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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0749; Directorate Identifier 2014–NM–051–AD; Amendment 39–18118; AD 2015–05–08]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper and lower rainbow fittings on the outer wing are subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of the upper and lower rainbow fittings on the outer wing to detect cracks propagating from fasteners attaching the fittings to skin panels, and related investigative and corrective actions if necessary; and replacement of the upper and lower rainbow fittings on the outer wing. We are issuing this AD to prevent fatigue cracking of the upper and lower rainbow fittings on the outer wing and skin-panel-to-fitting fastener holes, which could result in reduced structural integrity of the airplane and possible separation of the wing from the airplane.

DATES: This AD is effective April 24, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 24, 2015.

ADDRESSES: For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0749.

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–2014–0749; 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *Carl.W.Gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. The NPRM published in the **Federal Register** on October 16, 2014 (79 FR 62075). The NPRM was prompted by an evaluation by the DAH indicating that the upper and lower rainbow fittings on the outer wing are subject to WFD. The NPRM proposed to require repetitive inspections of the upper and lower rainbow fittings on the outer wing to detect cracks propagating from fasteners attaching the fittings to skin panels, and related investigative and corrective actions if necessary; and replacement of the upper and lower rainbow fittings on the outer wing. We are issuing this AD to prevent fatigue cracking of the upper and lower rainbow fittings on the outer wing and skin-panel-to-fitting fastener holes, which could result in reduced structural integrity of the airplane and possible separation of the wing from the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. The commenter supported the NPRM (79 FR 62075, October 16, 2014).

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 62075, October 16, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 62075, October 16, 2014).

Related Service Information Under 1 CFR Part 51

We reviewed Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013. The service bulletin describes procedures for inspection and replacement of the upper and lower rainbow fittings on the outer wing, and corrective actions. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

Costs of Compliance

We estimate that this AD affects 20 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
ECSS inspection	24 work-hours × $85 per hour = $2,040 per inspection cycle.	$0	$2,040 per inspection cycle	$40,800 per inspection cycle.
Bolt hole inspection during rainbow fitting replacement.	24 work-hours × $85 per hour = $2,040.	0	2,040	40,800.
Replacement of all four rainbow fittings.	2,060 work-hours × $85 per hour = $175,100.	28,000	203,100	4,062,000.

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of one rainbow fitting	515 work-hours × $85 per hour = $43,775	$7,000	$50,775

We have received no definitive data that would enable us to provide cost estimates for on-condition actions for cracking of the skin-panel-to-fitting fastener holes specified in this AD.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2015–05–08 Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Amendment 39–18118 ; Docket No. FAA–2014–0749; Directorate Identifier 2014–NM–051–AD.

(a) Effective Date

This AD is effective April 24, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes; certificated in any category; having any outer wing serial number 4542 and subsequent, or any manufacturing end product (MEP) replacement outer wing except 14Y series.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the upper and lower rainbow fittings on the outer wing are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking of the upper and lower rainbow fittings on the outer wing and skin-panel-to-fitting fastener holes, which could result in reduced structural integrity of the airplane and possible separation of the wing from the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Eddy Current Surface Scan (ECSS) Inspections

At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do an ECSS inspection of the left and right outer wing upper and lower rainbow fitting-to-skin-panel attachments to detect cracks propagating from fasteners attaching the fittings to skin panels, and do all applicable related investigative actions, in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013, except as provided by paragraph (j)(1) of this AD. Do all applicable related investigative actions before further flight. If any cracking is found during any inspection required by this paragraph, before further flight, repair

the cracking, using a method approved in accordance with the procedures specified in paragraph (m) of this AD. Repeat the inspection of the left and right outer wing upper and lower rainbow fitting-to-skin-panel attachments thereafter at intervals not to exceed 2,000 flight hours, except as provided by paragraph (l) of this AD.

(1) Before the accumulation of 30,000 total flight hours on any wing.

(2) Within 365 days or 600 flight hours, whichever occurs first, after the effective date of this AD.

(h) Rainbow Fitting Replacement and Inspections

At the time specified in paragraph (i) of this AD, do the actions required by paragraph (h)(1) and (h)(2) of this AD.

(1) Do a detailed inspection of the wing faying structure for damage and cracks, and do an automated bolt hole eddy current inspection on all open fastener holes in the mating structure, stiffeners, webs and angles for cracking, in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013, except as provided by paragraph (j)(1) of this AD.

(i) If any damage is found during any inspection required by paragraph (h)(1) of this AD, before further flight, repair the damage, using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(ii) If any cracking is found during any inspection required by paragraph (h)(1) of this AD, before further flight, repair the cracking, in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013, except as provided by paragraphs (j)(1) and (j)(2) of this AD.

(2) Replace the left and right upper and lower rainbow fittings of the outer wing with new fittings, in accordance with the Accomplishment Instructions of Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013.

Note 1 to paragraph (h) of this AD: AD 2012–06–09, Amendment 39–16990 (77 FR 21404, April 10, 2012), is related to the rainbow fitting replacement. AD 2012–06–09 references the Lockheed Martin Model 382, 382B, 382E, 382F, and 382G Series Aircraft Service Manual Publication (SMP), Supplemental Structural Inspection Document (SSID), SMP 515–C–SSID, Change 1, dated September 10, 2010; which contains inspections for the entire Model 382B–H airframe, not just the outer wing. Since installing new rainbow fittings, as required by paragraph (g) of this AD, resets the accumulated service life on certain parts to zero, certain compliance times specified in Table 3 of this SSID would be affected by the installation of new outer wing fittings.

Note 2 to paragraph (h) of this AD: AD 2011–15–02, Amendment 39–16749 (76 FR 41647, July 15, 2011), has requirements for fuel system limitations and critical design configuration control limitations, which might include configuration or parts limitations on areas affected by accomplishment of this AD.

(i) Compliance Times for Paragraph (h) of This AD

At the later of the times specified in paragraph (i)(1) and (i)(2) of this AD, do the actions required by paragraph (h) of this AD.

(1) Before the accumulation of 50,000 total flight hours on any wing.

(2) Within 60 days or 100 flight hours, whichever occurs first, after the effective date of this AD.

(j) Exceptions to Service Information Specifications

(1) Although Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(2) Where Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013, specifies to contact Lockheed for repair instructions, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(k) Parts Installation Limitation

After replacement of the left and right upper and lower rainbow fittings of the outer wing with new fittings, as required by paragraph (h) of this AD, any subsequent rainbow fitting replacements must be done using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(l) Outer Wing Flight Hours Adjustment

For any wing on which the left or right upper and lower rainbow fittings of the outer wing have been replaced with new fittings as required by paragraph (h) of this AD: Before the accumulation of 30,000 flight hours after accomplishing the replacement, do the inspection required by paragraph (g) of this AD and repeat thereafter at the times specified in paragraph (g) of this AD.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta Aircraft Certification Office (ACO), 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 manager of the ACO, send it to the attention of the person identified in paragraph (n) of this AD.

(2) 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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by a Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Designated Engineering Representative (DER) that has been authorized by the Manager, Atlanta ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(n) Related Information

For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5606; email: *Carl.W.Gray@faa.gov.*

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Lockheed Martin Aeronautics Company Service Bulletin 382–57–95, including Appendix A, dated December 16, 2013.

(ii) Reserved.

(3) For Lockheed service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.*

(4) 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 6, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–05789 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1093; Directorate Identifier 2014–CE–035–AD; Amendment 39–18119; AD 2015–06–01]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an airworthiness directive (AD) 2014–06–03 for British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking of the main landing gear spigot housing. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 24, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1093; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2014–1093.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 airplanes. That NPRM was published in the **Federal Register** on December 31, 2014 (79 FR 78726), and proposed to supersede AD 2014–06–03, Amendment 39–17807 (79 FR 17395, March 28, 2014).

The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

> Several cases of stress corrosion cracking of DTD 5094 standard Main Landing Gear (MLG) cylinders have been reported on Jetstream Series 3200 and 3100 aeroplanes.
>
> Prompted by these findings, The United Kingdom (UK) Civil Aviation Authority (CAA) issued AD 003–01–86 to require visual and non-destructive testing (NDT) inspections of the MLG assembly cylinder attachment spigot housing in accordance with BAE Systems (Operations) Ltd SB 32–A–JA851226. In 2012 an additional occurrence of Jetstream 3100 MLG failure after landing was reported, the subsequent investigation revealed stress corrosion cracking of the yoke pintle housing as a root cause of the MLG failure. Consequently EASA issued EASA AD 2013–0208 to require inspection of the MLG in accordance with BAE Systems (Operations) Ltd SB 32–A–JA851226 Revision 5 or later approved revisions to detect any crack, however, SB 32–A–JA851226 did not apply to aeroplanes equipped with MLG cylinders manufactured from L161 material, since that is not susceptible to stress corrosion, BAE Systems (Operations) Ltd issued SB 32–JM7862 to address degradation of the surface protection by placing a special washer over the forward face of the MLG spigot housing, which rotates with the spigot housing. EASA issued AD 2013–0206 to require modification of the left (LH) and right hand (RH) MLG in accordance with this SB.
>
> In 2014 a further event was reported, where the LH MLG of a Jetstream 3100 aeroplane collapsed during landing, this resulted in the aeroplane departing from the runway. The accident is still under investigation by the UK Air Accident Investigation Branch. Preliminary results of the investigation determined that cracking, which caused the MLG collapse, was initiated from a corrosion pit at the top outer edge of the forward spigot housing and extended along the top of the spigot housing. The spigot housing material was DTD 5094. The affected LH MLG had been modified in accordance with BAE Systems (Operations) Ltd SB 32–JM7862 Revision 1. Further investigation discovered that the instructions provided in BAE Systems (Operations) Ltd SB 32–JM7862 Revision 1 did not effectively prevent stress corrosion cracking because, under certain circumstances, it allows the rotation of the special washer and consequent damage of the end face of the spigot housing.
>
> This condition, if not corrected, could lead to structural failure of the MLG, possibly resulting in loss of control of the aeroplane during take-off or landing runs.
>
> To address this potential unsafe condition, BAE Systems (Operations) Ltd issued SB 32–JM7862 Revision 2 to clarify the orientation of the spigot bearing cap, later revised to SB 32–JM7862 Revision 3 to ensure the spigot bearing cap is correctly positioned. Additionally, BAE Systems (Operations) Ltd issued SB 32–A–JA140940 to provide inspection instructions to detect migration of the special washer and any potential corrosion resulting from that unwanted migration for MLG installations modified earlier in accordance with BAE Systems (Operations) Ltd SB 32–JM7862 up to Revision 2.
>
> For the reasons described above, this AD partially retains the requirements of EASA AD 2013–0206, which is superseded, and requires a one-time inspection of pre-SB 32–JM7862 Revision 3 MLG installations and, depending on findings, applicable corrective action(s).

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-1093-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 78726, December 31, 2014) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 78726, December 31, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 78726, December 31, 2014).

Related Service Information Under 1 CFR Part 51

We reviewed British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–JM7862, Revision 3,

dated October 3, 2014; and British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–A–JA140940, Original Issue, dated October 3, 2014. The service information describes procedures for modifying the LH and RH MLG at the forward spigot and inspecting for migration of the special washer, taking corrective action as necessary. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

Costs of Compliance

We estimate that this AD will affect 44 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $170 per product.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $14,960, or $340 per product.

We accept modification of the MLG, if done before the effective date of this AD, using earlier versions of the service information. However, the earlier versions of the service information require additional inspections with possible corrective actions.

In addition, we estimate that any necessary follow-on actions that may be required if using an earlier version of the service information would take about 1 work-hour to inspect for special washer migration and corrosion damage and require parts costing $100 for replacement of the special washer and application of witness paint, if necessary, for a cost of $185 per product. We have no way of determining the number of products that may 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 AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

(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.

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–2014–1093; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 removing Amendment 39–17807 (79 FR 17395, March 28, 2014) and adding the following new AD:

2015–06–01 British Aerospace Regional Aircraft: Amendment 39–18119; Docket No. FAA–2014–1093; Directorate Identifier 2014–CE–035–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2015.

(b) Affected ADs

This AD supersedes AD 2014–06–03, Amendment 39–17806 (79 FR 17395; March 28, 2014).

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking of the main landing gear (MLG) spigot housing. We are issuing this AD to prevent corrosion cracking of the MLG spigot housing. This condition, if not corrected, could cause structural failure of the MLG resulting in loss of control of the airplane during take-off or landing.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(11) of this AD, including all subparagraphs, as applicable.

(1) At the next scheduled MLG removal, modify the installation of the left hand (LH) and right hand (RH) MLG at the forward spigot following British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–JM7862, Revision 3, dated October 3, 2014.

Note to paragraph (f)(1) of this AD: The next scheduled MLG removal may be for non-destructive testing or overhaul, as applicable.

(2) If done before April 24, 2015 (the effective date of this AD), we will accept modification of the LH or RG MLG following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin SB 32–JM7862, Revision 2, dated June 13, 2014; or British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, for compliance with paragraph (f)(1) of this AD.

(3) For airplanes that, before April 24, 2015 (the effective date of this AD), have been modified following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 2, dated June 13, 2014, visually inspect the LH and RH MLG to detect migration of a special washer following the instructions in Part 1 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014, at the

compliance time listed in paragraph (f)(3)(i) or (f)(3)(ii) of this AD, as applicable.

(i) For MLG configuration equipped with DTD5094 cylinder: Within the next 200 flight cycles after April 24, 2015 (the effective date of this AD) or within the next 2 months after the effective date of this AD, whichever occurs first.

(ii) For MLG configuration equipped with L161 cylinder: Within the next 600 flight cycles after April 24, 2015 (the effective date of this AD) or within the next 6 months after April 24, 2015 (the effective date of this AD), whichever occurs first.

(4) If evidence of migration of the special washer was detected during the inspection required in paragraph (f)(3) of this AD, within the applicable compliance time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD, do the corrective actions on the LH or RH MLG, as applicable, following Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(5) If no evidence of migration of the special washer was detected during the inspection required in paragraph (f)(3) of this AD, before further flight, apply a witness paint over the special washer tab and onto the MLG spigot housing (LH and RH MLG) following Part 1 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(6) For airplanes that, before April 24, 2015 (the effective date of this AD), have been modified following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, do all of the actions on the MLG cylinder (LH and/or RH, as applicable) following the instructions in Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014, at the compliance time listed in paragraph (f)(6)(i) or (f)(6)(ii), as applicable.

(i) For MLG configuration equipped with DTD5094 cylinder: Within the next 200 flight cycles after April 24, 2015 (the effective date of this AD) or within the next 2 months after April 24, 2015 (the effective date of this AD), whichever occurs first.

(ii) For MLG configuration equipped with L161 cylinder: Within the next 600 flight cycles after April 24, 2015 (the effective date of this AD) or within the next 6 months after April 24, 2015 (the effective date of this AD), whichever occurs first.

(7) If any wear, corrosion, or damage is detected during the inspection required in either paragraph (f)(3) or (f)(6), as applicable, of this AD, before further flight, do all of the corrective actions (including application of the a witness paint) following the instructions in Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(8) Between 30 and 45 days after doing the action required in either paragraph (f)(3) or (f)(6) of this AD or between the next 20 to 30 flight cycles after doing the action required in either paragraph (f)(3) or (f)(6) of this AD, whichever occurs first, inspect the witness paint applied as required in either paragraph (f)(5) or (f)(7) of this AD following the instructions in Part 3 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(9) If any damaged paint is detected during the inspection required in paragraph (f)(8) of this AD, before further flight, contact British Aerospace Regional Aircraft to obtain FAA-approved repair instructions approved specifically for this AD and incorporate those instructions. You may find the contact information for British Aerospace Regional Aircraft in paragraph (h) of this AD.

(10) As of April 24, 2015 (the effective date of this AD), do not install a LH or RH MLG on any of the applicable airplanes unless it has passed all of the inspections required by this AD.

(11) For all airplanes: The compliance times for paragraphs (f)(3)(i), (f)(3)(ii), (f)(6)(i), (f)(6)(ii), and (f)(8) of this AD are presented in flight cycles (landings). If the total flight cycles have not been kept, multiply the total number of airplane hours time-in-service (TIS) by 0.75 to calculate the cycles. You may use the following as an example for this AD:

(i) 200 hours TIS × .75 = 150 cycles; or

(ii) 600 hours TIS × .75 = 450 cycles.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI found in the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, AD No. 2014–0239, dated November 3, 2014; and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin SB 32–JA851226, Revision 5, dated April 30, 2013; British Aerospace Jetstream and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, for related information. The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-1093-0002.*

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–JM7862, Revision 3, dated October 3, 2014.

(ii) British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(3) For service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.*

(4) You may view this service information the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1093.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on March 10, 2015.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–06053 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1123; Directorate Identifier 2014–CE–037–AD; Amendment 39–18120; AD 2015–06–02]

RIN 2120–AA64

Airworthiness Directives; GA 8 Airvan (Pty) Ltd Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for GA 8 Airvan (Pty) Ltd Model GA8–TC320 airplanes. This AD results from

mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as missing required engine mount fire seal washers, which could reduce the engine retention capability in the event of a fire. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective April 24, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 24, 2015.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1123; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact GA 8 Airvan (Pty) Ltd, c/o GippsAero Pty Ltd, Attn: Technical Services, P.O. Box 881, Morwell Victoria 3840, Australia; telephone: +61 03 5172 1200; fax: +61 03 5172 1201; email: *techpubs@gippsaero.com;* Internet: *http://www.gippsaero.com/customer-support/technical-publications.aspx.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1123.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to GA 8 Airvan (Pty) Ltd Model GA8–TC320 airplane. The NPRM was published in the **Federal Register** on January 6, 2015 (80 FR 419). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> A recent review of the engine mount installation on the GA8–TC 320 aircraft has highlighted the omission of engine mount fire seal washers during the assembly process.
>
> The current engine mount configuration does not meet the certification basis for the aircraft, specifically regulation 23.865 of the Federal Aviation Regulations of the United States of America, where engine mounts located in designated fire zones are required to be suitably shielded so that they are capable of withstanding the effects of a fire.
>
> The Gippsland Aeronautics GA8–TC 320 aircraft require the installation of an approved steel washer at each of the engine mount locations to address a potential risk of reduced engine retention capability in the event of a fire.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-1123-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 419, January 6, 2015) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (80 FR 419, January 6, 2015) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 419, January 6, 2015).

Related Service Information Under 1 CFR Part 51

We reviewed GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014. The GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014 describes procedures for inspecting the orientation of the engine isolator mounts to verify proper installation, re-installing if necessary, and installing steel washers on the forward side of each side of the engine isolator mounts. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

Costs of Compliance

We estimate that this proposed AD will affect 13 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $10 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $5,655, or $435 per product.

According to the manufacturer, all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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 AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

(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.

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–2014–1123; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 AD:

2015–06–02 GA 8 Airvan (Pty) Ltd: Amendment 39–18120; Docket No. FAA–2014–1123; Directorate Identifier 2014–CE–037–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 24, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to GA8 Airvan (Pty) Ltd GA8–TC320 airplanes, all serial numbers affected, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 71: Power Plant.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as missing required engine mount fire seal washers, which could reduce the engine retention capability in the event of a fire. We are issuing this AD to detect and correct the omission of steel washers at each isolator mount location, which, if not corrected, could result in reduced engine retention capability in the event of a fire.

(f) Actions and Compliance

Unless already done, comply with this AD within the compliance times specified in paragraphs (f)(1) through (f)(4) of this AD:

(1) Within the next 300 hours time-in-service after April 24, 2015 (the effective date of this AD) or within the next 12 months after April 24, 2015 (the effective date of this AD), whichever occurs first, inspect the orientation of the engine isolator mounts to verify that the mounts have been installed properly following the Accomplishment Instructions in GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014.

(2) Before reinstalling the engine isolator mounts following the inspection required in paragraph (f)(1) of this AD, before further flight, install a part number J–2218–61 steel washer on the forward side of each of the four engine isolator mounts, following the Accomplishment Instructions in GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014.

(3) If during the inspection required in paragraph (f)(1) of this AD, any of the engine isolator mounts are found to not comply with the specifications found in the Accomplishment Instructions of GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014, before further flight, re-install the isolators to the correct orientation, or if damage is found, replace with airworthy parts.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI Civil Aviation Safety Authority (CASA) AD No. AD/GA8/8, dated November 24, 2014. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1123.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) GippsAero Mandatory Service Bulletin SB–GA8–2014–115, Issue 1, dated October 6, 2014.

