational Guidelines
  - SC–225—Rechargeable Lithium Batteries and Battery Systems—Status—Revised TOR—Discussion
  - SC–227—Standards of Navigation Performance—Discussion—Revised TOR
  - SC–229—406 MHz Emergency Locator Transmitters (ELTs)—In Reference To TOR Discussion—Aircraft Tracking and In-Flight Triggering
  - SC–230—Airborne Weather Detection—Discussion—Revised TOR
  - SC–234—Portable Electronic Devices—Discussion—Status Update
  - Wake Vortex Tiger Team—Discussion—White Paper—Progress Status
  - Design Assurance Guidance for Airborne Electronic Hardware—Status—Possible New Special Committee to Update RTCA DO–254
  - NAC—Status Update
  - FAA Actions Taken on Previously Published Documents—Report
  - Special Committees—Chairmen's Reports and Active Inter-Special Committee Requirements Agreements (ISRA)—Review
  - European/EUROCAE Coordination—Status Update
  - RTCA Award Nominations—Consideration/Approval of Nominations
- OTHER BUSINESS
- SCHEDULE for COMMITTEE DELIVERABLES and NEXT MEETING DATE

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 25, 2015.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–05108 Filed 3–4–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0019]

Greenkraft Inc.; Grant of Application for a Temporary Exemption From FMVSS No. 108

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of grant of petition for a temporary exemption from paragraph S10 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.*

SUMMARY: This notice grants the petition of Greenkraft, Inc. (Greenkraft) for a temporary exemption from the headlamp requirements of FMVSS No. 108 for the company's 1061 and 1083 model trucks for headlamps complying with European regulatory requirements. The exemption is limited to 120 vehicles. The agency has considered Greenkraft's petition for exemption and has determined that the exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably reduce the safety level of that vehicle if

the vehicle is used in a manner consistent with the conditions discussed in this notice.

DATES: This exemption is effective immediately and runs until December 31, 2015.

FOR FURTHER INFORMATION CONTACT: John Piazza, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building 4th Floor, Room W41–214, Washington, DC 20590. Telephone: (202) 366–2992; Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Statutory Basis for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. chapter 301, authorizes the Secretary of Transportation to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority in this section to NHTSA.

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* to implement the statutory provisions concerning temporary exemptions. A vehicle manufacturer wishing to obtain an exemption from a standard must demonstrate in its application (A) that an exemption would be in the public interest and consistent with the Safety Act and (B) that the manufacturer satisfies one of the following four bases for an exemption: (i) Compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith; (ii) the exemption would facilitate the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard; (iii) the exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of that vehicle; or (iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

For a petition for exemption from a standard to be granted on the basis that the exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle, the petition must include specified information set forth at 49 CFR 555.6(c). The main requirements of that section include: (1) Substantiation that the vehicle is a low-emission vehicle; (2) documentation establishing that a temporary exemption would not unreasonably degrade the safety of a vehicle; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; (4) a statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and (5) a statement that not more than 2,500 exempted vehicles will be sold in the United States (U.S.) in any 12-month period for which an exemption may be granted. Exemptions granted on the basis that the exemption would facilitate the development or field evaluation of a low-emission motor vehicle are limited to two years in duration.

II. Overview of Petition

Greenkraft petitioned the agency for a temporary exemption from the requirements in FMVSS No. 108 applicable to headlamps for the company's 1061 and 1083 model trucks on the basis that ''the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.'' 49 U.S.C. 30113(b)(3)(B)(iii). The agency received Greenkraft's petition October 24, 2012. Greenkraft has requested that, if granted, the exemption period begin immediately.

Greenkraft is a corporation incorporated in California in 2008 and has its headquarters and manufacturing operations in Santa Anna, California. Greenkraft stated that it plans to produce the 1061 and 1083 model trucks under the requested exemption. These trucks are equipped with compressed natural gas (CNG) engines and have a gross vehicle weight rating (GVWR) of over 14,000 pounds. Greenkraft said it plans to import the vehicle's chassis already equipped with the headlamps and install the engine at the company's manufacturing facility in California. Greenkraft stated in the petition and in subsequent communications with NHTSA that it plans to comply with FMVSS No. 108 at the end of the exemption period. Greenkraft originally planned to produce 2200 vehicles under the exemption but has revised its production plans so that it now plans to produce no more than 120 vehicles during the exemption period.