(ii) Reserved.

(3) For GippsAero service information identified in this AD, contact GA 8 Airvan (Pty) Ltd, c/o GippsAero Pty Ltd, Attn: Technical Services, P.O. Box 881, Morwell Victoria 3840, Australia; telephone: + 61 03 5172 1200; fax: +61 03 5172 1201; email: *techpubs@gippsaero.com;* Internet: *http://www.gippsaero.com/customer-support/technical-publications.aspx.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1123.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on March 12, 2015.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–06234 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0871; Airspace Docket No. 14–AWP–8]

Amendment of Class E Airspace; Coaldale, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at the Coaldale VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Coaldale, NV, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Oakland Air Route Traffic Control Center (ARTCC). This action also corrects the Title of this rulemaking by classifying this action as an amendment of versus establishment of Class E airspace, as reflected in the NRPM. This action enhances the safety and management of IFR operations within the National Airspace System (NAS).

DATES: Effective 0901 UTC, April 30, 2015. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/*. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and ATC Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 29591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4563.

SUPPLEMENTARY INFORMATION:

History

On December 12, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E en route domestic airspace at the Coaldale VORTAC, Coaldale, NV (79 FR 73854). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received from the National Business Aviation Association in support of the proposal. Subsequent to publication, the FAA found Class E airspace already exists for the Coaldale VORTAC, NV. Therefore, this final rule is an amendment versus establishment of controlled airspace.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Y, airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this final rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Coaldale VORTAC navigation aid, Coaldale, NV. By this action, aircraft are contained while in IFR conditions under control of Oakland ARTCC by vectoring aircraft from en route airspace to terminal areas. This action enhances the safety and management of controlled airspace within the NAS. The Title heading for this document is changed from Establishment of Class E Airspace to Amendment of Class E Airspace, Coaldale, NV, with minor edits, as Class E airspace already exists for the Coaldale VORTAC, Coaldale, NV.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at the Coaldale VORTAC, Coaldale, NV.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AWP NV E6 Coaldale, NV [Modified]

Coaldale VORTAC, NV
(Lat. 38°00′12″ N., long. 117°46′14″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 39°39′28″ N., long. 117°59′55″ W.; to lat. 37°55′11″ N., long. 117°53′37″ W.; to lat. 38°13′30″ N., long. 117°16′30″ W.; to lat. 38°05′00″ N., long. 117°16′00″ W.; to lat. 37°53′00″ N., long. 117°05′41″ W.; to lat. 37°33′00″ N., long. 117°05′41″ W.; to lat. 37°26′30″ N., long. 117°04′33″ W.; to lat. 37°22′00″ N., long. 117°00′30″ W.; to lat. 37°12′00″ N., long. 117°20′00″ W.; to lat. 37°12′02″ N., long. 117°53′49″ W.; to lat. 37°12′00″ N., long. 118°35′00″ W.; to lat. 36°08′00″ N., long. 118°35′00″ W.; to lat. 36°08′00″ N., long. 118°52′00″ W.; to lat. 37°47′57″ N., long. 120°22′00″ W.; to lat. 38°53′30″ N., long. 119°49′00″ W.; thence to the point of beginning.

Issued in Seattle, Washington, on March 12, 2015.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center, AJV–W2.

[FR Doc. 2015–06325 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31004; Amdt. No. 3631]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 20, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 20, 2015.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC, 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria

contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on February 13, 2015.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 2 April 2015

Algona, IA, Algona Muni, NDB RWY 12, Amdt 6B, CANCELED

Olathe, KS, New Century Aircenter, ILS OR LOC/DME RWY 36, Amdt 7

Pittsfield, MA, Pittsfield Muni, LOC/DME RWY 26, Amdt 9A

Llano, TX, Llano Muni, VOR–A, Amdt 4

Mineola/Quitman, TX, Wood County, Takeoff Minimums and Obstacle DP, Amdt 1

New Lisbon, WI, Mauston-New Lisbon Union, RNAV (GPS) RWY 14, Orig-A

New Lisbon, WI, Mauston-New Lisbon Union, RNAV (GPS) RWY 32, Orig-A

Effective 30 April 2015

Palatka, FL, Palatka Muni-Lt. Kay Larkin Field, NDB RWY 9, Amdt 3, CANCELED

Kahului, HI, Kahului, LOC/DME BC RWY 20, Amdt 14, CANCELED

Charlotte, NC, Charlotte/Douglas Intl, RNAV (RNP) Z RWY 18L, Orig-B, CANCELED

Charlotte, NC, Charlotte/Douglas Intl, RNAV (RNP) Z RWY 18R, Orig-B, CANCELED

Charlotte, NC, Charlotte/Douglas Intl, RNAV (RNP) Z RWY 36L, Orig-B, CANCELED

Charlotte, NC, Charlotte/Douglas Intl, RNAV (RNP) Z RWY 36R, Orig-B, CANCELED

Las Vegas, NV, Mc Carran Intl, ILS OR LOC RWY 25L, Amdt 4

Bristow, OK, Jones Memorial, RNAV (GPS) RWY 18, Amdt 1

Bristow, OK, Jones Memorial, RNAV (GPS) RWY 36, Amdt 1

Pauls Valley, OK, Pauls Valley Muni, NDB RWY 35, Amdt 4, CANCELED

Denton, TX, Denton Muni, RNAV (GPS) RWY 36, Amdt 2

Walla Walla, WA, Walla Walla Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4A