Greenkraft stated in its petition that ''the [U.S.] market currently is in need of alternative fuel vehicles that run on natural gas which is abundantly available in the [U.S.].'' [1] Greenkraft further stated that the price of natural gas is half the price of diesel and that many businesses in the U.S. wish to purchase natural gas powered vehicles.

A. Low Emission Vehicle

In order to be eligible for a temporary exemption on the grounds that the exemption would facilitate development or field evaluation of a low-emission vehicle without unreasonably lowering the safety performance of the vehicle, the applicant must substantiate that the vehicle is a low-emission vehicle. In order to qualify as a low-emission vehicle, the vehicle must meet the applicable standards for new motor vehicles under the Clean Air Act, 42 U.S.C. 7521, *et seq.* and emit an air pollutant in an amount significantly below one of those standards. The Environmental Protection Agency's (EPA) regulations issued pursuant to the Clean Air Act establish exhaust emissions thresholds for heavy-duty low-emission vehicles. These exhaust emission thresholds require that a heavy duty low-emission vehicle emit combined emissions of oxides of nitrogen and nonmethane hydrocarbons (or nonmethane hydrocarbon equivalent) of 3.8 grams or less per brake horsepower-hour or combined emissions of oxides of nitrogen and nonmethane hydrocarbons (or nonmethane hydrocarbon equivalent) of 3.5 grams or less per brake horsepower-hour when tested (certified) on fuel meeting the specifications of California certification fuel. 40 CFR 88.105–94.

Greenkraft submitted a certification from the California Environmental Protection Agency's Air Resources Board (CARB) to substantiate that the vehicle that is the subject of the application is a low-emission vehicle. The CARB certification states that the vehicle's combined emissions of oxides of nitrogen and nonmethane hydrocarbons are 0.13 grams per brake horsepower-hour.

B. Documentation That a Temporary Exemption Would Not Unreasonably Degrade Safety

The requirements from which Greenkraft seeks a temporary exemption are the headlamp requirements in S10 of FMVSS No. 108. Greenkraft stated in its application for a temporary exemption that the primary difference between

[1] Greenkraft, Inc., Petition for Temporary Exemption on the Basis that it Would Make the Development or Field Evaluation of a Low Emission Vehicle Easier. Document No. NHTSA–2013–0019–0002.

Greenkraft's low-emission vehicle, if exempted, and a compliant vehicle would be that the headlamps on Greenkraft's low-emission vehicle would not meet the minimum candela requirements for two upper beam test points and six lower beam test points and would exceed the maximum candela requirement for one upper beam test point for visually/optically aimed headlamps. Greenkraft attached to its application for an exemption a test report from a test laboratory showing that the headlamps on the vehicles that would be the subject of the exemption do not meet the upper and lower beam requirements for optically and visually aimed headlamps. Greenkraft stated in the application that granting the exemption would not unreasonably degrade the safety of the vehicle because the lamps provide ''excellent illumination'' even though they do not comply with the photometric requirements of FMVSS No. 108.

C. Substantiation That a Temporary Exemption Would Facilitate the Development or Field Evaluation of a Low Emissions Vehicle

Greenkraft stated that a temporary exemption would facilitate the development or field evaluation of low-emission vehicles by allowing Greenkraft to redesign the headlamp without interrupting the development of the vehicle while the headlamp is being redesigned. Greenkraft further claimed that, by beginning development and field evaluation promptly, it could receive critical data and test results to further the development of natural gas powered vehicles.

D. Public Interest

Greenkraft stated that granting the temporary exemption would be in the public interest because the exemption would help increase the availability of low-emission natural gas power vehicles to businesses in the U.S. Greenkraft stated that this would reduce the U.S. dependence on foreign oil.

III. Summary of Comments Received in Response to Notice of Receipt of Application

NHTSA published a notice of receipt of Greenkraft's petition for a temporary exemption in the **Federal Register** on February 21, 2013.[2] We received three comments in response to the notice of receipt. Advocates for Highway Safety (Advocates) and Mr. Richard Karbowski opposed granting the exemption. The Dunlap Group submitted a comment supporting granting the exemption.

Greenkraft also submitted supplemental materials after the comment period closed responding to the comments of Advocates and Mr. Karbowski. Greenkraft provided further supplemental information in response to a request from NHTSA.

Advocates stated that NHTSA should not grant Greenkraft an exemption because Greenkraft had not demonstrated that a temporary exemption from FMVSS No. 108 would not unreasonably degrade the safety of the vehicle as required by the Safety Act. Advocates claimed that the test report for the headlamp that Greenkraft submitted with its petition did not constitute evidence that the failure of the lamp to meet the requirements of FMVSS No. 108 would not unreasonably degrade safety. Advocates argued that Greenkraft had not shown that a headlamp, which in some cases does not meet the minimum intensity requirements of the standard by a substantial margin, would not unreasonably degrade the safety of the vehicle. Advocates also argued that Greenkraft had not provided evidence that the non-compliant headlamp is necessary to develop its low-emission vehicle.

Mr. Karbowski stated that Greenkraft had not provided any rationale that the exemption would not unreasonably degrade the safety of the vehicle. Mr. Karbowski further argued that since there are several FMVSS compliant liquefied natural gas fueled vehicles available for sale, granting the exemption would not result in the increased sales of those vehicles or environmental benefits.

The Dunlap Group stated that Greenkraft's vehicles would fill a market void for businesses looking for lower cost, clean fueled commercial vehicles.

In its supplemental submission, Greenkraft stated that the headlamps that would be installed on the 1061 and 1083 models have the E-code designation and comply with European regulatory requirements. Greenkraft argued that its analysis of the headlamp and engineering judgment indicate that the headlamps provide sufficient illumination. Greenkraft stated that the safety record of the lamps was proven by their long history of use in Europe and other countries.

Greenkraft stated that if the exemption were granted, it could begin production immediately and design a headlamp that complies with the photometric requirements of FMVSS No. 108 during the exemption period. Greenkraft stated that developing a compliant headlamp is a time intensive and costly endeavor for a new manufacturer like itself. Greenkraft stated that a delay in its ability to produce vehicles under the exemption will lead to severe economic hardship and may require the company to lay off workers. Greenkraft argued that granting the petition will increase the public's awareness of the environmental and financial benefits of low-emission commercial CNG vehicles that run on domestically produced natural gas.

In response to a request from NHTSA, Greenkraft also provided data from European regulatory authorities demonstrating the lamp's compliance with European regulatory requirements and information about Greenkraft's relationship with JAC Motors of China.

IV. Agency Analysis, Response to Comment, and Decision

We have decided to grant Greenkraft an exemption from the headlamp requirements in paragraph S10 of FMVSS No. 108 until December 31, 2015, at which time Greenkraft has stated that it will begin equipping its vehicles with lamps that comply with FMVSS No. 108.

A. Eligibility

As discussed above, the applicant must demonstrate that the vehicle emits an air pollutant in an amount significantly below one of the standards established under the Clean Air Act in order to qualify as a low-emission vehicle. Greenkraft submitted an engine certification from CARB to demonstrate that its vehicle met this criterion of eligibility for an exemption. The data from the CARB certification report shows that the vehicle's engine emits a combined oxides of nitrogen and nonmethane hydrocarbons value of 0.134 grams per brake horsepower-hour. This is significantly below the 3.5 grams or less per brake horsepower-hour emissions threshold for heavy-duty low-emission vehicles established by the EPA.[3] Based on this information, we determine that the 1061 and 1083 models equipped with CNG engines are low-emission vehicles.

B. A Temporary Exemption Would Not Unreasonably Degrade Safety

NHTSA has concluded that granting the exemption so that Greenkraft can use headlamps that comply with European regulatory requirements on the 1061 and 1083 models will not unreasonably lower the safety or impact protection level of the vehicle if the vehicle is used in a manner consistent with the conditions discussed below. NHTSA has previously granted

[2] 78 FR 12138.