Walla Walla, WA, Walla Walla Rgnl, VOR RWY 20, Orig

Rawlins, WY, Rawlins Muni/Harvey Field, RNAV (GPS) RWY 22, Amdt 1

Rawlins, WY, Rawlins Muni/Harvey Field, Takeoff Minimums and Obstacle DP, Amdt 4

Rawlins, WY, Rawlins Muni/Harvey Field, VOR/DME RWY 22, Amdt 2A, CANCELED

[FR Doc. 2015–06250 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31005; Amdt. No. 3632]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 20, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 20, 2015.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on February 13, 2015.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * *Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	MO	Cassville	Cassville Muni	4/0064	02/06/15	RNAV (GPS) RWY 27, Orig.
2-Apr-15	MO	Cassville	Cassville Muni	4/0065	02/06/15	RNAV (GPS) RWY 9, Amdt 1.
2-Apr-15	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0066	02/02/15	RNAV (GPS) RWY 20, Orig.
2-Apr-15	MN	Wadena	Wadena Muni	4/0067	02/02/15	RNAV (GPS) RWY 16, Orig.
2-Apr-15	MN	Buffalo	Buffalo Muni	4/0068	02/02/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	MI	Alpena	Alpena County Rgnl	4/0085	02/02/15	NDB RWY 1, Amdt 7.
2-Apr-15	MI	Alpena	Alpena County Rgnl	4/0087	02/02/15	ILS OR LOC RWY 1, Amdt 9.
2-Apr-15	MI	Alpena	Alpena County Rgnl	4/0088	02/02/15	RNAV (GPS) RWY 1, Orig.-A.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	MO	Potosi	Washington County	4/0098	02/02/15	RNAV (GPS) RWY 20, Amdt 1.
2-Apr-15	AR	Walnut Ridge	Walnut Ridge Rgnl	4/0132	02/06/15	RNAV (GPS) RWY 22, Amdt 1.
2-Apr-15	AR	Walnut Ridge	Walnut Ridge Rgnl	4/0143	02/06/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	AR	Walnut Ridge	Walnut Ridge Rgnl	4/0147	02/06/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0160	02/02/15	RNAV (GPS) RWY 10, Amdt 1.
2-Apr-15	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0170	02/02/15	VOR RWY 10, Amdt 3A.
2-Apr-15	MO	Cape Girardeau	Cape Girardeau Rgnl	4/0172	02/02/15	ILS OR LOC RWY 10, Amdt 12.
2-Apr-15	IN	Connersville	Mettel Field	4/0186	02/02/15	RNAV (GPS) RWY 18, Amdt 1A.
2-Apr-15	IN	Connersville	Mettel Field	4/0187	02/02/15	ILS OR LOC RWY 18, Orig.-B.
2-Apr-15	MN	Waseca	Waseca Muni	4/0204	02/02/15	RNAV (GPS) RWY 33, Orig.
2-Apr-15	MO	Potosi	Washington County	4/0214	02/02/15	RNAV (GPS) RWY 2, Amdt 2.
2-Apr-15	MI	Sault Ste Marie	Sault Ste Marie Muni/ Sanderson Field.	4/0215	02/02/15	RNAV (GPS) RWY 32, Orig.
2-Apr-15	MI	Sault Ste Marie	Sault Ste Marie Muni/ Sanderson Field.	4/0235	02/02/15	VOR RWY 32, Amdt 3.
2-Apr-15	ND	Linton	Linton Muni	4/0392	02/02/15	RNAV (GPS) RWY 9, Orig.
2-Apr-15	MO	Butler	Butler Memorial	4/0434	02/02/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	MO	Butler	Butler Memorial	4/0435	02/02/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	MN	Waseca	Waseca Muni	4/0477	02/02/15	RNAV (GPS) RWY 15, Amdt 1.
2-Apr-15	MI	Kalamazoo	Kalamazoo/Battle Creek Intl.	4/0490	02/02/15	RNAV (GPS) RWY 17, Amdt 1.
2-Apr-15	IA	Algona	Algona Muni	4/0496	02/02/15	RNAV (GPS) RWY 30, Amdt 1.
2-Apr-15	ND	Wahpeton	Harry Stern	4/0511	02/02/15	RNAV (GPS) RWY 33, Amdt 1.
2-Apr-15	MN	Wadena	Wadena Muni	4/0515	02/02/15	RNAV (GPS) RWY 34, Amdt 1.
2-Apr-15	MN	Grand Marais	Grand Marais/Cook County.	4/0546	02/06/15	RNAV (GPS) RWY 27, Amdt 1.
2-Apr-15	MN	Cambridge	Cambridge Muni	4/0935	02/02/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	MN	Cambridge	Cambridge Muni	4/0937	02/02/15	NDB RWY 34, Amdt 7.
2-Apr-15	MN	Cambridge	Cambridge Muni	4/0938	02/02/15	RNAV (GPS) RWY 16, Orig.
2-Apr-15	MO	Kaiser/Lake Ozark	Lee C Fine Memorial	4/0956	02/02/15	VOR RWY 4, Amdt 7A.
2-Apr-15	MO	Kaiser/Lake Ozark	Lee C Fine Memorial	4/0960	02/02/15	RNAV (GPS) RWY 4, Amdt 1.
2-Apr-15	IA	Burlington	Southeast Iowa Rgnl	4/6663	02/02/15	RNAV (GPS) RWY 12, Amdt 1.
2-Apr-15	IL	Belleville	Scott AFB/MidAmerica	5/3904	02/02/15	ILS OR LOC/DME RWY 32L, Amdt 1A.
2-Apr-15	IL	Belleville	Scott AFB/MidAmerica	5/3905	02/02/15	RNAV (GPS) RWY 32L, Orig.-C.
2-Apr-15	IL	Belleville	Scott AFB/MidAmerica	5/3906	02/02/15	TACAN RWY 32L, Amdt 1.
2-Apr-15	IL	Cairo	Cairo Rgnl	5/3907	02/02/15	NDB RWY 14, Amdt 2.
2-Apr-15	IL	Cairo	Cairo Rgnl	5/3908	02/02/15	RNAV (GPS) RWY 32, Orig.
2-Apr-15	IL	Cairo	Cairo Rgnl	5/3909	02/02/15	RNAV (GPS) RWY 14, Orig.
2-Apr-15	IL	Flora	Flora Muni	5/3920	02/02/15	RNAV (GPS) RWY 21, Amdt 2.
2-Apr-15	IL	Galesburg	Galesburg Muni	5/3921	02/02/15	ILS OR LOC/DME RWY 3, Amdt 10.
2-Apr-15	IL	Galesburg	Galesburg Muni	5/3922	02/02/15	RNAV (GPS) RWY 3, Orig.
2-Apr-15	IL	Galesburg	Galesburg Muni	5/3923	02/02/15	VOR RWY 3, Amdt 7.
2-Apr-15	IL	Kankakee	Greater Kankakee	5/3927	02/02/15	RNAV (GPS) RWY 34, Amdt 1.
2-Apr-15	IL	Kankakee	Greater Kankakee	5/3928	02/02/15	RNAV (GPS) RWY 16, Amdt 1.
2-Apr-15	IN	Indianapolis	Hendricks County-Gordon Graham Fld.	5/3930	02/02/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	IN	Frankfort	Frankfort Muni	5/4029	02/02/15	RNAV (GPS) RWY 27, Amdt 1.
2-Apr-15	IN	Gary	Gary/Chicago Intl	5/4107	02/06/15	RNAV (GPS) Y RWY 30, Orig.
2-Apr-15	IN	Gary	Gary/Chicago Intl	5/4108	02/06/15	NDB RWY 30, Amdt 7C.
2-Apr-15	IN	Indianapolis	Indianapolis Rgnl	5/4193	02/02/15	RNAV (GPS) RWY 34, Amdt 1.
2-Apr-15	IN	Kokomo	Kokomo Muni	5/4224	02/02/15	RNAV (GPS) RWY 14, Orig.
2-Apr-15	KS	El Dorado	El Dorado/Captain Jack Thomas Memorial.	5/4230	02/02/15	RNAV (GPS) RWY 33, Amdt 1.
2-Apr-15	LA	Baton Rouge	Baton Rouge Metropolitan, Ryan Field.	5/4268	02/02/15	RNAV (GPS) RWY 4L, Amdt 2.
2-Apr-15	LA	Bogalusa	George R Carr Memorial Air Fld.	5/4292	02/02/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	LA	Jonesboro	Jonesboro	5/4303	02/02/15	RNAV (GPS) RWY 18, Orig.-A.
2-Apr-15	LA	Jonesboro	Jonesboro	5/4304	02/02/15	RNAV (GPS) RWY 36, Orig.-A.
2-Apr-15	LA	Leesville	Leesville	5/4308	02/02/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	LA	Leesville	Leesville	5/4309	02/02/15	NDB RWY 36, Amdt 2.
2-Apr-15	LA	Leesville	Leesville	5/4310	02/02/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	LA	Lake Charles	Lake Charles Rgnl	5/4313	02/02/15	RNAV (GPS) RWY 33, Amdt 2.
2-Apr-15	LA	Lake Charles	Lake Charles Rgnl	5/4314	02/02/15	RNAV (GPS) RWY 15, Amdt 1.
2-Apr-15	LA	Lake Charles	Lake Charles Rgnl	5/4315	02/02/15	ILS OR LOC RWY 15, Amdt 21.
2-Apr-15	LA	Lafayette	Lafayette Rgnl	5/4316	02/02/15	RNAV (GPS) RWY 4R, Amdt 1.
2-Apr-15	LA	Lafayette	Lafayette Rgnl	5/4317	02/02/15	RNAV (GPS) RWY 22L, Amdt 1.
2-Apr-15	LA	Lafayette	Lafayette Rgnl	5/4318	02/02/15	ILS OR LOC/DME RWY 4R, Amdt 2.
2-Apr-15	LA	Lafayette	Lafayette Rgnl	5/4319	02/02/15	ILS OR LOC RWY 22L, Amdt 5.
2-Apr-15	MI	Niles	Jerry Tyler Memorial	5/4327	02/02/15	RNAV (GPS) RWY 33, Orig.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	MI	Niles	Jerry Tyler Memorial	5/4328	02/02/15	RNAV (GPS) RWY 15, Orig.-A.
2-Apr-15	MI	Sault Ste Marie	Sault Ste Marie Muni/ Sanderson Field.	5/4331	02/02/15	RNAV (GPS) RWY 14, Orig.
2-Apr-15	MI	Battle Creek	W K Kellogg	5/4333	02/02/15	RNAV (GPS) RWY 31, Orig.
2-Apr-15	MI	Battle Creek	W K Kellogg	5/4334	02/02/15	ILS OR LOC RWY 23R, Amdt 18.
2-Apr-15	MI	Battle Creek	W K Kellogg	5/4335	02/02/15	NDB RWY 23R, Amdt 18.
2-Apr-15.	MI	Romeo	Romeo State	5/4351	02/02/15	RNAV (GPS) RWY 36, Amdt 1A.
2-Apr-15	MI	Romeo	Romeo State	5/4352	02/02/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	MI	Sturgis	Kirsch Muni	5/4355	02/02/15	NDB RWY 18, Amdt 5C.
2-Apr-15	MI	Sturgis	Kirsch Muni	5/4356	02/02/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	MI	Menominee	Menominee-Marinette Twin County.	5/4357	02/02/15	RNAV (GPS) RWY 32, Amdt 1.
2-Apr-15	MI	Howell	Livingston County Spencer J Hardy.	5/4358	02/02/15	VOR RWY 31, Amdt 11.
2-Apr-15	MI	Howell	Livingston County Spencer J Hardy.	5/4359	02/02/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	MI	Howell	Livingston County Spencer J Hardy.	5/4360	02/02/15	NDB RWY 13, Amdt 3.
2-Apr-15	MI	Howell	Livingston County Spencer J Hardy.	5/4361	02/02/15	RNAV (GPS) RWY 13, Amdt 2.
2-Apr-15	MI	Howell	Livingston County Spencer J Hardy.	5/4362	02/02/15	ILS OR LOC RWY 13, Amdt 1.
2-Apr-15	MI	Marshall	Brooks Field	5/4364	02/02/15	RNAV (GPS) RWY 28, Orig.
2-Apr-15	MI	Mason	Mason Jewett Field	5/4365	02/02/15	RNAV (GPS) RWY 28, Orig.-A.
2-Apr-15	MI	Owosso	Owosso Community	5/4366	02/02/15	RNAV (GPS) RWY 11, Amdt 1A.
2-Apr-15	OH	Bryan	Williams County	5/4368	02/02/15	RNAV (GPS) RWY 7, Amdt 1.
2-Apr-15	OH	Ashland	Ashland County	5/4370	02/02/15	RNAV (GPS) RWY 19, Orig.-B.
2-Apr-15	OH	Woodsfield	Monroe County	5/4371	01/27/15	RNAV (GPS) RWY 25, Orig.
2-Apr-15	OH	Woodsfield	Monroe County	5/4372	01/27/15	VOR/DME RWY 25, Amdt 7.
2-Apr-15	OH	Mount Vernon	Knox County	5/4373	01/27/15	RNAV (GPS) RWY 10, Amdt 1.
2-Apr-15	OH	Mount Vernon	Knox County	5/4374	01/27/15	RNAV (GPS) RWY 28, Amdt 1.
2-Apr-15	OH	Middlefield	Geauga County	5/4375	01/27/15	RNAV (GPS) RWY 11, Orig.
2-Apr-15	OH	Middlefield	Geauga County	5/4376	01/27/15	RNAV (GPS) RWY 29, Orig.
2-Apr-15	OH	Cadiz	Harrison County	5/4377	02/02/15	RNAV (GPS) RWY 31, Orig.
2-Apr-15	OH	Tiffin	Seneca County	5/4432	01/27/15	RNAV (GPS) RWY 24, Amdt 1.
2-Apr-15	OH	Lima	Lima Allen County	5/4466	01/27/15	RNAV (GPS) RWY 10, Amdt 1.
2-Apr-15	OH	Akron	Akron-Canton Rgnl	5/4467	02/02/15	ILS OR LOC RWY 5, Orig.-A.
2-Apr-15	OH	Cleveland	Cuyahoga County	5/4509	02/04/15	RNAV (GPS) RWY 24, Amdt 1.
2-Apr-15	OH	Cleveland	Cuyahoga County	5/4510	02/04/15	ILS OR LOC RWY 24, Amdt 15.
2-Apr-15	OH	Cleveland	Cuyahoga County	5/4511	02/04/15	RNAV (GPS) RWY 6, Amdt 1.
2-Apr-15	TX	Littlefield	Littlefield Taylor Brown Muni.	5/4603	01/27/15	NDB RWY 1, Amdt 1.
2-Apr-15	TX	Littlefield	Littlefield Taylor Brown Muni.	5/4605	01/27/15	RNAV (GPS) RWY 1, Orig.
2-Apr-15	OH	Defiance	Defiance Memorial	5/4646	01/27/15	RNAV (GPS) RWY 12, Orig.
2-Apr-15	OH	Bellefontaine	Bellefontaine Rgnl	5/4652	02/02/15	VOR/DME RWY 7, Orig.-A.
2-Apr-15	OH	Bellefontaine	Bellefontaine Rgnl	5/4653	02/02/15	RNAV (GPS) RWY 7, Amdt 1.
2-Apr-15	OH	Fostoria	Fostoria Metropolitan	5/4752	01/27/15	RNAV (GPS) RWY 9, Orig.
2-Apr-15	OH	Gallipolis	Gallia-Meigs Rgnl	5/4753	01/27/15	RNAV (GPS) RWY 23, Orig.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4803	02/04/15	RNAV (GPS) RWY 21L, Amdt 1A.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4804	02/04/15	RNAV (GPS) RWY 3R, Orig.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4805	02/04/15	NDB RWY 21L, Amdt 17.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4806	02/04/15	LOC BC RWY 3R, Amdt 8C.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4807	02/04/15	RNAV (GPS) RWY 25, Amdt 1.
2-Apr-15	OH	Cincinnati	Cincinnati Muni Airport Lunken Field.	5/4808	02/04/15	NDB RWY 25, Amdt 12.
2-Apr-15	OH	Mansfield	Mansfield Lahm Rgnl	5/4809	01/27/15	RNAV (GPS) RWY 14, Amdt 1.
2-Apr-15	OH	Mansfield	Mansfield Lahm Rgnl	5/4810	01/27/15	VOR RWY 14, Amdt 15.
2-Apr-15	OH	Mansfield	Mansfield Lahm Rgnl	5/4811	01/27/15	RNAV (GPS) RWY 32, Orig.-B.
2-Apr-15	OH	Middletown	Middletown Regional/ Hook Field.	5/4812	01/27/15	NDB RWY 23, Amdt 9.
2-Apr-15	OH	Middletown	Middletown Regional/ Hook Field.	5/4813	01/27/15	RNAV (GPS) RWY 23, Orig.
2-Apr-15	OH	Middletown	Middletown Regional/ Hook Field.	5/4814	01/27/15	RNAV (GPS) RWY 5, Orig.
2-Apr-15	OH	Oxford	Miami University	5/4815	02/05/15	RNAV (GPS) RWY 5, Orig.
2-Apr-15	OH	Oxford	Miami University	5/4816	02/05/15	NDB RWY 5, Amdt 11.
2-Apr-15	OH	Oxford	Miami University	5/4817	02/05/15	RNAV (GPS) RWY 23, Orig.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	OH	Chillicothe	Ross County	5/4818	02/05/15	VOR RWY 23, Amdt 3D.
2-Apr-15	OH	Chillicothe	Ross County	5/4819	02/05/15	RNAV (GPS) RWY 23, Amdt 1.
2-Apr-15	OH	Fremont	Sandusky County Rgnl	5/4820	02/05/15	RNAV (GPS) RWY 6, Orig.
2-Apr-15	OH	Wauseon	Fulton County	5/4821	02/05/15	RNAV (GPS) RWY 27, Orig.
2-Apr-15	OH	Youngstown/Warren	Youngstown-Warren Rgnl.	5/4822	02/05/15	ILS OR LOC RWY 14, Amdt 8.
2-Apr-15	OK	Clinton	Clinton Rgnl	5/4825	02/05/15	RNAV (GPS) RWY 17, Amdt 2.
2-Apr-15	OK	Clinton	Clinton Rgnl	5/4826	02/05/15	RNAV (GPS) RWY 35, Amdt 3.
2-Apr-15	OK	Guymon	Guymon Muni	5/4827	02/05/15	NDB RWY 18, Amdt 5A.
2-Apr-15	OK	Guymon	Guymon Muni	5/4828	02/05/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	OK	Guymon	Guymon Muni	5/4829	02/05/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	OK	Tulsa	Tulsa Intl	5/4832	02/05/15	VOR OR TACAN RWY 26, Amdt 24C.
2-Apr-15	OK	Tulsa	Tulsa Intl	5/4833	02/05/15	RNAV (GPS) Y RWY 26, Amdt 3B.
2-Apr-15	SD	Britton	Britton Muni	5/4834	02/05/15	RNAV (GPS) RWY 13, Amdt 1.
2-Apr-15	SD	Britton	Britton Muni	5/4835	02/05/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	TX	Lamesa	Lamesa Muni	5/4836	02/05/15	RNAV (GPS) RWY 16, Orig.
2-Apr-15	TX	Lamesa	Lamesa Muni	5/4837	02/05/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	TX	Commerce	Commerce Muni	5/4838	02/05/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Commerce	Commerce Muni	5/4839	02/05/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	TX	Kenedy	Karnes County	5/4840	02/05/15	RNAV (GPS) RWY 16, Orig.
2-Apr-15	TX	Kenedy	Karnes County	5/4841	02/05/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	TX	Lakeway	Lakeway Airpark	5/4842	02/05/15	RNAV (GPS) RWY 16, Amdt 1.
2-Apr-15	TX	La Grange	Fayette Rgnl Air Center.	5/4843	02/05/15	RNAV (GPS) RWY 16, Amdt 2.
2-Apr-15	TX	La Grange	Fayette Rgnl Air Center.	5/4844	02/05/15	VOR/DME A, Amdt 1A.
2-Apr-15	TX	La Grange	Fayette Rgnl Air Center.	5/4845	02/05/15	RNAV (GPS) RWY 34, Amdt 2.
2-Apr-15	TX	San Antonio	Boerne Stage Field	5/4846	01/27/15	RNAV (GPS) RWY 17, Amdt 1.
2-Apr-15	TX	Crosbyton	Crosbyton Muni	5/4847	02/05/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Brenham	Brenham Muni	5/4848	02/05/15	RNAV (GPS) RWY 16, Amdt 2.
2-Apr-15	TX	Fort Worth	Bourland Field	5/4849	02/05/15	RNAV (GPS) RWY 35, Amdt 1.
2-Apr-15	TX	Lockhart	Lockhart Muni	5/4851	02/05/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	TX	Lockhart	Lockhart Muni	5/4852	02/05/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Navasota	Navasota Muni	5/4853	02/05/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Winters	Winters Muni	5/4854	02/06/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Kountze/Silsbee	Hawthorne Field	5/4855	02/05/15	RNAV (GPS) RWY 13, Amdt 1.
2-Apr-15	TX	Waco	Waco Rgnl	5/4856	02/06/15	VOR/DME RWY 32, Amdt 15A.
2-Apr-15	TX	Waco	Waco Rgnl	5/4857	02/06/15	RNAV (GPS) RWY 32, Orig.-C.
2-Apr-15	TX	Waco	Waco Rgnl	5/4858	02/06/15	RNAV (GPS) RWY 1, Amdt 1A.
2-Apr-15	TX	Waco	Waco Rgnl	5/4859	02/06/15	RNAV (GPS) RWY 14, Orig.-A.
2-Apr-15	TX	Alice	Alice Intl	5/4861	02/06/15	VOR RWY 31, Amdt 13C.
2-Apr-15	TX	Alice	Alice Intl	5/4862	02/06/15	LOC/DME RWY 31, Orig.-C.
2-Apr-15	TX	Alice	Alice Intl	5/4863	02/06/15	RNAV (GPS) RWY 31, Amdt 1D.
2-Apr-15	TX	Marshall	Harrison County	5/4864	02/06/15	RNAV (GPS) RWY 33, Orig.
2-Apr-15	TX	Marshall	Harrison County	5/4865	02/06/15	RNAV (GPS) RWY 15, Orig.
2-Apr-15	TX	Bryan	Coulter Field	5/4866	02/06/15	RNAV (GPS) RWY 33, Amdt 1.
2-Apr-15	TX	Cleburne	Cleburne Rgnl	5/4871	02/06/15	RNAV (GPS) RWY 33, Amdt 1.
2-Apr-15	TX	Monahans	Roy Hurd Memorial	5/4887	01/27/15	VOR/DME RWY 12, Amdt 1B.
2-Apr-15	TX	Monahans	Roy Hurd Memorial	5/4888	01/27/15	RNAV (GPS) RWY 30, Orig.
2-Apr-15	TX	Monahans	Roy Hurd Memorial	5/4889	01/27/15	RNAV (GPS) RWY 12, Orig.
2-Apr-15	IL	Lawrenceville	Lawrenceville-Vincennes Intl.	5/5084	02/02/15	VOR RWY 36, Amdt 1B.
2-Apr-15	IL	Lawrenceville	Lawrenceville-Vincennes Intl.	5/5085	02/02/15	RNAV (GPS) RWY 9, Amdt 1A.
2-Apr-15	IL	Lawrenceville	Lawrenceville-Vincennes Intl.	5/5086	02/02/15	RNAV (GPS) RWY 18, Amdt 1A.
2-Apr-15	IL	Lawrenceville	Lawrenceville-Vincennes Intl.	5/5087	02/02/15	RNAV (GPS) RWY 36, Amdt 1A.
2-Apr-15	IL	Lawrenceville	Lawrenceville-Vincennes Intl.	5/5088	02/02/15	RNAV (GPS) RWY 27, Amdt 1A.
2-Apr-15	MI	Kalamazoo	Kalamazoo/Battle Creek Intl.	5/5123	02/02/15	RNAV (GPS) RWY 5, Orig.
2-Apr-15	MI	Kalamazoo	Kalamazoo/Battle Creek Intl.	5/5128	02/02/15	RNAV (GPS) RWY 23, Orig.
2-Apr-15	MI	Kalamazoo	Kalamazoo/Battle Creek Intl.	5/5140	02/02/15	VOR RWY 23, Amdt 17A.
2-Apr-15	TX	Eagle Lake	Eagle Lake	5/5262	02/06/15	RNAV (GPS) RWY 35, Amdt 1.
2-Apr-15	TX	Eagle Lake	Eagle Lake	5/5263	02/06/15	RNAV (GPS) RWY 17, Amdt 1.
2-Apr-15	OH	Marysville	Union County	5/5266	01/27/15	RNAV (GPS) RWY 27, Orig.
2-Apr-15	TX	San Antonio	Boerne Stage Field	5/5267	01/27/15	RNAV (GPS) RWY 35, Amdt 1.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5268	02/04/15	RNAV (GPS) RWY 5L, Orig.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5269	02/04/15	ILS OR LOC RWY 5L, Amdt 1.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5270	02/04/15	RNAV (GPS) RWY 23R, Orig.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5271	02/04/15	RNAV (GPS) RWY 5R, Amdt 1.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5272	02/04/15	NDB RWY 23L, Amdt 2.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5273	02/04/15	NDB RWY 5R, Amdt 2.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5274	02/04/15	ILS OR LOC RWY 23L, Amdt 1.
2-Apr-15	OH	Columbus	Rickenbacker Intl	5/5275	02/04/15	ILS OR LOC RWY 5R, Amdt 3A.
2-Apr-15	OH	Batavia	Clermont County	5/5870	02/02/15	RNAV (GPS) RWY 22, Amdt 1B.
2-Apr-15	OH	Batavia	Clermont County	5/5872	02/02/15	NDB RWY 22, Amdt 1B.
2-Apr-15	TX	Houston	David Wayne Hooks Memorial.	5/5885	01/27/15	LOC RWY 17R, Amdt 3A.
2-Apr-15	TX	Houston	David Wayne Hooks Memorial.	5/5886	01/27/15	RNAV (GPS) RWY 17R, Amdt 1C.
2-Apr-15	TX	Houston	David Wayne Hooks Memorial.	5/5887	01/27/15	RNAV (GPS) RWY 35L, Amdt 1B.
2-Apr-15	TX	Bonham	Jones Field	5/5975	02/06/15	RNAV (GPS) RWY 17, Amdt 2.
2-Apr-15	TX	Fort Worth	Fort Worth Spinks	5/5992	02/06/15	ILS OR LOC RWY 35L, Amdt 2.
2-Apr-15	TX	Fort Worth	Fort Worth Spinks	5/5993	02/06/15	RNAV (GPS) RWY 35L, Amdt 1.
2-Apr-15	TX	Longview	East Texas Rgnl	5/6000	02/06/15	RNAV (GPS) RWY 18, Amdt 2.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6001	02/04/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6002	02/04/15	RNAV (GPS) RWY 32, Amdt 1.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6003	02/04/15	RNAV (GPS) RWY 18, Amdt 2.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6007	02/04/15	VOR RWY 14, Amdt 4.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6008	02/04/15	ILS OR LOC RWY 14, Amdt 12.
2-Apr-15	TX	Galveston	Scholes Intl At Galveston.	5/6009	02/04/15	RNAV (GPS) RWY 14, Amdt 1.
2-Apr-15	TX	Greenville	Majors	5/6018	02/04/15	TACAN RWY 17, Orig.
2-Apr-15	TX	Greenville	Majors	5/6019	02/04/15	TACAN RWY 35, Orig.
2-Apr-15	TX	Greenville	Majors	5/6020	02/04/15	ILS OR LOC Z RWY 17, Amdt 7A.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6031	02/04/15	RNAV (RNP) Z RWY 10R, Amdt 1.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6032	02/04/15	ILS OR LOC RWY 10R, ILS RWY 10R (SA CAT I & II), Amdt 9A.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6033	02/04/15	RNAV (GPS) Y RWY 10R, Amdt 3.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6034	02/04/15	RNAV (GPS) Y RWY 28L, Amdt 3.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6035	02/04/15	RNAV (GPS) Y RWY 10L, Amdt 3.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6036	02/04/15	RNAV (RNP) Z RWY 28R, Amdt 1.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6037	02/04/15	RNAV (RNP) Z RWY 28L, Amdt 1.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6038	02/04/15	RNAV (RNP) Z RWY 10L, Amdt 1.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6039	02/04/15	ILS OR LOC RWY 10L, Amdt 19.
2-Apr-15	OH	Columbus	Port Columbus Intl	5/6040	02/04/15	ILS OR LOC RWY 28L, Amdt 29.
2-Apr-15	TX	San Marcos	San Marcos Muni	5/6282	02/06/15	RNAV (GPS) RWY 8, Orig.
2-Apr-15	TX	San Marcos	San Marcos Muni	5/6283	02/06/15	RNAV (GPS) RWY 31, Orig.
2-Apr-15	TX	San Marcos	San Marcos Muni	5/6284	02/06/15	RNAV (GPS) RWY 26, Orig.
2-Apr-15	TX	San Marcos	San Marcos Muni	5/6285	02/06/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Dallas	Dallas Love Field	5/6326	01/27/15	ILS OR LOC RWY 31R, ILS RWY 31R (SA CAT I), Amdt 5B.
2-Apr-15	TX	Dallas	Dallas Love Field	5/6327	01/27/15	RNAV (GPS) Z RWY 13L, Amdt 2.
2-Apr-15	TX	Dallas	Dallas Love Field	5/6328	01/27/15	RNAV (GPS) Y RWY 13L, Amdt 1.
2-Apr-15	TX	Dallas	Dallas Love Field	5/6329	01/27/15	ILS OR LOC Y RWY 13L, Amdt 32A.
2-Apr-15	TX	Denton	Denton Muni	5/6330	01/27/15	ILS OR LOC RWY 18, Amdt 9.
2-Apr-15	TX	Denton	Denton Muni	5/6331	01/27/15	NDB RWY 18, Amdt 7.
2-Apr-15	TX	Denton	Denton Muni	5/6332	01/27/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	OK	Ardmore	Ardmore Muni	5/6333	01/27/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	OK	Ardmore	Ardmore Muni	5/6334	01/27/15	ILS OR LOC RWY 31, Amdt 5.
2-Apr-15	TX	Houston	William P Hobby	5/6335	01/27/15	VOR/DME RWY 30L, Amdt 18.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	TX	Houston	William P Hobby	5/6336	01/27/15	RNAV (GPS) RWY 30L, Amdt 2A.
2-Apr-15	TX	Houston	William P Hobby	5/6337	01/27/15	ILS OR LOC RWY 30L, Amdt 6A.
2-Apr-15	TX	Waco	TSTC Waco	5/6338	01/27/15	RNAV (GPS) RWY 35R, Amdt 1A.
2-Apr-15	TX	Waco	TSTC Waco	5/6339	01/27/15	NDB RWY 35R, Amdt 11B.
2-Apr-15	TX	Harlingen	Valley Intl	5/6344	01/27/15	RNAV (GPS) RWY 17L, Amdt 2A.
2-Apr-15	TX	Harlingen	Valley Intl	5/6347	01/27/15	RNAV (GPS) Y RWY 35L, Amdt 2.
2-Apr-15	TX	Harlingen	Valley Intl	5/6349	01/27/15	RNAV (RNP) Z RWY 35L, Orig.
2-Apr-15	TX	Harlingen	Valley Intl	5/6351	01/27/15	RNAV (GPS) Y RWY 31, Amdt 2.
2-Apr-15	TX	Harlingen	Valley Intl	5/6352	01/27/15	RNAV (RNP) Z RWY 31, Orig.
2-Apr-15	TX	Harlingen	Valley Intl	5/6353	01/27/15	RNAV (GPS) Y RWY 13, Amdt 2.
2-Apr-15	TX	Harlingen	Valley Intl	5/6354	01/27/15	RNAV (GPS) RWY 35R, Orig.
2-Apr-15	TX	Harlingen	Valley Intl	5/6355	01/27/15	RNAV (RNP) Z RWY 13, Orig.
2-Apr-15	TX	Harlingen	Valley Intl	5/6356	01/27/15	RNAV (GPS) Y RWY 17R, Amdt 2.
2-Apr-15	TX	Harlingen	Valley Intl	5/6357	01/27/15	RNAV (RNP) Z RWY 17R, Orig.
2-Apr-15	MI	Alpena	Alpena County Rgnl	5/6390	02/02/15	VOR RWY 1, Amdt 14C.
2-Apr-15	TX	Wink	Winkler County	5/6394	02/06/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	TX	Houston	West Houston	5/6447	02/06/15	RNAV (GPS) RWY 33, Amdt 1.
2-Apr-15	TX	Houston	West Houston	5/6448	02/06/15	RNAV (GPS) RWY 15, Amdt 1.
2-Apr-15	IN	Gary	Gary/Chicago Intl	5/6451	02/06/15	COPTER ILS RWY 30, Orig.
2-Apr-15	TX	Jacksonville	Cherokee County	5/6474	02/06/15	RNAV (GPS) RWY 32, Orig.
2-Apr-15	TX	Gilmer	Fox Stephens Field—Gilmer Muni.	5/6477	02/06/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	TX	Gilmer	Fox Stephens Field—Gilmer Muni.	5/6478	02/06/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Lubbock	Lubbock Preston Smith Intl.	5/6496	02/06/15	VOR/DME OR TACAN RWY 26, Amdt 11.
2-Apr-15	TX	Lubbock	Lubbock Preston Smith Intl.	5/6497	02/06/15	RNAV (GPS) RWY 26, Amdt 2.
2-Apr-15	TX	Lubbock	Lubbock Preston Smith Intl.	5/6498	02/06/15	RNAV (GPS) RWY 8, Amdt 2.
2-Apr-15	TX	Lubbock	Lubbock Preston Smith Intl.	5/6499	02/06/15	ILS OR LOC RWY 26, Amdt 4.
2-Apr-15	AR	Walnut Ridge	Walnut Ridge Rgnl	5/7014	02/06/15	VOR/DME RWY 22, Amdt 13A.
2-Apr-15	AR	Walnut Ridge	Walnut Ridge Rgnl	5/7017	02/06/15	LOC RWY 18, Amdt 3A.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8746	02/06/15	ILS OR LOC RWY 13, Amdt 21.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8747	02/06/15	RNAV (GPS) RWY 13, Amdt 2.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8748	02/06/15	VOR RWY 31, Amdt 2.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8749	02/06/15	RNAV (GPS) RWY 31, Amdt 2.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8750	02/06/15	RNAV (GPS) RWY 22, Amdt 2A.
2-Apr-15	TX	Tyler	Tyler Pounds Rgnl	5/8751	02/06/15	VOR/DME RWY 22, Amdt 4.
2-Apr-15	WI	Ashland	John F Kennedy Memorial.	5/8755	02/06/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	WI	Ashland	John F Kennedy Memorial.	5/8756	02/06/15	RNAV (GPS) RWY 2, Amdt 1.
2-Apr-15	WI	Ashland	John F Kennedy Memorial.	5/8757	02/06/15	RNAV (GPS) RWY 20, Amdt 1.
2-Apr-15	WI	Ashland	John F Kennedy Memorial.	5/8758	02/06/15	RNAV (GPS) RWY 13, Amdt 1.
2-Apr-15	WI	Ashland	John F Kennedy Memorial.	5/8759	02/06/15	LOC/DME RWY 2, Amdt 1.
2-Apr-15	WI	Amery	Amery Muni	5/8760	02/05/15	RNAV (GPS) RWY 36, Amdt 1.
2-Apr-15	WI	Amery	Amery Muni	5/8761	02/05/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	TX	Waco	McGregor Executive	5/8765	02/06/15	RNAV (GPS) RWY 17, Amdt 1A.
2-Apr-15	TX	Waco	McGregor Executive	5/8766	02/06/15	RNAV (GPS) RWY 35, Amdt 1A.
2-Apr-15	TX	Eastland	Eastland Muni	5/8768	02/06/15	RNAV (GPS) RWY 35, Amdt 2.