[3] *See* 40 CFR 88.105–94.

exemptions from the headlamp requirements of FMVSS No. 108 for vehicles equipped with European headlamps.[4] We believe that the impact of the non-compliance in this case will be minimal considering the type of vehicle for which the exemption is being sought and its expected use. The headlamp that Greenkraft plans to install on the 1061 and 1083 models provide sufficient illumination for the purposes of lane keeping and illuminating other motor vehicles that are equipped with reflectors. The area of performance for which we believe that the non-compliance of the headlamps with the minimum intensity requirements in FMVSS No. 108 could have an impact is the ability of the lamp to illuminate pedestrians and animals in the roadway in areas where there is no overhead illumination. We believe this concern will be minimized because vehicles similar to the 1061 and 1083 models generally have low pedestrian crash rates. We also believe that these concerns will be minimized because we expect, given the nature and geographic availability of their fuel, that the 1061 and 1083 models will be driven primarily in urban areas.

The vehicles that are the subject of Greenkraft's application are medium-duty CNG fueled trucks with a GVWR of over 14,000 pounds that Greenkraft is marketing for commercial applications. Vehicles with a GVWR over 10,000 pounds are roughly half as likely to be involved in a crash with a pedestrian as light-duty vehicles.[5] Furthermore, NHTSA expects that the vehicles that are the subject of the exemption will be used in urban areas because that it where most of the public infrastructure needed to fuel CNG vehicles is located and where their use would be most feasible for commercial purposes.[6] We have previously stated in granting an exemption from the photometry requirements of FMVSS No. 108 that the safety impacts resulting from the differences between European and U.S. beam patterns are minimized for vehicles operating in urban areas because of the generally high nighttime ambient lighting in those environments.[7] Overhead lighting in urban areas provides illumination to help drivers detect pedestrians in addition to a vehicle's low beam headlamps minimizing the impact of the headlamp's non-compliance. This reduces the chance that these vehicles will be in a situation in which the driver of the vehicle is relying on the vehicle's low beam headlamps to illuminate pedestrians in the roadway.

We disagree with Advocates and Mr. Karbowski as to whether Greenkraft has provided sufficient information for us to make a determination that the exemption would not unreasonably degrade the safety or impact protection of the vehicle. Greenkraft has provided a test report demonstrating the performance of the lamp and a statement that the lamp conforms to European regulatory requirements. We believe that these materials along with the description of the vehicle and NHTSA's expertise regarding the use of commercial vehicles are sufficient to enable us to make a determination that the exemption does not unreasonably degrade the safety of the vehicle.

We do have some concerns about the decrease in performance of the headlamp that Greenkraft wishes to install on the 1061 and 1083 models when compared to a compliant lamp when the lamp is used to detect pedestrians and animals in areas where there is no overhead illumination of the roadway. A properly aimed low beam headlamp meeting, but not exceeding, the minimum required luminous output in FMVSS No. 108 at the down the road 0.6D–1.3R test point would illuminate a pedestrian approximately 180 feet from the vehicle. The headlamp Greenkraft wishes to use provides only 73% of the required light output at this same test point, which could reduce the detection distance of a pedestrian or animal in the roadway by around 20–30 feet.

Because of our concerns about the impact of the exemption on the driver of the vehicle's ability to see pedestrians and other objects in the road in areas where there is no overhead illumination we are granting this petition with conditions on how the vehicle is to be marketed. We believe that it is most appropriate for the 1061 and 1083 models to be used in urban areas during daylight hours with minimal night time use. We believe that it is most appropriate that the vehicles be marketed as commercial delivery vehicles. We do not believe that it would be appropriate for these vehicles to be marketed for any purpose that would entail substantial use at night. We also expect Greenkraft to inform its dealers of the conditions regarding marketing that accompany the grant of this exemption. If we determine that vehicles produced under the exemption are being marketed in a manner that is not consistent with these conditions, we will examine whether the exemption should be terminated under 49 CFR 555.8(d) because the exemption is no longer in the public interest. For these reasons, we believe that the exemption will not unreasonably degrade the safety or impact protection of the vehicle if used in a manner consistent with the conditions described above.

C. A Temporary Exemption Would Facilitate the Development or Field Evaluation of a Low Emissions Vehicle

We have concluded that an exemption from the headlamp requirements of FMVSS No. 108 would make the development or field evaluation of a low-emission motor vehicle easier. Granting the exemption will allow Greenkraft to produce vehicles while the company designs a headlamp that complies with FMVSS No. 108. We believe that allowing Greenkraft to produce and sell vehicles during the exemption period will demonstrate to the public the environmental benefits and viability of CNG powered vehicles. For these reasons we agree with Greenkraft that granting this exemption will aid the development of low-emission vehicles.

D. An Exemption Is in the Public Interest

We also find that this exemption is consistent with the public interest and the objectives of the Safety Act. NHTSA has traditionally found that the public interest is served by affording consumers a wider variety of motor vehicles, by encouraging the development and field evaluation of fuel-efficient and alternative-energy vehicles, and by providing additional employment opportunities. We believe that allowing Greenkraft to produce vehicles during the exemption period will further all of these objectives. Allowing Greenkraft to manufacture and sell these vehicles during the exemption period will provide consumers access to clean fueled vehicles that run on a domestically produced energy source. Furthermore, Greenkraft is a manufacturer located in California that employs approximately 35 people. Granting this exemption will enable

[4] *See* Koenigegg Automotive AB; Response to Application for a Temporary Exemption From the Headlamp Requirements of FMVSS No. 108; Advanced Air Bag Requirements of No. 208, 72 FR 17608 (Apr. 9, 2007); Group Lotus Plc; Grant of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 108 and Part 581 Bumper Standard, 69 FR 5658 (Feb. 5, 2004); Ford Motor Company; Disposition of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards, 58 FR 16907 (Mar. 31, 1993) [*Ford*].

[5] Federal Motor Vehicle Safety Standards; Minimum Sound for Requirements for Hybrid and Electric Vehicles, 78 FR 2798, 2816 (proposed Jan. 14, 2013) (to be codified at 49 CFR pt. 571) (comparing pedestrian crash rates between vehicles with a GVWR less than 10000 pounds and those with a GVWR above 10000 pounds).

[6] *http://www.afdc.energy.gov/fuels/natural_gas_locations.html.*

[7] *See Ford,* 58 FR 16910 (Mar. 31, 1993).

Greenkraft to more quickly begin selling vehicles which will allow the company to begin realizing revenues from vehicle sales. The revenues from these vehicle sales will allow Greenkraft to continue to employee individuals involved in the manufacture and sale of these vehicles.

We note that prospective purchasers will be notified that the vehicle is exempted from the requirements in paragraph S10 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Under 49 CFR 555.9(b), a manufacturer of an exempted vehicle must affix securely to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle conforms to all applicable FMVSSs in effect on the date of manufacture ''except for Standard Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. __ __.'' This label notifies prospective purchasers about the exemption and its subject. Under § 555.9(c), this information must also be included on the vehicle's certification label.

E. Agency Decision

In consideration of the foregoing, we conclude that granting the requested exemption from the requirements in paragraph S10 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment,* would facilitate the development or field evaluation of a low-emission vehicle, and would not unreasonably lower the safety or impact protection level of that vehicle if the vehicle is marketed as a commercial vehicle for use during day light hours. Marketing the 1061 and 1083 models for any purpose that would entail substantial use at night is not consistent with this temporary exemption. We further conclude that granting this exemption is in the public interest and consistent with the objectives of the Safety Act subject to the conditions described above. We would like to emphasize that this exemption from FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* is limited to paragraph S10 of that standard. Any vehicle manufactured or sold under this exemption must conform to all other applicable requirements of FMVSS No. 108. This exemption is limited to 120 CNG fueled vehicles. In addition, this exemption is conditioned on Greenkraft's marketing the exempted vehicles as commercial vehicles for use during day light hours. As part of these efforts, Greenkraft should ensure that potential purchasers are informed that the exempted vehicles should be used primarily during daylight hours.

In accordance with 49 U.S.C. 30113(b)(3)(B)(iii), Greenkraft is granted NHTSA Temporary Exemption No. EX 15–01 from paragraph S10 of FMVSS No. 108. The exemption shall be effective from the date on which notice of this decision is published in the **Federal Register** until December 31, 2015, as indicated in the **DATES** section of this document.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.95)

Issued in Washington, DC, on February 25, 2015 under authority delegated in 49 CFR part 1.95.

Mark R. Rosekind,

Administrator.