[FR Doc. 2015–06252 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31006; Amdt. No. 3633]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 20, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of March 20, 2015.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops—M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC, 20590–0001.
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on February 27, 2015.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 2 April 2015

Albertville, AL, Albertville Rgnl-Thomas J Brumlik Fld, NDB–A, Amdt 4A, CANCELED
Albertville, AL, Albertville Rgnl-Thomas J Brumlik Fld, RNAV (GPS) RWY 5, Amdt 1
Albertville, AL, Albertville Rgnl-Thomas J Brumlik Fld, RNAV (GPS) RWY 23, Amdt 2
Sioux City, IA, Sioux Gateway/Col. Bud Day Field, NDB RWY 17, Amdt 2A, CANCELED
Sioux City, IA, Sioux Gateway/Col. Bud Day Field, NDB RWY 35, Orig-F, CANCELED
New York, NY, La Guardia, RNAV (GPS) RWY 13, Orig
New York, NY, La Guardia, RNAV (GPS) RWY 13, Amdt 1C, CANCELED
Clarksburg, WV, North Central West Virginia, ILS OR LOC RWY 21, Amdt 4
Clarksburg, WV, North Central West Virginia, RNAV (GPS) RWY 21, Amdt 2

Effective 30 April 2015

Monterey, CA, Monterey Rgnl, RNAV (GPS) Y RWY 28L, Amdt 1
Monterey, CA, Monterey Rgnl, Takeoff Minimums and Obstacle DP, Amdt 7
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 28L, Amdt 4
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 28L, Amdt 2
Santa Rosa, CA, Charles M. Schulz—Sonoma County, ILS OR LOC/DME RWY 32, Amdt 19
Santa Rosa, CA, Charles M. Schulz—Sonoma County, RNAV (GPS) RWY 32, Amdt 1
Santa Rosa, CA, Charles M. Schulz—Sonoma County, VOR/DME RWY 32, Amdt 20
Watsonville, CA, Watsonville Muni, WATSONVILLE THREE, Graphic DP
New Smyrna Beach, FL, Massey Ranch Airpark, NDB OR GPS RWY 18, Amdt 1A, CANCELED
New Smyrna Beach, FL, Massey Ranch Airpark, RNAV (GPS) RWY 18, Orig
New Smyrna Beach, FL, Massey Ranch Airpark, RNAV (GPS) RWY 36, Orig
Orlando, FL, Orlando Intl, Takeoff Minimums and Obstacle DP, Amdt 3
Indianapolis, IN, Hendricks County-Gordon Graham Field, RNAV (GPS) RWY 36, Orig-A
Norridgewock, ME, Central Maine Arpt of Norridgewock, GPS RWY 3, Orig-A, CANCELED
Norridgewock, ME, Central Maine Arpt of Norridgewock, GPS RWY 15, Orig-A, CANCELED
Norridgewock, ME, Central Maine Arpt of Norridgewock, RNAV (GPS) RWY 3, Orig
Norridgewock, ME, Central Maine Arpt of Norridgewock, RNAV (GPS) RWY 15, Orig
Norridgewock, ME, Central Maine Arpt of Norridgewock, VOR/DME RWY 3, Amdt 3
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 1, Amdt 1
Warrensburg, MO, Skyhaven, RNAV (GPS) RWY 19, Amdt 1
Warrensburg, MO, Skyhaven, Takeoff Minimums and Obstacle DP, Amdt 2
Warrensburg, MO, Skyhaven, VOR/DME–A Amdt 3
Dunkirk, NY, Chautauqua County/Dunkirk, GPS RWY 6, Orig, CANCELED
Dunkirk, NY, Chautauqua County/Dunkirk, GPS RWY 24, Orig-A, CANCELED
Dunkirk, NY, Chautauqua County/Dunkirk, GPS RWY 33, Orig, CANCELED
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 6, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 15, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 24, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 33, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, Takeoff Minimums and Obstacle DP, Amdt 2
Dunkirk, NY, Chautauqua County/Dunkirk, VOR RWY 6, Amdt 3
Cincinnati, OH, Cincinnati Muni Airport Lunken Field, RNAV (GPS) RWY 3R, Amdt 1
Thomas, OK, Thomas Muni, RNAV (GPS) RWY 17, Orig
Thomas, OK, Thomas Muni, RNAV (GPS) RWY 35, Orig
Thomas, OK, Thomas Muni, Takeoff Minimums and Obstacle DP, Orig
Portland, OR, Portland-Hillsboro, Takeoff Minimums and Obstacle DP, Amdt 7
Redmond, OR, Roberts Field, ILS OR LOC RWY 22, Amdt 4
Rockwall, TX, Ralph M Hall/Rockwall Muni, NDB–A, Orig-C
Rockwall, TX, Ralph M Hall/Rockwall Muni, RNAV (GPS) RWY 17, Orig-C
Rockwall, TX, Ralph M Hall/Rockwall Muni, RNAV (GPS) RWY 35, Orig-C

[FR Doc. 2015–06249 Filed 3–19–15; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31007; Amdt. No. 3634]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective March 20, 2015. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of March 20, 2015.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops—M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC, 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

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

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on February 27, 2015.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	MI	Lapeer	Dupont-Lapeer	4/0291	02/11/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	ND	Rolla	Rolla Muni	4/0303	02/12/15	RNAV (GPS) RWY 32, Orig.
2-Apr-15	MI	Hancock	Houghton County Memorial.	4/0405	02/11/15	RNAV (GPS) RWY 13, Amdt 1.
2-Apr-15	MI	Hancock	Houghton County Memorial.	4/0436	02/11/15	RNAV (GPS) RWY 7, Amdt 1.
2-Apr-15	MI	Grand Ledge	Abrams Muni	4/0439	02/11/15	RNAV (GPS) RWY 9, Orig.
2-Apr-15	MI	Lapeer	Dupont-Lapeer	4/0559	02/11/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	MI	Marlette	Marlette	4/0697	02/11/15	RNAV (GPS) RWY 27, Amdt 1.
2-Apr-15	MI	Marlette	Marlette	4/0698	02/11/15	RNAV (GPS) RWY 9, Amdt 1.
2-Apr-15	MN	Perham	Perham Muni	4/0802	02/12/15	RNAV (GPS) RWY 13, Orig.
2-Apr-15	MN	Cook	Cook Muni	4/0981	02/11/15	RNAV (GPS) RWY 31, Amdt 1.
2-Apr-15	MN	Cook	Cook Muni	4/0982	02/11/15	RNAV (GPS) RWY 13, Orig.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0213	02/12/15	ILS OR LOC RWY 6, Amdt 6A.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0214	02/12/15	RNAV (GPS) RWY 6, Orig-A.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0215	02/12/15	VOR/DME RWY 6, Amdt 7.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0216	02/12/15	RNAV (GPS) RWY 24, Orig-A.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0217	02/12/15	VOR/DME RWY 24, Amdt 4B.
2-Apr-15	NY	Poughkeepsie	Dutchess County	5/0218	02/12/15	VOR A, Amdt 11A.
2-Apr-15	TN	Murfreesboro	Murfreesboro Muni	5/0816	02/12/15	RNAV (GPS) RWY 18, Amdt 1B.
2-Apr-15	TN	Murfreesboro	Murfreesboro Muni	5/0817	02/12/15	RNAV (GPS) RWY 36, Amdt 2A.
2-Apr-15	NC	Hickory	Hickory Rgnl	5/0831	02/12/15	VOR/DME RWY 24, Orig-D.
2-Apr-15	PA	Franklin	Venango Rgnl	5/0852	02/12/15	RNAV (GPS) RWY 3, Amdt 1.
2-Apr-15	PA	Franklin	Venango Rgnl	5/0853	02/12/15	VOR RWY 3, Amdt 5.
2-Apr-15	PA	Franklin	Venango Rgnl	5/0854	02/12/15	RNAV (GPS) RWY 21, Amdt 1.
2-Apr-15	PA	Franklin	Venango Rgnl	5/0855	02/12/15	ILS OR LOC RWY 21, Amdt 6.
2-Apr-15	TN	Morristown	Moore-Murrell	5/1167	02/11/15	RNAV (GPS) RWY 23, Orig-B.
2-Apr-15	MT	Forsyth	Tillitt Field	5/1183	02/12/15	RNAV (GPS) RWY 26, Orig-D.
2-Apr-15	MT	Forsyth	Tillitt Field	5/1185	02/12/15	NDB RWY 26, Amdt 3C.
2-Apr-15	MT	Colstrip	Colstrip	5/1191	02/12/15	GPS RWY 24, Orig-B.
2-Apr-15	MT	Colstrip	Colstrip	5/1192	02/12/15	GPS RWY 6, Orig-C.
2-Apr-15	MT	Scobey	Scobey	5/1228	02/12/15	RNAV (GPS) RWY 12, Orig-A.
2-Apr-15	CA	Sacramento	Sacramento Executive	5/1230	02/12/15	RNAV (GPS) RWY 2, Orig-B.
2-Apr-15	KS	Wichita	Wichita Dwight D. Eisenhower National.	5/1260	02/18/15	ILS OR LOC RWY 19L, Amdt 1.
2-Apr-15	OK	Oklahoma City	Wiley Post	5/1269	02/18/15	VOR RWY 17L, Amdt 11A.
2-Apr-15	OK	Oklahoma City	Wiley Post	5/1271	02/18/15	VOR RWY 35R, Amdt 3C.
2-Apr-15	OK	Oklahoma City	Wiley Post	5/1272	02/18/15	VOR–A, Amdt 2A.
2-Apr-15	WI	Burlington	Burlington Muni	5/1493	02/11/15	RNAV (GPS) RWY 11, Orig.
2-Apr-15	WI	Burlington	Burlington Muni	5/1494	02/11/15	RNAV (GPS) RWY 29, Amdt 1.
2-Apr-15	WI	Burlington	Burlington Muni	5/1495	02/11/15	VOR RWY 29, Amdt 8A.
2-Apr-15	WI	Milwaukee	Lawrence J Timmerman.	5/1497	02/11/15	RNAV (GPS) RWY 22R, Orig-B.
2-Apr-15	WI	Milwaukee	Lawrence J Timmerman.	5/1498	02/11/15	RNAV (GPS) RWY 4L, Orig-A.
2-Apr-15	WI	Milwaukee	Lawrence J Timmerman.	5/1499	02/11/15	VOR RWY 4L, Amdt 9A.
2-Apr-15	WI	Milwaukee	Lawrence J Timmerman.	5/1500	02/11/15	VOR RWY 15L, Amdt 14A.
2-Apr-15	WI	Milwaukee	Lawrence J Timmerman.	5/1501	02/11/15	RNAV (GPS) RWY 15L, Orig-A.
2-Apr-15	WI	Oconto	J. Douglas Bake Memorial.	5/1502	02/12/15	RNAV (GPS) RWY 29, Orig.
2-Apr-15	WI	Oconto	J. Douglas Bake Memorial.	5/1507	02/12/15	RNAV (GPS) RWY 11, Orig.
2-Apr-15	WV	Morgantown	Morgantown Muni-Walter L Bill Hart Fld.	5/1939	02/18/15	RNAV (GPS) Y RWY 18, Orig.
2-Apr-15	WV	Morgantown	Morgantown Muni-Walter L Bill Hart Fld.	5/1941	02/18/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	GA	Fort Stewart (Hinesville).	Wright AAF (Fort Stewart)/Midcoast Rgnl.	5/1962	02/12/15	RNAV (GPS) RWY 6L, Orig-B.
2-Apr-15	OH	Kent	Kent State Univ	5/2335	02/18/15	NDB RWY 1, Amdt 13.
2-Apr-15	WI	Waupaca	Waupaca Muni	5/2336	02/19/15	RNAV (GPS) RWY 10, Amdt 1.
2-Apr-15	WI	Waupaca	Waupaca Muni	5/2337	02/19/15	RNAV (GPS) RWY 28, Amdt 1.
2-Apr-15	WI	Phillips	Price County	5/2340	02/18/15	RNAV (GPS) RWY 19, Orig-A.
2-Apr-15	WI	Phillips	Price County	5/2341	02/18/15	RNAV (GPS) RWY 24, Orig.
2-Apr-15	WI	Phillips	Price County	5/2342	02/18/15	RNAV (GPS) RWY 6, Orig.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2343	02/18/15	NDB RWY 36, Amdt 6.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2344	02/18/15	VOR RWY 36, Amdt 17.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2345	02/18/15	ILS OR LOC RWY 36, Amdt 7.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2346	02/18/15	VOR RWY 9, Amdt 10.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2347	02/18/15	RNAV (GPS) RWY 9, Amdt 1.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2348	02/18/15	VOR RWY 27, Amdt 5.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2349	02/18/15	VOR RWY 18, Amdt 8.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2350	02/18/15	LOC/DME BC RWY 18, Amdt 7.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2351	02/18/15	RNAV (GPS) RWY 27, Amdt 1.
2-Apr-15	WI	Oshkosh	Wittman Rgnl	5/2352	02/18/15	RNAV (GPS) RWY 18, Amdt 1.
2-Apr-15	WI	Osceola	L O Simenstad Muni	5/2376	02/18/15	RNAV (GPS) RWY 10, Orig.
2-Apr-15	WI	Osceola	L O Simenstad Muni	5/2377	02/18/15	RNAV (GPS) RWY 28, Amdt 1.
2-Apr-15	MT	Helena	Helena Rgnl	5/2923	02/19/15	ILS OR LOC Z RWY 27, Amdt 2.
2-Apr-15	DC	Washington	Ronald Reagan Washington National.	5/3144	02/18/15	ILS OR LOC/DME RWY 1, ILS RWY 1 (SA CAT I), ILS RWY 1 (CAT II), Amdt 41A.
2-Apr-15	DC	Washington	Ronald Reagan Washington National.	5/3145	02/18/15	VOR/DME OR GPS RWY 19, Amdt 9B.
2-Apr-15	DC	Washington	Ronald Reagan Washington National.	5/3146	02/18/15	VOR/DME RWY 1, Amdt 14A.
2-Apr-15	OK	Norman	University Of Oklahoma Westheimer.	5/4830	02/12/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	OK	Norman	University Of Oklahoma Westheimer.	5/4831	02/12/15	RNAV (GPS) RWY 3, Amdt 2.
2-Apr-15	TX	Waco	Waco Rgnl	5/4860	02/06/15	VOR RWY 14, Amdt 23A.
2-Apr-15	TX	Dalhart	Dalhart Muni	5/4883	02/11/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Dalhart	Dalhart Muni	5/4884	02/11/15	VOR/DME RWY 35, Amdt 3.
2-Apr-15	TX	Dalhart	Dalhart Muni	5/4885	02/11/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Dalhart	Dalhart Muni	5/4886	02/11/15	VOR RWY 17, Amdt 12C.
2-Apr-15	TX	Houston	Ellington	5/5257	02/11/15	ILS OR LOC RWY 35L, Amdt 6.
2-Apr-15	TX	Houston	Ellington	5/5258	02/11/15	RNAV (GPS) RWY 35L, Amdt 1.
2-Apr-15	KS	Wichita	Wichita Dwight D. Eisenhower National.	5/5842	02/24/15	ILS OR LOC RWY 19R, Amdt 5F.
2-Apr-15	TX	Hearne	Hearne Muni	5/6879	02/11/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Levelland	Levelland Muni	5/6888	02/11/15	RNAV (GPS) RWY 35, Amdt 1.
2-Apr-15	TX	Levelland	Levelland Muni	5/6889	02/11/15	RNAV (GPS) RWY 17, Amdt 1.
2-Apr-15	TX	Laredo	Laredo Intl	5/6917	02/11/15	RNAV (GPS) RWY 17R, Amdt 1.
2-Apr-15	TX	Laredo	Laredo Intl	5/6918	02/11/15	ILS OR LOC/DME RWY 17R, Amdt 11.
2-Apr-15	TX	Laredo	Laredo Intl	5/6919	02/11/15	RNAV (GPS) RWY 35L, Amdt 2.
2-Apr-15	TX	Laredo	Laredo Intl	5/6920	02/11/15	RNAV (GPS) RWY 32, Amdt 1.
2-Apr-15	TX	Houston	Pearland Rgnl	5/7016	02/11/15	RNAV (GPS) RWY 32, Amdt 4.
2-Apr-15	TX	Mexia	Mexia-Limestone Co	5/7027	02/11/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Midland	Midland Intl	5/7041	02/11/15	ILS OR LOC RWY 10, Amdt 16.
2-Apr-15	TX	Midland	Midland Intl	5/7042	02/11/15	RNAV (GPS) RWY 16R, Amdt 1.
2-Apr-15	TX	Midland	Midland Intl	5/7043	02/11/15	RNAV (GPS) RWY 22, Amdt 1.
2-Apr-15	TX	Midland	Midland Intl	5/7044	02/11/15	RNAV (GPS) RWY 10, Amdt 2.
2-Apr-15	TX	Midland	Midland Intl	5/7045	02/11/15	RNAV (GPS) RWY 4, Amdt 1.
2-Apr-15	TX	Midland	Midland Intl	5/7046	02/11/15	VOR OR TACAN RWY 16R, Amdt 23.
2-Apr-15	TX	Midland	Midland Intl	5/7057	02/11/15	RNAV (GPS) RWY 34L, Amdt 1.
2-Apr-15	TX	Midland	Midland Intl	5/7066	02/11/15	VOR/DME OR TACAN RWY 34L, Amdt 10.
2-Apr-15	TX	Midland	Midland Intl	5/7067	02/11/15	RNAV (GPS) RWY 28, Amdt 2.
2-Apr-15	TX	Midland	Midland Airpark	5/7158	02/11/15	VOR/DME RWY 25, Amdt 3B.
2-Apr-15	TX	Midland	Midland Airpark	5/7159	02/11/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	TX	Midland	Midland Airpark	5/7160	02/11/15	RNAV (GPS) RWY 25, Orig.
2-Apr-15	TX	Marfa	Marfa Muni	5/7170	02/12/15	VOR RWY 31, Amdt 6.
2-Apr-15	TX	Marfa	Marfa Muni	5/7171	02/12/15	RNAV (GPS) RWY 31, Orig.
2-Apr-15	TX	Nacogdoches	A L Mangham Jr Rgnl	5/7175	02/11/15	ILS OR LOC RWY 36, Amdt 3A.
2-Apr-15	TX	Nacogdoches	A L Mangham Jr Rgnl	5/7176	02/11/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	TX	Olney	Olney Muni	5/7179	02/12/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	AZ	Flagstaff	Flagstaff Pulliam	5/7312	02/11/15	RNAV (GPS) Y RWY 21, Orig-A.
2-Apr-15	TX	Pampa	Perry Lefors Field	5/7711	02/12/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Pampa	Perry Lefors Field	5/7712	02/12/15	NDB RWY 17, Amdt 5.
2-Apr-15	TX	Palacios	Palacios Muni	5/7715	02/12/15	RNAV (GPS) RWY 13, Orig.
2-Apr-15	TX	Houston	Sugar Land Rgnl	5/8119	02/11/15	ILS OR LOC RWY 35, Amdt 4.
2-Apr-15	TX	Houston	Sugar Land Rgnl	5/8120	02/11/15	RNAV (GPS) RWY 35, Amdt 2.
2-Apr-15	SC	Darlington	Darlington County Jetport.	5/8145	02/18/15	RNAV (GPS) RWY 5, Orig-A.
2-Apr-15	SC	Darlington	Darlington County Jetport.	5/8146	02/18/15	RNAV (GPS) RWY 23, Orig-A.
2-Apr-15	PA	Washington	Washington County	5/8148	02/12/15	RNAV (GPS) RWY 9, Amdt 1C.
2-Apr-15	PA	Washington	Washington County	5/8149	02/12/15	RNAV (GPS) RWY 27, Amdt 1A.
2-Apr-15	PA	Washington	Washington County	5/8150	02/12/15	ILS OR LOC RWY 27, Amdt 1A.
2-Apr-15	AL	Prattville	Prattville—Grouby Field.	5/8151	02/12/15	RNAV (GPS) RWY 27, Orig-C.
2-Apr-15	AL	Prattville	Prattville—Grouby Field.	5/8152	02/12/15	RNAV (GPS) RWY 9, Amdt 2C.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	AL	Prattville	Prattville—Grouby Field.	5/8153	02/12/15	VOR/DME–A, Amdt 3A.
2-Apr-15	RI	North Kingstown	Quonset State	5/8157	02/12/15	ILS OR LOC RWY 16, Amdt 10C.
2-Apr-15	RI	North Kingstown	Quonset State	5/8158	02/12/15	RNAV (GPS) RWY 34, Orig-B.
2-Apr-15	RI	North Kingstown	Quonset State	5/8159	02/12/15	RNAV (GPS) RWY 16, Orig-B.
2-Apr-15	RI	North Kingstown	Quonset State	5/8160	02/12/15	VOR RWY 34, Amdt 2A.
2-Apr-15	RI	North Kingstown	Quonset State	5/8161	02/12/15	VOR–A, Amdt 5B.
2-Apr-15	KY	Springfield	Lebanon-Springfield	5/8166	02/12/15	RNAV (GPS) RWY 11, Orig-A.
2-Apr-15	KY	Springfield	Lebanon-Springfield	5/8167	02/12/15	VOR/DME RWY 11, Amdt 4A.
2-Apr-15	KY	Springfield	Lebanon-Springfield	5/8168	02/12/15	RNAV (GPS) RWY 29, Orig-B.
2-Apr-15	TX	Sherman	Sherman Muni	5/8322	02/12/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	TX	La Porte	La Porte Muni	5/8324	02/11/15	RNAV (GPS) RWY 30, Amdt 2.
2-Apr-15	TX	Panhandle	Panhandle-Carson County.	5/8325	02/12/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Panhandle	Panhandle-Carson County.	5/8326	02/12/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Wheeler	Wheeler Muni	5/8327	02/12/15	RNAV (GPS) RWY 35, Orig.
2-Apr-15	TX	Wheeler	Wheeler Muni	5/8328	02/12/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Liberty	Liberty Muni	5/8329	02/11/15	RNAV (GPS) RWY 16, Amdt 2.
2-Apr-15	TX	Fredericksburg	Gillespie County	5/8330	02/11/15	RNAV (GPS) RWY 14, Amdt 1.
2-Apr-15	TX	Fredericksburg	Gillespie County	5/8331	02/11/15	RNAV (GPS) RWY 32, Amdt 1.
2-Apr-15	TX	Victoria	Victoria Rgnl	5/8337	02/12/15	RNAV (GPS) RWY 31R, Amdt 1.
2-Apr-15	TX	Victoria	Victoria Rgnl	5/8338	02/12/15	VOR/DME RWY 31R, Amdt 7.
2-Apr-15	WI	Boyceville	Boyceville Muni	5/8339	02/11/15	RNAV (GPS) RWY 26, Amdt 2.
2-Apr-15	WI	New Holstein	New Holstein Muni	5/8340	02/12/15	RNAV (GPS) RWY 14, Orig.
2-Apr-15	WI	New Holstein	New Holstein Muni	5/8341	02/12/15	RNAV (GPS) RWY 32, Orig.
2-Apr-15	WI	East Troy	East Troy Muni	5/8342	02/11/15	RNAV (GPS) RWY 8, Orig.
2-Apr-15	WI	Middleton	Middleton Muni—Morey Field.	5/8344	02/11/15	VOR RWY 10, Amdt 1.
2-Apr-15	TX	Mason	Mason County	5/8493	02/12/15	RNAV (GPS) RWY 18, Orig-A.
2-Apr-15	TX	Mason	Mason County	5/8494	02/12/15	Takeoff Minimums and (Obstacle) DP, Amdt 1.
2-Apr-15	TX	Mason	Mason County	5/8495	02/12/15	RNAV (GPS) RWY 36, Orig-A.
2-Apr-15	TX	Mason	Mason County	5/8496	02/12/15	VOR/DME–A, Amdt 4.
2-Apr-15	NE	Omaha	Eppley Airfield	5/9012	02/18/15	ILS OR LOC/DME RWY 14R, ILS RWY 14R (SA CAT I), ILS RWY 14R (CAT II & III), Amdt 5A.
2-Apr-15	AR	Corning	Corning Muni	5/9337	02/11/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	AR	Corning	Corning Muni	5/9338	02/11/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	AR	Corning	Corning Muni	5/9339	02/11/15	VOR/DME–A, Amdt 2.
2-Apr-15	WI	Grantsburg	Grantsburg Muni	5/9515	02/11/15	RNAV (GPS) RWY 12, Orig.
2-Apr-15	WI	Grantsburg	Grantsburg Muni	5/9516	02/11/15	RNAV (GPS) RWY 30, Orig.
2-Apr-15	WI	Shawano	Shawano Muni	5/9517	02/12/15	RNAV (GPS) RWY 30, Orig-A.
2-Apr-15	WI	Shawano	Shawano Muni	5/9518	02/12/15	RNAV (GPS) RWY 12, Orig.
2-Apr-15	TX	Sweetwater	Avenger Field	5/9519	02/12/15	RNAV (GPS) RWY 22, Orig.
2-Apr-15	TX	Sweetwater	Avenger Field	5/9520	02/12/15	RNAV (GPS) RWY 17, Orig.
2-Apr-15	TX	Sweetwater	Avenger Field	5/9521	02/12/15	NDB RWY 17, Amdt 4.
2-Apr-15	TX	Sulphur Springs	Sulphur Springs Muni	5/9522	02/12/15	RNAV (GPS) RWY 19, Orig.
2-Apr-15	TX	Sulphur Springs	Sulphur Springs Muni	5/9523	02/12/15	RNAV (GPS) RWY 1, Amdt 1.
2-Apr-15	WI	Wisconsin Rapids	Alexander Field South Wood County.	5/9524	02/12/15	RNAV (GPS) RWY 2, Orig.
2-Apr-15	WI	Antigo	Langlade County	5/9525	02/11/15	RNAV (GPS) RWY 9, Orig.
2-Apr-15	WI	Antigo	Langlade County	5/9526	02/11/15	RNAV (GPS) RWY 17, Amdt 2.
2-Apr-15	WI	Antigo	Langlade County	5/9527	02/11/15	RNAV (GPS) RWY 35, Amdt 2.
2-Apr-15	WI	Wisconsin Rapids	Alexander Field South Wood County.	5/9528	02/12/15	RNAV (GPS) RWY 20, Orig-A.
2-Apr-15	WI	Wisconsin Rapids	Alexander Field South Wood County.	5/9529	02/12/15	SDF RWY 2, Amdt 5.
2-Apr-15	WI	Wisconsin Rapids	Alexander Field South Wood County.	5/9530	02/12/15	NDB RWY 2, Amdt 6.
2-Apr-15	WI	Wisconsin Rapids	Alexander Field South Wood County.	5/9531	02/12/15	NDB RWY 30, Amdt 9.
2-Apr-15	WI	Madison	Dane County Rgnl-Truax Field.	5/9532	02/11/15	VOR/DME OR TACAN RWY 18, Amdt 1C.
2-Apr-15	WI	Madison	Dane County Rgnl-Truax Field.	5/9533	02/11/15	VOR RWY 18, Amdt 1B.
2-Apr-15	WI	Madison	Dane County Rgnl-Truax Field.	5/9534	02/11/15	ILS OR LOC/DME RWY 18, Amdt 1C.
2-Apr-15	WI	Madison	Dane County Rgnl-Truax Field.	5/9535	02/11/15	VOR RWY 14, Orig-B.
2-Apr-15	WI	Madison	Dane County Rgnl-Truax Field.	5/9536	02/11/15	RNAV (GPS) RWY 14, Amdt 2B.