[FR Doc. 2015–05101 Filed 3–4–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Data Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (CDFI Fund), Department of the Treasury, is soliciting comments concerning the Annual Assessment Evaluation. This report form will be used to collect vital financial performance data, internal control, and investment impact measurement related information for institutions participating in the CDFI Bond Guarantee Program, consistent with the program's requirements for Compliance Management and Monitoring (CMM) and Portfolio Management and Loan Monitoring (PMLM), and pursuant to 12 CFR part 1808 (Interim Rule). The process for data collection and reporting is expected to take place via electronic submission to the CDFI Fund. Hard copies will also be accepted. The annual assessment evaluation reporting guidance for the CDFI Bond Guarantee Program may be obtained from the CDFI Bond Guarantee Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov.* Unless otherwise defined in this notice, the capitalized terms herein are as defined in the Interim Rule. Please note that this proposed requirement would only apply to Eligible CDFI's participating in the CDFI Bond Guarantee Program and to Qualified Issuers that have issued Bonds under the Program in Fiscal Year 2015 or later.

DATES: Written comments should be received on or before May 4, 2015 to be assured of consideration. These comments will be considered before the CDFI Fund submits a request for Office of Management and Budget (OMB) review of the data reporting forms described in this notice.

ADDRESSES: Direct all comments to Lisa Jones, CDFI Bond Guarantee Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020, by email to *bgp@cdfi.treas.gov,* or by facsimile to (202) 508–0083. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: The Annual Assessment Evaluation may be obtained from the CDFI Bond Guarantee Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov/bond.* Requests for additional information should be directed to Lisa Jones, CDFI Bond Guarantee Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020 or by email to *bgp@cdfi.treas.gov.*

SUPPLEMENTARY INFORMATION:

Title: CDFI Bond Guarantee Program Reporting Forms.

OMB Number: 1559–0044.

Abstract: The purpose of the CDFI Bond Guarantee Program is to support CDFI lending by providing Guarantees for Bonds issued by Qualified Issuers as part of a Bond Issue for Eligible Community or Economic Development Purposes. The CDFI Bond Guarantee Program provides CDFIs with a new source of long-term capital and furthers the mission of the CDFI Fund to increase economic opportunity and promote community and economic development investments for underserved populations and in distressed communities in the United States. The CDFI Fund achieves its mission by promoting access to capital and local economic growth by investing in, supporting, and training CDFIs.

The CDFI Fund held two-day application workshops on June 10–11,

2014 in Washington, DC. During these workshops, representatives of the CDFI Bond Guarantee Program met with potential applicants regarding the FY 2013 Qualified Issuer and Guarantee Application requirements. Specifically, the workshops explored the financial structure of the program, including roles of the Qualified Issuer, Program Administrator, and Servicer; reporting requirements; and compliance-related activities. Although participants in these workshops expressed overall enthusiasm and support for conforming to the CDFI Fund's reporting process, they noted a lack of substantive data in this area and recommended that the CDFI Fund describe and specify its post-issuance information collection practices for the CDFI Bond Guarantee Program.

In compliance with OMB Circular A–129, the CDFI Bond Guarantee Program will collect all necessary information to manage the portfolio effectively and track progress towards policy goals. The proposed reporting form will add significantly to the Department of the Treasury's review and impact analysis on the use of Bond Proceeds in underserved communities and support the CDFI Fund in proactively managing portfolio risks and performance. Risk detection and mitigation are crucial activities for the long-term operation and viability of the CDFI Bond Guarantee Program. The Department of the Treasury's authority to collect this information and the specified data collection areas and parameters are consistent with the annual and periodic financial reporting requirements for the CDFI Bond Guarantee Program as defined in 12 CFR 1808.619.

The CDFI Fund currently utilizes its Community Investment Impact System (CIIS), which collects data from CDFIs that have received monetary awards from the CDFI Fund through several of its other programs. CDFI Program and Native American CDFI Assistance Program (NACA Program) awardees are required to report total portfolio and financial data for three years. However, there is no standardized data on the full universe of Certified CDFIs, especially unregulated loan funds that do not have award reporting history. Moreover, non-regulated Certified CDFIs frequently utilize disparate accounting methodologies and report certain data points, such as borrower defaults and delinquencies, in ways that are difficult to compare across organizations. Nonprofit Certified CDFIs are yet more difficult to compare due to the variety of reporting options available to nonprofit institutions under generally accepted accounting principles. This report, in addition to the previously proposed reports of the CDFI Bond Guarantee Program, addresses this challenge in standardized data collection and allows Certified CDFIs to: (i) Demonstrate the ability to deploy long-term debt successfully with reporting requirements similar to those required of regulated financial institutions; (ii) provide a mechanism for accurately assessing Certified CDFI credit risk; and (iii) provide capital markets with a record of accomplishment on which to base future lending and investment.

Current Actions: New Collection.

Type of Review: Regular Review.

Affected Public: Certified CDFIs and Qualified Issuers.

Estimated Number Certified CDFI Respondents: 10.

Estimated Annual Time per Certified CDFI Respondent: 25 hours.

Estimated Number of Qualified Issuer Respondents: 10.

Estimated Annual Time per Qualified Issuer Respondent: 50 hours.

Estimated Total Annual Burden Hours: 750 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the CDFI Fund Web site at *http://www.cdfifund.gov.* Comments are invited on: (a) Whether the collection of information is consistent with the stated background and proposed use necessary for the proper performance of the functions of the CDFI Fund; (b) the accuracy of the CDFI Fund's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of operational or maintenance costs to provide information.

The CDFI Fund specifically requests comments concerning the following questions:

(1) Will the annual assessment be effective in evaluating Qualified Issuers or are there other alternatives by which Qualified Issuers could be assessed?

(2) Should Qualified Issuers have the ability to conduct the annual assessment for Eligible CDFIs, provided that they have the appropriate qualifications?

(3) Is there additional information or instruction that the CDFI Fund can provide to clarify the expectations associated with the annual assessment evaluation?

(4) What are the appropriate steps for the CDFI Fund to take in the event that the annual assessment completed by the third party vendor fails to adequately evaluate a participant's performance on the expected criteria?

Authority: 12 CFR 1808.

Dated: February 26, 2015.

Annie Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2015–05057 Filed 3–4–15; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment for Electronic Filing of Employment Tax Family (94x) Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of inquiry, request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning a free option for 94x filers.

DATES: Written comments should be received on or before May 4, 2015 to be assured of consideration.

ADDRESSES: Direct all electronic comments to *wi.94x.efile@irs.gov* or written comments to Internal Revenue Service, SE:W:CAS:SP:IS, 5000 Ellin Road, C4–223, Lanham, MD 20706. Please include the **Federal Register** Document number (FR Doc. 2015–xxxxx) in the subject line of your email or correspondence.

SUPPLEMENTARY INFORMATION:

Title: Ways to increase the electronic filing of employment tax returns, specifically as it relates to a free option for filers.

Abstract: IRS Strategic Plan FY 2014–2017 is to ''Expand the availability of electronic filing and provide easily accessible payment tools for all taxpayers.'' The IRS performance goal is to increase the e-file rate for business returns from 40 percent to 50 percent by 2017. However the percentage of employment tax returns filed electronically remains below the overall

business and tax-exempt organization average, with an e-file rate of approximately 31 percent.

The gap between the e-file rates for employment tax returns and all other returns allows a focus on employment tax returns to provide measurable growth in the overall rate for electronic filing. Potential approaches to increase electronic filing of employment tax returns are found in existing rules governing individual and business returns, and in recent successes for individual e-filing mandates.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) What do you, your business, or agency see as the main advantages and disadvantages to employers to e-file employment tax returns through a free online filing option offered through a public-private partnership; of the free online filing capability?

(b) The circumstances under which employers currently mailing in employment tax returns might utilize a free online filing option offered through a public-private partnership;

(c) The circumstances under which employers currently e-filing employment tax returns or their tax professionals might utilize a free online filing option offered through a public-private partnership;

(d) The best way to market a free online filing option to employers and their tax professionals to increase the electronic filing of employment tax returns;

(e) The circumstances under which companies that currently offer electronic filing of employment tax returns or those capable of developing a free online filing option for employment tax returns might participate in a public-private partnership to offer free online filing;

(f) The support needed from IRS by companies participating in a public-private partnership to offer free online filing of employment tax returns;

(g) The need to exclude certain employers from participation in a free online filing option for employment tax returns, such as based on an employer's total payroll, total number of employees, total assets, or types of business;