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
2-Apr-15	WI	Milwaukee	General Mitchell Intl	5/9537	02/11/15	LOC RWY 25L, Amdt 5.
2-Apr-15	WI	Milwaukee	General Mitchell Intl	5/9538	02/11/15	RNAV (GPS) Z RWY 25L, Amdt 1B.
2-Apr-15	WI	Milwaukee	General Mitchell Intl	5/9539	02/11/15	RNAV (RNP) Y RWY 25L, Orig.
2-Apr-15	WI	Mineral Point	Iowa County	5/9540	02/11/15	RNAV (GPS) RWY 4, Amdt 1.
2-Apr-15	WI	Mineral Point	Iowa County	5/9541	02/11/15	RNAV (GPS) RWY 11, Amdt 1.
2-Apr-15	WI	Wausau	Wausau Downtown	5/9550	02/12/15	RNAV (GPS) RWY 13, Amdt 1.
2-Apr-15	WI	Wausau	Wausau Downtown	5/9551	02/12/15	RNAV (GPS) RWY 31, Orig.
2-Apr-15	WI	Reedsburg	Reedsburg Muni	5/9552	02/12/15	RNAV (GPS) RWY 36, Orig.
2-Apr-15	WI	Reedsburg	Reedsburg Muni	5/9553	02/12/15	RNAV (GPS) RWY 18, Orig.
2-Apr-15	WI	Black River Falls	Black River Falls Area	5/9554	02/11/15	RNAV (GPS) RWY 8, Amdt 1.
2-Apr-15	WI	Sparta	Sparta/Fort Mc Coy	5/9555	02/12/15	RNAV (GPS) RWY 11, Amdt 1.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9556	02/11/15	RNAV (GPS) RWY 26, Amdt 1.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9557	02/11/15	RNAV (GPS) RWY 35, Amdt 1.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9558	02/11/15	RNAV (GPS) RWY 8, Amdt 1.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9559	02/11/15	ILS OR LOC RWY 8, Amdt 13.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9560	02/11/15	ILS OR LOC RWY 35, Amdt 2.
2-Apr-15	WI	Mosinee	Central Wisconsin	5/9561	02/11/15	VOR/DME RWY 35, Amdt 9.
2-Apr-15	WI	Baraboo	Baraboo Wisconsin Dells.	5/9562	02/11/15	RNAV (GPS) RWY 19, Amdt 1.
2-Apr-15	WI	Baraboo	Baraboo Wisconsin Dells.	5/9563	02/11/15	LOC/DME RWY 1, Amdt 1A.
2-Apr-15	WI	Baraboo	Baraboo Wisconsin Dells.	5/9564	02/11/15	RNAV (GPS) RWY 1, Amdt 1.
2-Apr-15	WI	Medford	Taylor County	5/9567	02/11/15	RNAV (GPS) RWY 9, Orig.
2-Apr-15	WI	Medford	Taylor County	5/9568	02/11/15	RNAV (GPS) RWY 34, Orig.
2-Apr-15	WI	Marshfield	Marshfield Muni	5/9569	02/11/15	RNAV (GPS) RWY 23, Orig.
2-Apr-15	WI	Marshfield	Marshfield Muni	5/9570	02/11/15	RNAV (GPS) RWY 5, Orig.
2-Apr-15	WI	Marshfield	Marshfield Muni	5/9571	02/11/15	NDB RWY 5, Amdt 14.
2-Apr-15	WI	Hartford	Hartford Muni	5/9572	02/11/15	RNAV (GPS) RWY 29, Orig.
2-Apr-15	WI	Hartford	Hartford Muni	5/9573	02/11/15	RNAV (GPS) RWY 11, Orig.
2-Apr-15	NE	Ogallala	Searle Field	5/9777	02/12/15	VOR RWY 8, Amdt 6A.
2-Apr-15	NE	Ogallala	Searle Field	5/9778	02/12/15	RNAV (GPS) RWY 13, Orig-B.
2-Apr-15	NE	Ogallala	Searle Field	5/9779	02/12/15	RNAV (GPS) RWY 26, Amdt 2A.
2-Apr-15	NE	Ogallala	Searle Field	5/9780	02/12/15	VOR RWY 26, Amdt 6A.
2-Apr-15	NE	Ogallala	Searle Field	5/9781	02/12/15	VOR/DME RWY 26, Amdt 1A.
2-Apr-15	NE	Ogallala	Searle Field	5/9782	02/12/15	RNAV (GPS) RWY 31, Orig-A.
2-Apr-15	NE	Ogallala	Searle Field	5/9783	02/12/15	RNAV (GPS) RWY 8, Amdt 2A.
2-Apr-15	NE	Ogallala	Searle Field	5/9784	02/12/15	VOR/DME RWY 8, Amdt 1A

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SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405, and 416

[Docket No. SSA–2012–0068]

RIN 0960–AH53

Submission of Evidence in Disability Claims

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are clarifying our regulations to require you to inform us about or submit all evidence known to you that relates to your disability claim, subject to two exceptions for certain privileged communications. This requirement includes the duty to submit all evidence that relates to your disability claim received from any source in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. We are also requiring your representative to help you obtain the information or evidence that we require you to submit under our regulations. These modifications to our regulations will better describe your duty to submit all evidence that relates to your disability claim and enable us to have more complete case records on which to make more accurate disability determinations and decisions.

DATES: This rule is effective April 20, 2015.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Retirement and Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 966–7203. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

We published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on February 20, 2014 (79 FR 9663). The preamble to the NPRM discussed the changes from our current rules and our reasons for proposing those changes.[1] In the NPRM, we proposed to clarify our regulations to require you to inform us about or submit all evidence known to you that relates to your disability claim, subject to two exceptions for certain privileged communications. We explained that this requirement would include the duty to submit all evidence from any source in its entirety, unless subject to one of these exceptions. We also proposed to require your representative to help you obtain the information or evidence that we would require you to submit under our regulations.

Public Comments

We provided 60 days for the public to comment on the NPRM. We received 85

[1] The NPRM is available at *http://www.gpo.gov/fdsys/pkg/FR-2014-02-20/pdf/2014-03426.pdf.*

comments. The comments came from members of the public, advocacy groups, legal organizations, members of the disability advocacy community, and several national groups of Social Security claimants' representatives. After carefully considering the comments, we are adopting our proposed rule revisions, with the changes described below, in this final rule.

We provide summaries of the significant comments that were relevant to this rulemaking and our responses to those comments below. Some commenters supported the proposed changes. We appreciate those comments, but we have not summarized or responded to them because they do not require a response.

The Submission of Evidence That Relates to Disability Claims

Comment: Several commenters said our proposal in 20 CFR 404.1512(a) and 416.912(a) for claimants to submit evidence that ''relates'' to their disability claims is less clear than our current requirement to submit evidence that is ''material'' to the disability determination. Other commenters said the word ''relates'' is too vague and claimants will not know, for example, if they must inform us about medical treatment for a physical impairment when they have alleged disability based solely on a mental impairment. Several of these commenters said requiring claimants to submit information that ''relates'' to their disability claims would be an invasion of privacy, as it could include every matter about a claimant's health history (for example, an abortion or HIV status). Other commenters said it would be difficult for claimants to know whether non-medical information, such as from social media or other types of proceedings (for example, a worker's compensation claim), ''relates'' to their disability claims.

Response: We disagree with the commenters. Unless the context indicates otherwise, we generally intend for the words we use in our regulations to be construed according to their ordinary meaning. In final §§ 404.1512(a) and 416.912(a), we intend for the word ''relates'' to have its ordinary meaning, which is to show or establish a logical or causal connection between two things. Our current rules already incorporate this concept in the definition of evidence. Under our current rules, and under this final rule, we define evidence as ''anything you or anyone else submits to us or that we obtain that relates to your claim.'' In our experience, neither claimants nor their representatives have had any difficulty determining whether something qualified as ''evidence'' under this definition.

Our current regulations, however, describe a claimant's duty to submit evidence in several ways and suggest that claimants must furnish medical and non-medical evidence that is ''material'' to the disability determination. The issue of what is ''material'' involves legal judgment. As we explained in the NPRM, by requiring claimants to submit all evidence that ''relates'' to their disability claims, we are removing the need to make that type of judgment.[2]

In addition, we expect claimants to exercise their reasonable, good faith judgment about what evidence ''relates'' to their disability claims keeping in mind, however, that the meaning of ''relates'' is broad and includes anything that has a logical or causal connection whether it is favorable or unfavorable to the claim. It is also important to note that we consider all of a claimant's impairments for which we have evidence, not just the ones alleged,[3] and we consider the combined effect of all impairments.[4] We are also required, subject to certain exceptions, to develop a complete medical history for at least the 12 months preceding the date of the disability application.[5] Therefore, evidence of treatment for conditions other than the one alleged by the claimant could relate to the disability claim. For example, if a claimant alleged a back impairment, the treatment records from health care providers other than the treating orthopedic surgeon (for example, from a family doctor who has rendered treatment for a condition other than the one alleged) may contain related information. Therefore, we may ask the claimant if he or she saw other providers during the period at issue. In addition, if the back impairment arose out of an injury at work, we would expect the claimant, upon our request, to inform us whether he or she filed a worker's compensation claim. If so, we may obtain the records from that claim, because they may contain evidence that ''relates'' to the claim for disability.

However, we would expect our adjudicators to exercise their reasonable, good faith judgment when requesting information or evidence from claimants. For example, we would not require a claimant to disclose treatment for a health matter such as an abortion, if the claimant alleged disability based on a genetic disorder.

Comment: Several commenters recommended that we not revise our regulations regarding the submission of evidence, because they believed our current rules work well. Several of these commenters said claimants already have a duty to inform us about all medical treatment received and submit evidence that is ''material'' to the disability determination. Some of these commenters also said no change was necessary regarding the submission of evidence by representatives, because attorneys have an ethical duty not to withhold evidence. Some of these commenters said our current ''Rules of conduct and standards of responsibility for representatives,'' which apply to attorney and non-attorney representatives,[6] are sufficient to ensure the submission of complete evidence on behalf of claimants. One of these commenters recommended that we impose harsher penalties on representatives who withhold evidence that is unfavorable to the disability claim.

Response: We did not adopt the comments. As we explained in the NPRM, our current regulations describe a claimant's duty to submit medical and non-medical evidence in several ways, and they could be clearer about the duty to submit all evidence (both favorable and unfavorable) that relates to the disability claim.[7] Similarly, our current regulations governing the conduct of representatives describe their related duty to submit evidence in several ways; those regulations could also be clearer.[8] We provide that greater clarity in this final rule. The need for greater clarification also implicates program integrity because, as we explained in the NPRM, we know that we do not always receive complete evidence from claimants or their representatives.[9] Clarifying our rules regarding the duty to submit all evidence that relates to the disability claim will ''enable us to obtain more complete case records and adjudicate claims more accurately.'' [10]

In addition, as we previously stated, our current regulations suggest that claimants and their representatives must make legal judgments about what is ''material'' to the disability claim. Our final rule removes the need to make that type of legal judgment.

Comment: Several commenters questioned how claimants would inform

[2] 79 FR at 9665.

[3] *See* 20 CFR 404.1512(a) and 416.912(a); *see also* 42 U.S.C. 423(d)(2)(B) and 1382c(a)(3)(G).

[4] *See* 20 CFR 404.1523 and 416.923.

[5] *See* 20 CFR 404.1512(d) and 416.912(d).

[6] *See* 20 CFR 404.1740 and 416.1540.

[7] 79 FR at 9664.

[8] *Id.*

[9] *Id.*

[10] *Id.* at 9665.

us about all evidence that ''relates'' to their disability claims and asked whether they will have to volunteer this information or simply respond to our specific requests. Some of these commenters said it would be burdensome and unrealistic to require claimants, particularly those who are unrepresented, homeless, or who have mental impairments, to disclose on a voluntary basis every disability-related statement or activity. Other commenters asked whether claimants should memorialize, and then submit to us, all of the disability-related statements they made to others (for example, to doctors, friends, or family members). One of the commenters asked whether the duty to submit all evidence would require claimants to disclose the names of all people with personal knowledge of the claim. Another commenter asked whether claimants would have a duty to supplement information they previously submitted, if they later become aware of additional responsive information. Another commenter asked if claimants would have to disclose the existence of evidence, which they were unaware of at the time of our initial request, but that they became aware of later. One commenter asked whether the duty to submit all evidence would apply at the Appeals Council level.

Response: We use a standardized process for obtaining information and evidence from claimants about their disability claims. For example, in the adult disability application process, we ask a variety of questions about the claimant's medical condition, work activity, job history, and medical treatment.[11] Under final §§ 404.1512(a) and 416.912(a), we expect claimants to comply with their duty to submit evidence by providing all information known to them that relates to these requests. We may also make other types of requests for information and evidence that we would expect claimants to provide.[12]

Aside from responding fully to our specific requests, claimants also submit other evidence to us. Claimants do not have to memorialize statements made to others or disclose the names of all people with personal knowledge of their claims, unless they would like us to consider that information. Final §§ 404.1512(c) and 416.912(c) require only that claimants submit all evidence ''received'' from another source in its entirety.

For claimants who need assistance in responding to our requests for information and evidence, we currently provide that assistance. For example, when a claimant submits a disability application, we ask the claimant to provide the name of someone we can contact who knows about the claimant's medical condition and can help the claimant with his or her disability claim. We also provide special procedures for obtaining evidence from homeless claimants[13] and instruct our adjudicators on how to assist claimants with mental impairments when requesting information or evidence from them.[14]

The duty to inform us about or submit all evidence that relates to the disability claim is ongoing, and we have modified proposed (now final) §§ 404.1512(a) and 416.912(a) to clarify that claimants must disclose any additional evidence related to their disability claims about which they become aware. Therefore, after we have made a request for a particular type of information or evidence, claimants must supplement their previous response, if they become aware of additional related evidence. Claimants must also disclose the existence of evidence that they were unaware of at the time of our initial request, but become aware of later on. This ongoing duty applies at each level of the administrative review process, including the Appeals Council level if relates to the period which is the subject of the most recent hearing decision.

Comment: Several commenters recommended that we only require claimants to submit evidence in specific categories (for example, medical records), which was one of several options suggested by the Administrative Conference of the United States (ACUS) in its Final Report.[15] These commenters said this requirement would be preferable to the more general requirement we proposed in §§ 404.1512(a) and 416.912(a) (for the submission of all evidence that ''relates'' to the disability claim), because it would minimize the need for claimants or their representatives to make legal judgments about whether evidence is ''material'' or ''relevant.'' One of these commenters also said it would be difficult for claimants to know what constitutes related unfavorable evidence.

Response: We did not adopt these comments. We considered ACUS's suggestion that we identify a particular category of documents that a claimant must identify or produce with some reasonable degree of certainty, but we decided that it was not practical for several reasons. First, there is a wide variety of evidence that could relate to a disability claim, and it is difficult to specify all of the potential categories in a regulation (aside from medical records, which we need to determine disability in all cases). Second, as we previously stated, we removed the need for claimants to make any *legal* judgments about what evidence they should submit. By requiring the submission of all evidence that ''relates'' to the disability claim in final §§ 404.1512(a) and 416.912(a), claimants will only have to inform us about or submit evidence that has a logical or causal connection with their disability claims; such evidence will necessarily include both favorable and potentially unfavorable evidence. Thus, there will be no need for claimants to determine what constitutes ''unfavorable'' evidence.

Comment: Several commenters said we should not require claimants to submit evidence that relates to their disability claims if it is unfavorable. For example, some of these commenters said unfavorable evidence could be inaccurate or unreliable, or it could come from doctors who are biased against claimants or are not knowledgeable about certain impairments. Another commenter said the requirement to submit all evidence that relates to the disability claim would preclude representatives from exercising their professional judgment about what evidence they should submit in support of their clients' disability claims. One commenter expressed concern that the requirement could mean claimants would have to submit statements by those who have a personal grudge (for example, a former spouse). Another commenter believed the requirement to submit unfavorable evidence might deter claimants from seeking medical evaluations that could lead to helpful treatment out of fear they might have to disclose this information later in a disability claim.

[11] *See* Form SSA–3368–BK, Disability Report—Adult (available at *http://www.socialsecurity.gov/forms/ssa-3368.pdf*).

[12] For example, in some cases, we may want to obtain evidence about a claimant's ability to function and perform activities of daily living, and we will ask him or her to complete Form SSA–3373–BK, Function Report—Adult. We would expect the claimant to provide all information known to him or her that relates to the requests on this form.

[13] *See* Program Operations Manual System (POMS) DI 11005.004 (available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0411005004*).

[14] For example, when obtaining evidence from a claimant with a mental impairment, our adjudicators should consider any request for accommodation, such as giving additional time to comply. *See* POMS DI 23007.005 (available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0423007005*).

[15] Administrative Conference of the United States, *SSA Disability Benefits Programs: The Duty of Candor and Submission of All Evidence, at 40* (Oct. 15, 2012) (''ACUS Final Report''), *available at http://www.acus.gov/sites/default/files/documents/ACUS_Final_Report_SSA_Duty_of_Candor.pdf.*

Response: We disagree with the commenters. We proposed to require claimants to submit all evidence (favorable or unfavorable) that relates to their disability claims because we believe a more complete record will give us a fuller picture of the extent of a claimant's impairments and the limitations they impose. As a result, we expect that the changes we are making in this final rule will enable us to make more accurate disability determinations and decisions, consistent with Congress's intent and our responsibility to ensure the proper stewardship of the disability program. Allowing claimants (or their representatives) to inform us about or submit only the evidence that they would like us to consider would undermine that goal. It would also be inconsistent with Congress's intent in enacting section 201 of the Social Security Protection Act of 2004 (SSPA),[16] which authorizes us to impose a civil monetary penalty on a claimant who should have come forward to notify us of changed circumstances that affect eligibility, but failed to do so. As we previously stated, we expect our adjudicators to exercise their reasonable, good faith judgment when requesting evidence from claimants that relates to the disability claim. Therefore, we do not believe claimants or their representatives will have to respond to requests for information or evidence that are burdensome or pertain to unrelated matters.

In addition, it is fair to require the disclosure of related but potentially unfavorable evidence, because claimants (or their representatives) can explain to us why they believe we should give such evidence little or no weight. Claimants and their representatives routinely make arguments for and against certain evidence in other types of cases, and they can also make these arguments in disability cases. Moreover, we do not base our determinations or decisions on only one piece of evidence when we adjudicate a claim. Rather, our adjudicators must base their determinations and decisions on the preponderance of the evidence.[17] Because we base our determinations or decisions on a preponderance of the evidence, we do not believe the commenter's concern that unfavorable evidence could be inaccurate or unreliable, or could come from a medical source who is biased or not knowledgeable about certain impairments, requires us to make any revisions to the final rule. In addition, we disagree with one commenter's suggestion that the duty to submit potentially unfavorable evidence might deter people from seeking medical evaluations and treatment out of fear they might have to disclose this evidence in a future disability claim. We believe that view is speculative and contrary to how people behave, which is to act in their best interests by seeking medical treatment when needed.

Comment: Several commenters said our proposal to require the submission of all evidence that relates to the disability claim makes the determination process more formal and adversarial. Some of these commenters believed this requirement would be inconsistent with our duty to gather evidence regarding the claim. One of these commenters said that providing claimants with the protections of attorney-client privilege and the attorney work product doctrine was inconsistent with the informal and non-adversarial nature of our current disability determination process.

Response: We disagree with the commenters. In fact, the non-adversarial nature of our disability determination process is what requires us to ensure a high level of cooperation from claimants. Moreover, we did not propose any change to how we determine disability at any level of the administrative review process. In the NPRM, we stated that our disability system is ''non-adversarial,'' and we reaffirmed our duty to ''assist claimants in developing the medical and non-medical evidence we need to determine whether or not they are disabled.'' [18] The requirement for claimants to inform us about or submit all evidence that relates to the disability claim does not change the *process* for how we determine disability. Rather, as we have stated repeatedly, this requirement will simply enable us to make more accurate disability determinations, because we will have more complete case records on which to make those determinations.

Comment: Several commenters expressed concern about claimants who conceal evidence from their representatives, either intentionally or by mistake, and asked whether we would penalize the representative in these situations. Some of the commenters also expressed concern about unrepresented claimants who mistakenly withhold evidence from us that we believe relates to the disability claim. These commenters believed it would be unfair for us to penalize these claimants, especially if their mistakes were due to a cognitive difficulty.

Response: As we previously stated, under our final rule, we expect claimants to exercise their reasonable, good faith judgment about what evidence ''relates'' to their disability claims consistent, of course, with the meaning of the term ''relates,'' which could include unfavorable evidence. Our final rule does not broaden or otherwise alter the Commissioner's statutory authority to impose a civil monetary penalty under the SSPA.[19] The standard for imposing a civil monetary penalty under the SSPA requires the Commissioner to find that a person withheld ''disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to . . . [benefits or payments].'' [20] The Commissioner must also find that the person ''knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading.'' [21] Given the standard set forth in the SSPA, we do not expect that a claimant who mistakenly withholds evidence due to a cognitive deficit would be subject to a civil monetary penalty. We also do not expect that a representative would be subject to a civil monetary penalty under the SSPA if the representative's client concealed evidence from him or her. It is also important to note, as we previously stated, that we assist any claimant who requests help in responding to our requests for information or evidence, and we have special procedures when requesting information or evidence from homeless claimants and those with mental impairments.

Comment: Several commenters suggested that rather than revise our regulations regarding the submission of evidence by claimants and their representatives, we should instead do more to obtain the evidence we need to decide disability claims. For example, one of these commenters recommended that we assign a government representative to work with claimants (or their representatives) to ensure the development of needed evidence. Another commenter suggested that we consider expanding our own obligation to assist claimants in obtaining medical records.

Response: We did not adopt the comments, some of which are outside the scope of this rulemaking proceeding.

[16] 42 U.S.C. 1320a-8.

[17] *See* 20 CFR 404.902 and 416.1402.

[18] 79 FR at 9665.

[19] Social Security Protection Act of 2004, section 201, 42 U.S.C. 1320a-8.

[20] *Id.* section 201, 42 U.S.C. 1320a-8(a)(1).

[21] *Id.*

As we explained in the NPRM, under our current regulations, we assist claimants in developing the medical and non-medical evidence we need to determine disability throughout the administrative review process.[22] Representatives (attorney and non-attorney) also assist claimants in submitting evidence and in complying with our requests for evidence.[23] Therefore, we do not believe it is necessary to assign an additional government representative to assist claimants or their representatives in the evidence collection process. In any event, such a suggestion is outside the scope of this rulemaking proceeding.

In addition, we are always striving to find better methods of obtaining medical and other evidence we need to decide disability claims. For example, use of health information technology (HIT) enables us to access and organize a person's complete medical records upon receipt of a claim. We continue to expand our use of HIT and explore ways of improving the medical and non-medical evidence collection process.

Comment: Several commenters expressed concern about our removal of the term ''relevant'' in proposed §§ 404.1512(b)(1)(iii) and 416.912(b)(1)(iii). Sections 404.1512(b)(3) and 416.912(b)(3) currently refer to evidence of disability-related statements made by the claimant or others ''or any other relevant statements'' made by the claimant ''to medical sources during the course of examination or treatment, or to us during interviews, on applications, in letters, and in testimony in our administrative proceedings.'' Without the term ''relevant,'' the commenters asked whether there would be any limit on the scope of these ''other statements,'' which we require claimants to disclose under this final rule.

Response: We removed the term ''relevant'' in proposed (now final) §§ 404.1512(b)(1)(iii) and 416.912(b)(1)(iii) to avoid confusion with the standard for submission of evidence in this final rule, which is the submission of all evidence that ''relates'' to the disability claim. These sections must still be read, however, in conjunction with final §§ 404.1512(b) and 416.912(b), where we define the term ''evidence'' as ''anything you or anyone else submits to us or that we obtain that *relates* to your claim.'' (Emphasis added). All of the categories of ''evidence'' that we go on to define in these sections, such as the ''other statements'' referred to in final §§ 404.1512(b)(1)(iii) and 416.912(b)(1)(iii), are, therefore, limited in scope to those that *relate* to the disability claim.

The Privilege and Work Product Exceptions

Comment: Two commenters expressed concern about our extension of the protections afforded by attorney-client privilege and the attorney work product doctrine in proposed §§ 404.1512(b)(2)(iii) and 416.912(b)(2)(iii) to non-attorney representatives. One of these commenters said non-attorney representatives have no experience or knowledge of what these privileges protect; therefore, the claimants they represent may not have the same protections as claimants who are represented by attorneys. The other commenter said it was not practical or reasonable to require non-attorneys to make legal judgments about what communications would be subject to these privileges. This commenter also said that extension of these privileges to non-attorney representatives would cause confusion and uncertainty, resulting in detriment to claimants.

Response: We disagree with the commenters for several reasons. First, we defined both types of privileges in plain language and gave examples of what would and would not be covered by each privilege in the NPRM and in this final rule.[24] Second, our current ''Rules of conduct and standards of responsibility'' apply to all representatives,[25] and we do not believe there is any basis to distinguish between attorney and non-attorney representatives regarding their duty to help obtain the evidence that claimants must submit. We would disadvantage certain claimants if we did not apply the protections afforded by these privileges to non-attorney representatives. For example, claimants who are represented by non-attorney representatives would have to disclose information that a claimant represented by an attorney representative would not be required to disclose. Finally, as recommended by ACUS, we believe that any changes to our evidence regulations should apply to both attorney and non-attorney representatives because, under the Social Security Act and our rules, a claimant has the right to be represented by either an attorney or a qualified non-attorney representative.[26]

Comment: Several commenters said the requirement for attorney representatives to assist claimants in submitting related but unfavorable evidence would violate their state bar ethics rules requiring the preservation of client confidentiality and zealous representation. One of these commenters said this requirement would also violate state bar rules because it would require the submission of attorney work product. Some of the commenters expressed concern about situations where claimants direct their attorneys to withhold unfavorable evidence, which may leave the attorneys with having to choose between following their clients' instructions and complying with a representative's duty to help the claimant obtain the information or evidence that he or she must submit under the final rule.

Response: We disagree with the commenters. In proposed (now final) §§ 404.1512(b)(2)(i) and 416.912(b)(2)(i), we exclude from the definition of evidence oral and written communications between claimants and their representatives (attorney or non-attorney) that are, or would be, subject to the attorney-client privilege, unless the claimant voluntarily discloses them to us. In proposed (now final) §§ 404.1512(b)(2)(ii) and 416.912(b)(2)(ii), we also exclude from the definition of evidence the information that is generally subject to the attorney work product doctrine.[27] We drafted the requirement for claimants to inform us about or submit all evidence that relates to the disability claim with the attorney client and attorney work product privileges in mind, and believe that the final rule does not require an attorney to violate his or her ethical duty to keep client communications confidential[28] or require the submission of attorney work product.

In addition, while we acknowledge that state bar rules generally require client confidentiality and zealous representation, we do not believe state bar rules prevent an attorney from complying with our Federal rule, which requires a representative to help a claimant satisfy his or her disclosure

[22] 79 FR at 9665. *See* 20 CFR 404.1512(d) and (e), 416.912(d) and (e).

[23] *See* 20 CFR 404.1740(b)(1) and (2) and 416.1540(b)(1) and (2).

[24] 79 FR at 9665–66.

[25] *See* 20 CFR 404.1740 and 416.1540.

[26] ACUS Final Report at 38.

[27] As we explained in the NPRM, this doctrine protects an attorney's analysis, theories, mental impressions, and notes from disclosure. 79 FR at 9666 (footnote omitted).

[28] As we noted in the NPRM, however, the attorney-client privilege does not protect the disclosure of underlying facts that the claimant communicates to the attorney; it protects only the disclosure of the communication, itself. *Id.* at 9665.

obligation. As ACUS noted, the American Bar Association's (ABA) Model Rules of Professional Conduct permit attorneys to disclose otherwise confidential information if ''other law'' or a ''court order'' requires the disclosure.[29] These rules would constitute such ''other law.'' In addition, as one leading legal scholar in this area has noted, ''none of the opinions'' that various State bars have issued on a representative's duty to submit adverse evidence in connection with a disability claim ''suggests that an attorney may violate federal law because of a state bar ethics rule.'' [30] Moreover, ''Even if a state's bar rules did not contain provisions similar to Model Rules 1.6(b)(6) or 8.5(b), the notion that an attorney could be punished by his or her state bar for complying with federal law in a federal forum is antithetical to the Supremacy Clause'' of the Constitution and the Supreme Court's decision in *Sperry* v. *Florida ex rel. Florida Bar,* 373 U.S. 379 (1963).[31] In short, ''there is no merit to the argument that an SSA rule mandating that an attorney disclose adverse evidence would subject an attorney to sanctions by his or her state bar.'' [32]

Furthermore, we are unaware of any other forum that permits attorneys to withhold unfavorable evidence, if it relates to an issue in the case. Under this final rule, we expect all representatives (attorney or non-attorney) to inform the claimants they represent that we do not permit the withholding of any evidence related to the disability claim, even if it is unfavorable. Accordingly, in the situation described by several commenters where the claimant directs the representative to withhold unfavorable evidence, that communication is privileged, but the evidence would still have to be produced.

Comment: One commenter recommended that we extend the protections afforded by attorney-client privilege to non-authorized representatives, such as physicians, licensed clinical social workers, and other licensed health care providers. The commenter noted that many of these professionals engage in privileged communications with their patients, and they sometimes assist patients with their disability claims. Therefore, the commenter said we should also regard these communications as privileged.

Response: We did not adopt the comment. When claimants apply for disability benefits, they sign an authorization form that permits all medical and certain other sources to disclose all medical records and other information related to the claimant's ability to perform tasks.[33] Therefore, claimants cannot keep these otherwise privileged communications about their physical or mental condition(s) private.

Comment: One commenter believed that our exception for privileged communications between claimants and their representatives, unless voluntarily disclosed by the claimant, would permit us to communicate directly and impermissibly with claimants instead of their representatives.

Response: We disagree with the commenter. In final §§ 404.1512(b)(2)(i) and 416.912(b)(2)(i), we exclude from the definition of ''evidence,'' [34] oral and written communications between claimants and their representatives, unless the claimant voluntarily discloses them to us. The attorney-client privilege belongs to the client, and only the client can waive this privilege. The exception for voluntary disclosure of otherwise privileged communications in final §§ 404.1512(b)(2)(i) and 416.912(b)(2)(i) is in recognition of this legal principle; it does not mean we intend to communicate directly with claimants who have representatives assisting them with their disability claims.[35]

Comment: Several commenters asked why we proposed a more limited version of the work product doctrine in §§ 404.1512(b)(2)(ii) and 416.912(b)(2)(ii) than is recognized under Rule 26(b) of the Federal Rules of Civil Procedure. Several of these commenters said a more limited version of the work product doctrine would deter representatives from having candid discussions with a claimant's medical sources, due to the potential of having to disclose an unfavorable or inaccurate written report. Some commenters said that representatives would have to disclose written opinions received from medical experts, even if the expert was not going to testify. The commenters recommended we adopt the full scope of the work product doctrine, so representatives could withhold this type of evidence.

Response: We did not adopt the comments. We proposed a more limited version of the work product doctrine because we believe program integrity requires us to obtain complete medical evidence (favorable or unfavorable) in disability claims. Therefore, we expressly stated in proposed (now final) §§ 404.1512(b)(2)(ii) and 416.912(b)(2)(ii) that representatives could not withhold any medical evidence or medical source opinions based on the attorney work product doctrine. As we explained in the NPRM, if a claimant's medical source sends his or her representative medical records or a written opinion about the claimant's medical condition, the representative cannot withhold those records or that opinion based on the work product doctrine adopted under these rules.[36] If those records or that opinion contains an inaccuracy or unfavorable information, then claimants or their representatives can explain this to us.

In addition, representatives may still protect from disclosure their consultation with any medical source about the claimant's medical condition. As we stated previously, if a representative takes notes during a discussion with a claimant's medical source, those notes are protected from disclosure as work product. Moreover, under the final rule, the representative does not have to request a written opinion from any medical source. Therefore, representatives can fully investigate the merits of any disability claim, and they do not have to disclose the results of their investigation, unless they obtain a medical record or a written opinion from a medical source.