(h) Any and all products and services other than free online filing of employment tax returns that companies participating in a public-private partnership would want to offer (for profit or not for profit) to employers using the free online filing option;

(i) Any uses of information that companies participating in a public-private partnership to offer free online filing of employment tax returns would need to require from employers in order to participate in a public-private partnership;

(j) Any advantages from being identified as an IRS *e-file* Partner on the IRS Web site and any impact on these advantages from a public-private partnership to offer free online filing of employment tax returns;

(k) Any advantages, disadvantages, or preferences for IRS creating its own free online filing portal for employment tax returns on IRS.gov without a public-private partnership;

(l) The importance of implementing any of these proposals for employment tax reporting by 2016, 2017, or another date;

(m) The burdens of requiring employers to file all employment tax returns electronically;

(n) The burdens of requiring only paid preparers of employment tax returns to file the returns electronically; and

(o) The need to except certain taxpayers or tax professionals from any e-file mandate for employment tax returns.

Dated: February 27, 2015.

Robert J. Bedoya,

Director, e-File Services.

[FR Doc. 2015–05104 Filed 3–4–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting Cancellation

AGENCY: Department of Veterans Affairs.

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the meeting of the Advisory Committee on Disability Compensation, previously scheduled to be held at the Department of Veterans Affairs, 1800 G Street NW., Washington, DC 20006, on March 9–11, 2015, *has been cancelled.*

For more information, please contact Ms. Nancy Copeland, Designated Federal Officer at (202) 461–9684 or via email at *Nancy.Copeland@va.gov.*

Dated: March 3, 2015.

Michael Shores,

Regulation Policy and Management, Office of General Counsel.

[FR Doc. 2015–05213 Filed 3–4–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Thursday,

No. 43 March 5, 2015

Part II

The President

Notice of March 3, 2015—Continuation of the National Emergency With Respect to Ukraine

Notice of March 3, 2015—Continuation of the National Emergency With Respect to Zimbabwe

Federal Register
Vol. 80, No. 43
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Presidential Documents

Title 3—

The President

Notice of March 3, 2015

Continuation of the National Emergency With Respect to Ukraine

On March 6, 2014, by Executive Order 13660, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of persons that undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 16, 2014, I issued Executive Order 13661, which expanded the scope of the national emergency declared in Executive Order 13660, and found that the actions and policies of the Government of the Russian Federation with respect to Ukraine undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On March 20, 2014, I issued Executive Order 13662, which further expanded the scope of the national emergency declared in Executive Order 13660, as expanded in scope in Executive Order 13661, and found that the actions and policies of the Government of the Russian Federation, including its purported annexation of Crimea and its use of force in Ukraine, continue to undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets.

On December 19, 2014, I issued Executive Order 13685, to take additional steps to address the Russian occupation of the Crimea region of Ukraine.

The actions and policies addressed in these Executive Orders continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on March 6, 2014, and the measures adopted on that date, on March 16, 2014, on March 20, 2014, and December 19, 2014, to deal with that emergency, must continue in effect beyond March 6, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13660.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 3, 2015.

[FR Doc. 2015–05337
Filed 3–4–15; 11:15 am]
Billing code 3295–F5

Presidential Documents

Notice of March 3, 2015

Continuation of the National Emergency With Respect to Zimbabwe

On March 6, 2003, by Executive Order 13288, the President declared a national emergency and blocked the property of certain persons, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions and policies had contributed to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region.

On November 22, 2005, the President issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288 by ordering the blocking of the property of certain persons who undermine democratic processes or institutions in Zimbabwe.

On July 25, 2008, the President issued Executive Order 13469, which expanded the scope of the national emergency declared in Executive Order 13288 and authorized the blocking of the property of certain persons determined to have engaged in actions or policies to undermine democratic processes or institutions in Zimbabwe, to commit acts of violence and other human rights abuses against political opponents, and to engage in public corruption.

The actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared on March 6, 2003, and the measures adopted on that date, on November 22, 2005, and on July 25, 2008, to deal with that emergency, must continue in effect beyond March 6, 2015. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13288.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
March 3, 2015.

[FR Doc. 2015–05338
Filed 3–4–15; 11:15 am]
Billing code 3295–F5

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