The Submission of Evidence In Its Entirety

Comment: Many commenters asked whether our proposal in §§ 404.1512(c) and 416.912(c) to require the submission of evidence from a source in its entirety would create a duty on the part of claimants (or their representatives) to request and submit all medical records from all treating sources. Several commenters asked

[29] ACUS Final Report at 33–34 (citing the ABA's Model Rules of Professional Conduct section 1.6(b)(6) (2012).

[30] *See* Robert Rains, *Professional Responsibility and Social Security Representation: The Myth of the State-Bar Bar to Compliance with Federal Rules on Production of Adverse Evidence,* 92 Cornell L. Rev. 363, 390 (2007).

[31] *Id.* at 392.

[32] *Id.*

[33] *See* Form SSA–827, Authorization to Disclose Information to the Social Security Administration.

[34] We describe what we mean by ''evidence'' in final 20 CFR 404.1512(b)(1) and 416.912(b)(1).

[35] Under our policy, if a claimant appoints a representative, we make all contacts in connection with that claim or a post-entitlement issue through, or with the permission of, the appointed representative. This policy is subject to exceptions when the representative asks us to deal directly with the claimant, the claimant alleges blindness or a visual impairment and elects to receive notices by first class mail with a follow-up telephone call from us to read the notices, there is an indication that a representative's appointment may have expired, or the contact involves a possible violation by the representative. *See* POMS GN 03910.050A (available at: *https://secure.ssa.gov/apps10/poms.nsf/lnx/0203910050*).

[36] 79 FR at 9666.

whether claimants (or their representatives) should request all records from a treating source or only those dated after the onset of disability. Some of the commenters noted that medical records could be costly and difficult for some claimants to obtain. One of these commenters said treating sources do not always send all the records requested, and another commenter noted that sometimes a doctor sends records for someone other than the claimant by mistake. Another commenter described the example of a hospital file numbering 1000 pages or more and asked whether a representative could simply request and submit the discharge summary. Other commenters asked whether we would still be requesting and paying for medical records from sources identified by claimants. One commenter asked whether claimants would now have to obtain and submit not only all medical evidence, but also all non-medical evidence that relates to the disability claim. Another commenter recommended that we lower the burden on claimants to submit all related non-medical evidence, because its evidentiary value is less than that of medical evidence. Another commenter suggested we require claimants to submit only medical evidence in its entirety.

Response: We are modifying proposed (now final) §§ 404.1512(c) and 416.912(c) to clarify that claimants must submit evidence ''received'' from another source in its entirety. We did not intend in these sections to impose a duty on claimants or their representatives to request and submit all evidence (medical and non-medical) from all sources, and we believe this clarification makes that intent more clear. For example, if claimants or their representatives request only the discharge summary from a hospital chart, we require them to submit only what they receive in response to that request in its entirety. We would not require them to request and pay for all of the other records from that hospitalization. We would also not require them to submit any record for a person other than the claimant, sent by mistake, because it clearly would not relate to the disability claim.

Moreover, as we proposed in §§ 404.1512(a) and 416.912(a) and explained in the NPRM, by requiring claimants ''to inform us about *or* submit'' all evidence that relates to the disability claim, we are not shifting our responsibility for developing the record to claimants [37] or their representatives.[38] For example, we currently request the names and addresses of medical sources in our disability application process.[39] Under the final rule, we expect claimants to respond fully by providing that information; we will then obtain the records from those sources. As we previously stated, we also expect claimants to respond fully to any other requests we make for information or evidence related to their disability claims.

Comment: Many commenters expressed concern about our requirement for claimants to submit evidence from another source in its entirety, because it would require the submission of potentially duplicative evidence. One of these commenters described the example of when a representative submits medical records from a treating source and then requests updated records; the source sends everything he or she has already provided, plus the updated records. Another commenter noted that our adjudicators sometimes instruct claimants (or their representatives) not to submit duplicative records. The commenters recommended we not require the submission of evidence that is already in the claim file, because that evidence can be costly for claimants to resubmit and time-consuming for our adjudicators to review. To avoid duplicative evidence, one commenter recommended that we not require claimants to submit any evidence previously submitted by them. Other commenters recommended that we simply not require the submission of any duplicative evidence.

Response: We partially adopted the comments by clarifying in final §§ 404.1512(c) and 416.912(c) that evidence from another source must be submitted in its entirety ''unless you previously submitted the same evidence to us or we instruct you otherwise.''

For example, in the scenario described above about the receipt of duplicative medical records from a treating source, the representative is only required to submit the updated records; he or she would not have to submit any record duplicative of the one previously submitted. In addition, by ''duplicative,'' we mean an exact duplicate of a document in the record, and not simply the substance of what is in the record.

The other exception we provide in final §§ 404.1512(c) and 416.912(c) is for when one of our adjudicators directs claimants or their representatives not to submit duplicative evidence; in that case, they would not have to submit that evidence under the final rule. We do not believe it is advisable to preclude the submission of all duplicative evidence, however, because this would impose a duty on claimants to review their files before submitting new evidence. For claimants who do not have representatives, this could be a significant burden in some cases. Not requiring claimants (or their representatives) to resubmit the same evidence *they* previously submitted is, however, reasonable. We believe the two limited exceptions for duplicative evidence specified in final §§ 404.1512(c) and 416.912(c) will underscore the importance of submitting evidence received from another source in its entirety and better ensure our goal of having more complete case records on which to make more accurate disability determinations and decisions.

Comment: One commenter believed the proposed revisions to our regulations governing the submission of evidence would require claimants to get representatives.

Response: We disagree with the commenter. We did not propose any change to our regulations that would require claimants to get representatives. In addition, by stating that the claimant's duty to submit evidence now includes the option to simply ''inform us about'' evidence that relates to the disability claim,[40] we believe it will be easier for claimants to comply with their duty to submit evidence. Our responsibility to assist claimants in developing the record also remains unchanged.

Comment: Many commenters said our requirement in proposed §§ 404.1512(c) and 416.912(c) for claimants to submit evidence from another source in its entirety would burden our adjudicators with an excessive amount of potentially irrelevant evidence. Several of these commenters noted, for example, that medical records from some sources (such as the Department of Veterans Affairs) can be voluminous, and the time spent reviewing those records would cause delays in the adjudication of disability claims. Several of these commenters said a provider's medical records could include evidence that is unrelated to the disability claim. Other

[37] *Id.* at 9665 (emphasis added).

[38] *Id.* at 9666.

[39] These are the Form SSA–3368–BK, Disability Report—Adult (available at: *http://www.socialsecurity.gov/forms/ssa-3368.pdf*), and the Form SSA–3820–BK, Disability Report—Child (available at: *http://www.socialsecurity.gov/forms/ssa-3820.pdf*).

[40] *See* final 20 CFR 404.1512(a) and 416.912(a).

commenters expressed concern about whether our adjudicators would carefully review voluminous records submitted by claimants (or their representatives). Several commenters said it would be preferable for claimants or their representatives to exercise their own judgment and submit only those records or other evidence that they think is relevant.

Response: We disagree with the commenters. We do not believe the requirement to submit all evidence received from another source in its entirety will burden our adjudicators with having to review unnecessary evidence in most cases. First, as we previously stated, we did not intend in proposed (now final) §§ 404.1512(c) and 416.912(c) to require claimants (or their representatives) to request and submit all medical and non-medical evidence from all sources, and we modified these sections to clarify that claimants must only submit evidence ''received'' from another source in its entirety. We did not adopt the comments recommending that we permit claimants or their representatives to decide what evidence they would like to submit from these other sources, because this would undermine the purpose of the final rule, which is to enable us to have more complete records on which to adjudicate claims more accurately.

Second, as we previously stated, we modified proposed (now final) §§ 404.1512(c) and 416.912(c) to require the submission of evidence received from another source in its entirety, unless previously submitted by the claimant or otherwise instructed by us in a particular case. We believe these exceptions to the general requirement for submission of evidence in its entirety will reduce the receipt of duplicative and, therefore, unnecessary evidence.

Finally, we do not share the concerns of the commenters who said the submission of voluminous documents by claimants or their representatives would burden our adjudicators and delay the adjudication of disability claims. For example, when a claimant has had extensive medical treatment, it is already our practice to request complete medical records, unless we can decide the claim based on minimal objective medical evidence, as in the case of a compassionate allowance.[41] Our program experience shows that our adjudicators have little difficulty reviewing medical and other evidence expeditiously to find the information they need to decide the claim. We also continue to expand our use of HIT, which enables us to speed our review of medical records, even when they are voluminous. We intend to take full advantage of this technology as it becomes more widespread in the medical community.

[41] For more information about compassionate allowances, see *www.socialsecurity.gov/compassionateallowances.*

Regulatory Procedures

Executive Order 12866, as supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed it.

Regulatory Flexibility Act

We certify that this final rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; and 96.004, Social Security—Survivors Insurance)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 405

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Public assistance programs, Reporting and recordkeeping requirements, Social Security, Supplemental Security Income (SSI).

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we amend subparts J, P, and R of part 404, subparts A and D of part 405, and subparts I, N, and O of part 416 as set forth below:

PART 404—FEDERAL OLD–AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.900 by revising paragraph (b) to read as follows:

§ 404.900 Introduction.

* * * * *

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, non-adversarial manner. Subject to the limitations on Appeals Council consideration of additional evidence (*see* §§ 404.970(b) and 404.976(b)), we will consider at each step of the review process any information you present as well as all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

■ 3. Revise § 404.935 to read as follows:

§ 404.935 Submitting evidence prior to a hearing before an administrative law judge.

You should submit information or evidence as required by § 404.1512 or any summary of the evidence to the administrative law judge with the request for hearing or within 10 days after filing the request, if possible. Each party shall make every effort to ensure that the administrative law judge receives all of the evidence (*see* § 404.1512) or all of the evidence is

available at the time and place set for the hearing.

Subpart P—[Amended]

■ 4. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b) and (d)–(h), 216(i), 221(a), (i), and (j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a), (i), and (j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 5. In § 404.1512, revise paragraphs (a) through (c) to read as follows:

§ 404.1512 Evidence.

(a) *General.* In general, you have to prove to us that you are blind or disabled. You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the Appeals Council level if the evidence relates to the period on or before the date of the administrative law judge hearing decision. We will consider only impairment(s) you say you have or about which we receive evidence.

(b) *What we mean by ''evidence.''* Evidence is anything you or anyone else submits to us or that we obtain that relates to your claim.

(1) Evidence includes, but is not limited to:

(i) Objective medical evidence, that is, medical signs and laboratory findings as defined in § 404.1528(b) and (c);

(ii) Other evidence from medical sources, such as medical history, opinions, and statements about treatment you have received;

(iii) Statements you or others make about your impairment(s), your restrictions, your daily activities, your efforts to work, or any other statements you make to medical sources during the course of examination or treatment, or to us during interviews, on applications, in letters, and in testimony in our administrative proceedings;

(iv) Information from other sources, as described in § 404.1513(d);

(v) Decisions by any governmental or nongovernmental agency about whether or not you are disabled or blind (*see* § 404.1504);

(vi) At the initial level of the administrative review process, when a State agency disability examiner makes the initial determination alone (*see* § 404.1615(c)(3)), opinions provided by State agency medical and psychological consultants and other program physicians, psychologists, or other medical specialists based on their review of the evidence in your case record (*see* § 404.1527(e)(1)(ii));

(vii) At the reconsideration level of the administrative review process, when a State agency disability examiner makes the determination alone (*see* § 404.1615(c)(3)), findings, other than the ultimate determination about whether or not you are disabled, made by the State agency medical or psychological consultants and other program physicians, psychologists, or other medical specialists at the initial level of the administrative review process, and other opinions they provide based on their review of the evidence in your case record at the initial and reconsideration levels (*see* § 404.1527(e)(1)(iii)); and

(viii) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether or not you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, or other medical specialists, and opinions expressed by medical experts or psychological experts that we consult based on their review of the evidence in your case record (*see* §§ 404.1527(e)(2)–(3)).

(2) *Exceptions.* Notwithstanding paragraph (b)(1) of this section, evidence does not include:

(i) Oral or written communications between you and your representative that are subject to the attorney-client privilege, unless you voluntarily disclose the communication to us; or

(ii) Your representative's analysis of your claim, unless he or she voluntarily discloses it to us. Your representative's ''analysis of your claim,'' means information that is subject to the attorney work product doctrine, but it does not include medical evidence, medical source opinions, or any other factual matter that we may consider in determining whether or not you are entitled to benefits (*see* paragraph (b)(2)(iv) of this section).

(iii) The provisions of paragraph (b)(2)(i) apply to communications between you and your non-attorney representative only if the communications would be subject to the attorney-client privilege, if your non-attorney representative were an attorney. The provisions of paragraph (b)(2)(ii) apply to the analysis of your claim by your non-attorney representative only if the analysis of your claim would be subject to the attorney work product doctrine, if your non-attorney representative were an attorney.

(iv) The attorney-client privilege generally protects confidential communications between an attorney and his or her client that are related to providing or obtaining legal advice. The attorney work product doctrine generally protects an attorney's analysis, theories, mental impressions, and notes. In the context of your disability claim, neither the attorney-client privilege nor the attorney work product doctrine allows you to withhold factual information, medical source opinions, or other medical evidence that we may consider in determining whether or not you are entitled to benefits. For example, if you tell your representative about the medical sources you have seen, your representative cannot refuse to disclose the identity of those medical sources to us based on the attorney-client privilege. As another example, if your representative asks a medical source to complete an opinion form related to your impairment(s), symptoms, or limitations, your representative cannot withhold the completed opinion form from us based on the attorney work product doctrine. The attorney work product doctrine would not protect the source's opinions on the completed form, regardless of whether or not your representative used the form in his or her analysis of your claim or made handwritten notes on the face of the report.

(c) *Your responsibility.* You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. When you submit evidence received from another source, you must submit that evidence in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. If we ask you, you must inform us about:

(1) Your medical source(s);

(2) Your age;

(3) Your education and training;

(4) Your work experience;

(5) Your daily activities both before and after the date you say that you became disabled;

(6) Your efforts to work; and

(7) Any other factors showing how your impairment(s) affects your ability to work. In §§ 404.1560 through 404.1569a, we discuss in more detail the evidence we need when we consider vocational factors.

* * * * *

Subpart R—[Amended]

■ 6. The authority citation for subpart R of part 404 continues to read as follows:

Authority: Secs. 205(a), 206, 702(a)(5), and 1127 of the Social Security Act (42 U.S.C. 405(a), 406, 902(a)(5), and 1320a–6).

■ 7. In § 404.1740, revise paragraphs (b)(1) and (b)(2)(i) through (vi) and add paragraph (b)(2)(vii) to read as follows:

§ 404.1740 Rules of conduct and standards of responsibility for representatives.

* * * * *

(b) * * *

(1) Act with reasonable promptness to help obtain the information or evidence that the claimant must submit under our regulations, and forward the information or evidence to us for consideration as soon as practicable.

(2) * * *

(i) The claimant's medical source(s);

(ii) The claimant's age;

(iii) The claimant's education and training;

(iv) The claimant's work experience;

(v) The claimant's daily activities both before and after the date the claimant alleges that he or she became disabled;

(vi) The claimant's efforts to work; and

(vii) Any other factors showing how the claimant's impairment(s) affects his or her ability to work. In §§ 404.1560 through 404.1569a, we discuss in more detail the evidence we need when we consider vocational factors;

* * * * *

PART 405—ADMINISTRATIVE REVIEW PROCESS FOR ADJUDICATING INITIAL DISABILITY CLAIMS

■ 8. The authority citation for part 405 continues to read as follows:

Authority: Secs. 201(j), 205(a)–(b), (d)–(h), and (s), 221, 223(a)–(b), 702(a)(5), 1601, 1602, 1631, and 1633 of the Social Security Act (42 U.S.C. 401(j), 405(a)–(b), (d)–(h), and (s), 421, 423(a)–(b), 902(a)(5), 1381, 1381a, 1383, and 1383b).

Subpart A—[Amended]

■ 9. In § 405.1, revise the first sentence of paragraph (c)(2) to read as follows:

§ 405.1 Introduction.

* * * * *

(c) * * *

(2) *Evidence considered and right to representation.* Subject to §§ 405.331 and 405.430, you must submit evidence and information to us (*see* §§ 404.1512 and 416.912 of this chapter). * * *

* * * * *

Subpart D—[Amended]

■ 10. In § 405.331, revise the first two sentences of paragraph (a) to read as follows:

§ 405.331 Submitting evidence to an administrative law judge.

(a) When you submit your request for hearing, you should also submit information or evidence as required by §§ 404.1512 or 416.912 of this chapter or any summary of the evidence to the administrative law judge. You must submit any written evidence no later than 5 business days before the date of the scheduled hearing. * * *

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

■ 11. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 12. In § 416.912, revise paragraphs (a) through (c) to read as follows:

§ 416.912 Evidence.

(a) *General.* In general, you have to prove to us that you are blind or disabled. You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the Appeals Council level if the evidence relates to the period on or before the date of the administrative law judge hearing decision. We will consider only impairment(s) you say you have or about which we receive evidence.

(b) *What we mean by ''evidence.''* Evidence is anything you or anyone else submits to us or that we obtain that relates to your claim.

(1) Evidence includes, but is not limited to:

(i) Objective medical evidence, that is, medical signs and laboratory findings as defined in § 416.928(b) and (c);

(ii) Other evidence from medical sources, such as medical history, opinions, and statements about treatment you have received;

(iii) Statements you or others make about your impairment(s), your restrictions, your daily activities, your efforts to work, or any other statements you make to medical sources during the course of examination or treatment, or to us during interviews, on applications, in letters, and in testimony in our administrative proceedings;

(iv) Information from other sources, as described in § 416.913(d);

(v) Decisions by any governmental or nongovernmental agency about whether or not you are disabled or blind (*see* § 416.904);

(vi) At the initial level of the administrative review process, when a State agency disability examiner makes the initial determination alone (*see* § 416.1015(c)(3)), opinions provided by State agency medical and psychological consultants and other program physicians, psychologists, or other medical specialists based on their review of the evidence in your case record (*see* § 416.927(e)(1)(ii));

(vii) At the reconsideration level of the administrative review process, when a State agency disability examiner makes the determination alone (*see* § 416.1015(c)(3)), findings, other than the ultimate determination about whether or not you are disabled, made by the State agency medical or psychological consultants and other program physicians, psychologists, or other medical specialists at the initial level of the administrative review process, and other opinions they provide based on their review of the evidence in your case record at the initial and reconsideration levels (*see* § 416.927(e)(1)(iii)); and

(viii) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether or not you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, or other medical specialists, and opinions expressed by medical experts or psychological experts that we consult based on their review of the evidence in your case record (*see* §§ 416.927(e)(2)–(3)).

(2) *Exceptions.* Notwithstanding paragraph (b)(1) of this section, evidence does not include:

(i) Oral or written communications between you and your representative that are subject to the attorney-client privilege, unless you voluntarily disclose the communication to us; or

(ii) Your representative's analysis of your claim, unless he or she voluntarily discloses it to us. Your representative's ''analysis of your claim,'' means information that is subject to the attorney work product doctrine, but it does not include medical evidence, medical source opinions, or any other factual matter that we may consider in determining whether or not you are

eligible for benefits (*see* paragraph (b)(2)(iv) of this section).

(iii) The provisions of paragraph (b)(2)(i) apply to communications between you and your non-attorney representative only if the communications would be subject to the attorney-client privilege, if your non-attorney representative were an attorney. The provisions of paragraph (b)(2)(ii) apply to the analysis of your claim by your non-attorney representative only if the analysis of your claim would be subject to the attorney work product doctrine, if your non-attorney representative were an attorney.

(iv) The attorney-client privilege generally protects confidential communications between an attorney and his or her client that are related to providing or obtaining legal advice. The attorney work product doctrine generally protects an attorney's analysis, theories, mental impressions, and notes. In the context of your disability claim, neither the attorney-client privilege nor the attorney work product doctrine allows you to withhold factual information, medical source opinions, or other medical evidence that we may consider in determining whether or not you are eligible for benefits. For example, if you tell your representative about the medical sources you have seen, your representative cannot refuse to disclose the identity of those medical sources to us based on the attorney-client privilege. As another example, if your representative asks a medical source to complete an opinion form related to your impairment(s), symptoms, or limitations, your representative cannot withhold the completed opinion form from us based on the attorney work product doctrine. The attorney work product doctrine would not protect the source's opinions on the completed form, regardless of whether or not your representative used the form in his or her analysis of your claim or made handwritten notes on the face of the report.

(c) *Your responsibility.* You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. When you submit evidence received from another source, you must submit that evidence in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. If we ask you, you must inform us about:

(1) Your medical source(s);

(2) Your age;

(3) Your education and training;

(4) Your work experience;

(5) Your daily activities both before and after the date you say that you became disabled;

(6) Your efforts to work; and

(7) Any other factors showing how your impairment(s) affects your ability to work. In §§ 416.960 through 416.969a, we discuss in more detail the evidence we need when we consider vocational factors.

* * * * *

Subpart N—[Amended]

■ 13. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 14. Amend § 416.1400 by revising paragraph (b) to read as follows:

§ 416.1400 Introduction.

* * * * *

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, non-adversarial manner. Subject to the limitations on Appeals Council consideration of additional evidence (*see* §§ 416.1470(b) and 416.1476(b)), we will consider at each step of the review process any information you present as well as all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

■ 15. Revise § 416.1435 to read as follows:

§ 416.1435 Submitting evidence prior to a hearing before an administrative law judge.

You should submit information or evidence as required by § 416.912 or any summary of the evidence to the administrative law judge with the request for hearing or within 10 days after filing the request, if possible. Each party shall make every effort to ensure that the administrative law judge receives all of the evidence (*see* § 416.912) or all of the evidence is available at the time and place set for the hearing.

Subpart O—[Amended]

■ 16. The authority citation for subpart O of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1127, and 1631(d) of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–6, and 1383(d)).

■ 17. In § 416.1540, revise paragraphs (b)(1) and (b)(2)(i) through (vi) and add paragraph (b)(2)(vii) to read as follows:

§ 416.1540 Rules of conduct and standards of responsibility for representatives.

* * * * *

(b) * * *

(1) Act with reasonable promptness to help obtain the information or evidence that the claimant must submit under our regulations, and forward the information or evidence to us for consideration as soon as practicable.

(2) * * *

(i) The claimant's medical source(s);

(ii) The claimant's age;

(iii) The claimant's education and training;

(iv) The claimant's work experience;

(v) The claimant's daily activities both before and after the date the claimant alleges that he or she became disabled;

(vi) The claimant's efforts to work; and

(vii) Any other factors showing how the claimant's impairment(s) affects his or her ability to work. In §§ 416.960 through 416.969a, we discuss in more detail the evidence we need when we consider vocational factors;

* * * * *

[FR Doc. 2015–05921 Filed 3–19–15; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. FDA–2012–N–0218]

Advisory Committee; Antiviral Drugs Advisory Committee; Termination

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the termination of the Antiviral Drugs Advisory Committee. This document removes the Antiviral Drugs Advisory Committee from the Agency's list of standing advisory committees.

DATES: This rule is effective March 20, 2015.

FOR FURTHER INFORMATION CONTACT: Michael Ortwerth, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002, 301–796–8220, FAX: 301–847–8640, or *Michael.Ortwerth@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Antiviral Drugs Advisory Committee was established on October 7, 1980 (see 45 FR 79025, November 28, 1980). The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome, human immunodeficiency virus related illnesses, and other viral, fungal and mycobacterial infections. The Committee is no longer needed and was terminated on February 15, 2015.

Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the Agency finds good cause to dispense with notice and public comment procedures and to proceed to an immediate effective date on this rule. Notice and public comment and a delayed effective date are unnecessary and are not in the public interest as this final rule merely removes the name of the Antiviral Drugs Advisory Committee from the list of standing advisory committees in § 14.100 (21 CFR 14.100).

Therefore, the Agency is amending § 14.100(c) as set forth in the regulatory text of this document.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155; Pub. L. 113–54.

§ 14.100 [Amended]

■ 2. Section 14.100 is amended by removing paragraph (c)(3) and redesignating paragraphs (c)(4) through (18) as paragraphs (c)(3) through (17).

Dated: March 16, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–06425 Filed 3–19–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2013–C–1008]

Listing of Color Additives Exempt From Certification; Synthetic Iron Oxide

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or we) is amending the color additive regulations to provide for the expanded safe use of synthetic iron oxide as a color additive to include use in soft and hard candy, mints, and chewing gum. This action is in response to a petition filed by Wm. Wrigley Jr. Company (Wrigley).

DATES: This rule is effective April 21, 2015. See section X for further information on the filing of objections. Submit either electronic or written objections and requests for a hearing by April 20, 2015.

ADDRESSES: You may submit either electronic or written objections and requests for a hearing, identified by Docket No. FDA–2013–C–1008, by any of the following methods:

Electronic Submissions

Submit electronic objections in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written objections in the following ways:

• Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. FDA–2013–C–1008 for this rulemaking. All objections received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section.

Docket: For access to the docket to read background documents or objections received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Laura A. Dye, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 240–402–1275.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a document published in the **Federal Register** of September 17, 2013 (78 FR 57105), we announced that we had filed a color additive petition (CAP 3C0298) submitted by Wm. Wrigley Jr. Company, c/o Exponent Inc., 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036 (petitioner). The petition proposed to amend the color additive regulations in § 73.200 *Synthetic Iron Oxide* (21 CFR 73.200) by expanding the safe use of synthetic iron oxide as a color additive to include use in soft and hard candy, mints, and chewing gum. The petitioner requested that the proposed uses be permitted at levels consistent with current good manufacturing practice (GMP). The petition also proposed to lower the specification limit for lead in synthetic iron oxide for human food use from 10 milligrams per kilogram (mg/kg; 10 parts per million (ppm)) to 5 mg/kg (5 ppm).

II. Background

Currently, synthetic iron oxides and their hydrated forms are approved as color additives for the following direct uses in human food, drugs, and cosmetics: (1) In sausage casings intended for consumption in an amount not exceeding 0.10 percent by weight of the finished food (§ 73.200); (2) in ingested or topically-applied drugs with a limit for ingested drugs of 5 milligrams, calculated as elemental iron, per day for labeled or prescribed dosages (21 CFR 73.1200); and (3) in cosmetics generally, including cosmetics applied to the area of the eye, in amounts consistent with GMP (21 CFR 73.2250).

Synthetically prepared iron oxides and their hydrated forms include red iron oxide, yellow iron oxide, black iron oxide, and brown iron oxide, which is

a blend of various iron oxides. For the subject petition, synthetic iron oxides are intended to be used in soft and hard candy, mints, and chewing gum in amounts consistent with GMP. The maximum GMP use level for iron oxides depends on the color of the iron oxide and the application. We have determined that the amount of the color additive used in these foods is self-limiting (Ref. 1). Therefore, there is no need for a specific upper limit on the percent by weight of iron oxide in hard and soft candies, mints, and chewing gum in the regulation for these foods.

III. Evaluation of Safety

Under section 721(b)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379e(b)(4)), a color additive cannot be listed for a particular use unless the data and information available to FDA establishes that the color additive is safe for that use. FDA's color additive regulations in 21 CFR 70.3(i) define ''safe'' to mean that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended use of the color additive. To establish with reasonable certainty that a color additive intended for use in food is not harmful under its intended conditions of use, we consider the estimated human dietary exposure to the additive, the additive's toxicological data, and other relevant information (such as published literature) available to us. We compare an individual's estimated daily intake (EDI) of the additive from all sources to an acceptable daily intake (ADI) established by toxicological data. The EDI is determined by projections based on the amount of the additive proposed for use in particular foods and on data regarding the amount consumed from all sources of the additive. We typically use the EDI for the 90th percentile consumer of a color additive as a measure of high chronic dietary exposure.

IV. Safety of Petitioned Use of the Additive

To support the safety of the proposed uses of synthetic iron oxide, Wrigley provided information about iron intake expected to result from the proposed new uses of synthetic iron oxide, as well as intake from other sources of iron. There are many dietary sources of iron, including from food ingredients, dietary supplements, and from food that contains naturally occurring iron. Specifically, Wrigley submitted detailed exposure estimates of iron that took into account the following: (1) The proposed uses of synthetic iron oxide as a color additive in soft and hard candy, mints, and chewing gum based on the maximum anticipated use levels; (2) the current use of synthetic iron oxide to color sausage casings; (3) background iron from conventional food based on the iron content declared on food labels; (4) iron from dietary supplements; and (5) oral exposure to iron oxides from their use as color additives in lipstick. These exposure estimates assumed that all of the iron that is present is absorbed in the gastrointestinal tract. Wrigley also provided exposure estimates to iron that took into account the bioavailability of iron from all current dietary sources, proposed uses, and lipstick. Wrigley compared these intake estimates to the Tolerable Upper Intake Level (UL) for iron established by the Institute of Medicine (IOM) of the National Academies. Based on this and other information, Wrigley concluded that the proposed use of synthetic iron oxide to color soft and hard candy, mints, and chewing gum is safe.

A. Estimated Daily Intake of Iron

Using food consumption data from the 2003–2008 National Health and Nutrition Examination Survey (NHANES), Wrigley's estimated exposure to iron from the proposed uses in soft and hard candy, mints and chewing gum for the U.S. population (2 years of age and older) to be 16.3 mg/p/day (d) for the 90th percentile consumer. Wrigley also provided dietary exposure estimates to iron for children 2 to 5 years of age, children 2 to 13 years of age, and adolescents and adults 14 years of age and older. For these population groups, Wrigley estimated the exposure to iron from the proposed uses at the 90th percentile to be 12.2 mg/p/d, 15.6 mg/p/d, and 16.4 mg/p/d, respectively. Wrigley also estimated the cumulative exposure to iron from all food sources (current and proposed) for the U.S. population (2 years of age and older) to be 40.6 mg/p/d for the 90th percentile consumer. Wrigley also provided dietary exposure estimates to iron for children 2 to 5 years of age, children 2 to 13 years of age, and adolescents and adults 14 years of age and older. For these population groups, Wrigley estimated the exposure to iron at the 90th percentile to be 31.2 mg/p/d, 34.6 mg/p/d, and 41.5 mg/p/d, respectively. In addition, Wrigley estimated exposure to iron from all food sources (current and proposed) and lipstick for females 10 to 13 years old, and 14 years of age and older. The exposure at the 90th percentile for these two population groups was 33.8 mg/p/d and 40.2 mg/p/d, respectively. Wrigley noted that these exposure estimates are conservative and assume that all of the iron present is bioavailable. We have no further questions regarding Wrigley's exposure estimates for iron in food and cosmetics and conclude that the petitioner's exposure estimates are sufficiently conservative to account for the use of iron oxides in ingested drugs (Ref. 2). We also conclude that exposure from indirect uses of iron oxides, such as for colorants for food-contact polymers authorized in 21 CFR 178.3297, would not significantly contribute to the overall exposure to iron oxides.

To address the bioavailability of iron, Wrigley provided information showing approximately 18 percent of iron from conventional foods and dietary supplements is bioavailable, and that about 1 percent of iron from synthetic iron oxide is bioavailable. Based on this information, Wrigley provided exposure estimates that take into account the bioavailability of iron. Wrigley estimated the exposure to bioavailable iron from the proposed uses at the 90th percentile to be 0.16 mg/p/d, 0.12 mg/p/d, 0.16 mg/p/d, and 0.16 mg/p/d for the U.S. population (2 years of age and older), children 2 to 5 years of age, children 2 to 13 years of age, and adolescents and adults 14 years of age and older, respectively. Wrigley estimated the cumulative exposure to bioavailable iron from all food sources (current and proposed) at the 90th percentile to be 6.02 mg/p/d, 4.68 mg/p/d, 4.99 mg/p/d, and 6.21 mg/p/d for the U.S. population (2 years of age and older), children 2 to 5 years of age, children 2 to 13 years of age, and adolescents and adults 14 years of age and older, respectively. For females 10 to 13 years old, and 14 years of age and older, Wrigley estimated exposure to bioavailable iron from all food sources (current and proposed) and lipstick to be 5.07 mg/p/d and 6.12 mg/p/d, respectively (Ref. 2).

B. Acceptable Intake Level for Iron

In 2000, the Standing Committee on the Scientific Evaluation of Dietary Reference Intakes of the Food and Nutrition Board at the IOM conducted an extensive review of relevant published scientific literature to determine dietary reference intakes and ULs for iron. The IOM published a detailed report that included a UL for iron of 40 mg/d for children (2 to 5 years of age and 2 to 13 years of age), and a UL of 45 mg/d for adolescents and adults (14 years of age and older) (Ref. 3).

The IOM considers the UL as the highest daily intake level of a nutrient that poses no risk of adverse effects when the nutrient is consumed over

long periods of time. The UL is determined using a risk assessment model developed specifically for nutrients and, generally speaking, may consider intake from such sources as food, water, nutrient supplements, and pharmacological agents. The dose-response assessment, which concludes with an estimate of the UL, is built upon three toxicological concepts commonly used in assessing the risk of exposures to chemical substances: No-observed-adverse-effect level, lowest-observed-effect level, and an uncertainty factor. We considered the ULs established by the IOM relative to the intake estimates as the primary basis for assessing the safety of iron from the proposed uses of synthetic iron oxide. We also reviewed scientific articles on the safety of iron submitted by Wrigley, as well as other relevant published studies available to FDA.

The exposure estimates to iron from all food sources, including the proposed use of synthetic iron oxide in soft and hard candy, mints, and chewing gum, at the 90th percentile for children 2 to 5 years of age and for children 2 to 13 years of age, without taking into account the bioavailability of the iron, is 31.2 mg/p/d and 34.6 mg/p/d, respectively. Both of these exposure estimates are below the UL for these age groups. The exposure estimate to iron from all food sources (current and proposed) and lipstick for females 10 to 13 years old at the 90th percentile of 33.8 mg/p/d is also below the UL established for this group. For adolescents and adults 14 years of age and older, the exposure estimate for iron at the 90th percentile of 41.5 mg/p/d is below the UL of 45 mg/p/d for adolescents 14 to 18 years of age. Similarly, the exposure estimate to iron from all food sources and lipstick for females 14 years of age and older of 40.2 mg/p/d at the 90th percentile is below the UL of 45 mg/p/d for adolescents and adults (14 years of age and older). Because the EDI of iron from all current and proposed food sources at the 90th percentile for each population group, which was estimated using conservative assumptions, is below the corresponding IOM UL for that population group, even without taking into account the low bioavailability of the iron from the petitioned uses, we conclude that there is a reasonable certainty of no harm from the proposed use of synthetic iron oxide as a color additive in soft and hard candy, mints, and chewing gum (Ref. 4).

C. Lead Specification

As discussed in section I, the petitioner proposed to lower the specification limit for lead in synthetic iron oxide for human food use in 21 CFR 73.200 from 10 mg/kg to 5 mg/kg. To support the lower lead specification, the petitioner submitted data on lead levels from batch analyses of synthetic iron oxide. The data demonstrates that the proposed lead limit of 5 ppm is achievable with the use of good manufacturing practices in the production of the color additive (Ref. 5). Because the lower specification limit is achievable, and also because the lower specification limit is consistent with the safe use of the color additive, we are lowering the lead specification limit for lead in synthetic iron oxide for human food as proposed. The lower specification applies to both the petitioned new use of synthetic iron oxide to color candy, chewing gum, and mints, as well as to the already-approved use of synthetic iron oxide for human food use in the coloring of sausage casings.

V. Conclusion

Based on the data and information in the petition and other relevant material, we conclude that the petitioned use of synthetic iron oxide in soft and hard candy, mints, and chewing gum is safe. We further conclude that the additive will achieve its intended technical effect and is suitable for the petitioned use. Consequently, we are amending the color additive regulations in 21 CFR part 73 as set forth in this document. In addition, based upon the factors listed in 21 CFR 71.20(b), we conclude that batch certification of synthetic iron oxide is not necessary for the protection of public health.

VI. Public Disclosure

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure.

VII. Environmental Impact

We previously considered the environmental effects of this rule as stated in the September 17, 2013, notice of filing for CAP 3C0298 (78 FR 57105). We stated that we had determined, under 21 CFR 25.32(k), that this action is of a type that does not individually or cumulatively have a significant effect on the human environment such that neither an environmental assessment nor an environmental impact statement is required. We have not received any new information or comments that would affect our previous determination.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Section 301(*ll*) of the FD&C Act

Our review of this petition was limited to section 721 of the FD&C Act. This final rule is not a statement regarding compliance with other sections of the FD&C Act. For example, the Food and Drug Administration Amendments Act of 2007, which was signed into law on September 27, 2007, amended the FD&C Act to, among other things, add section 301(*ll*) of the FD&C Act (21 U.S.C. 331(*ll*)). Section 301(*ll*) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any food that contains a drug approved under section 505 of the FD&C Act (21 U.S.C. 355), a biological product licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or a drug or biological product for which substantial clinical investigations have been instituted and their existence has been made public, unless one of the exemptions in section 301(*ll*)(1) to (*ll*)(4) of the FD&C Act applies. In our review of this petition, we did not consider whether section 301(*ll*) of the FD&C Act or any of its exemptions apply to food products containing this color additive. Accordingly, this final rule should not be construed to be a statement that a product containing this color additive, if introduced or delivered for introduction into interstate commerce, would not violate section 301(*ll*) of the FD&C Act. Furthermore, this language is included in all color additive final rules that pertain to food and therefore should not be construed to be a statement of the likelihood that section 301(*ll*) of the FD&C Act applies.

X. Objections

This rule is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision to which you object and the grounds for your objection. Within each numbered objection, you must

specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

It is only necessary to send one set of documents. Identify documents with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation 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.* We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

XI. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site addresses in this reference section, but FDA is not responsible for any subsequent changes to Web sites after this document publishes in the **Federal Register**.)

1. Memorandum to the File from A. Zajac, Division of Petition Review, February 27, 2015.
2. Memorandum from D. Doell, Chemistry Review Group, Division of Petition Review, to L. Dye, Regulatory Group II, Division of Petition Review, June 20, 2014.
3. Institute of Medicine. Dietary Reference Intakes for Vitamin A, Vitamin K, Arsenic, Boron, Chromium, Copper, Iodine, Iron, Manganese, Molybdenum, Nickel, Silicon, Vanadium, and Zinc. Washington, DC: The National Academies Press, 2001.
4. Memorandum from S. Thurmond, Toxicology Team, Division of Petition Review, to L. Dye, Regulatory Group II, Division of Petition Review, September 9, 2014.
5. Memorandum from N. Hepp, Color Technology Team, Office of Cosmetics and Colors, to L. Dye, Division of Petition Review, September 23, 2013.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, and Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

■ 1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

■ 2. Section 73.200 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 73.200 Synthetic iron oxide.

* * * * *

(b) * * *

(1) Synthetic iron oxide for human food use shall conform to the following specifications:

Arsenic (as As), not more than 3 milligrams per kilogram (mg/kg) (3 parts per million (ppm)).

Lead (as Pb), not more than 5 mg/kg (5 ppm).

Mercury (as Hg), not more than 1 mg/kg (1 ppm).

* * * * *

(c) * * *

(1) Synthetic iron oxide may be safely used for human food use subject to the following restrictions:

(i) In sausage casings intended for human consumption in an amount not exceeding 0.10 percent by weight of the finished food.

(ii) In soft and hard candy, mints, and chewing gum at levels consistent with good manufacturing practice, except that it may not be used to color foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act, unless the use of the added color is authorized by such standards.

* * * * *

Dated: March 17, 2015.

Susan M. Bernard,

Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.

[FR Doc. 2015–06418 Filed 3–19–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–406]

Substances Temporarily Controlled Under Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule; technical amendments.

SUMMARY: This final rule makes technical and conforming amendments to the Drug Enforcement Administration regulations listing substances temporarily controlled under schedule I of the Controlled Substances Act. This final rule eliminates references to 7 substances that were previously subject to temporary control, but which have since been permanently controlled under schedule I, and redesignates 23 other substances that are currently temporarily controlled under schedule I. This action makes no substantive changes to the affected regulation.

DATES: This rule is effective March 20, 2015.

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

SUPPLEMENTARY INFORMATION:

Legal Authority

The DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, currently accepted medical use, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all controlled substances is published at 21 CFR part 1308. 21 U.S.C. 812(a).

The CSA provides the Attorney General with the authority to temporarily control a substance under schedule I for two years without regard to the requirements of 21 U.S.C. 811(b) if he/she finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h). If proceedings to permanently control a substance are initiated pursuant to 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary control for up to one year. 21 U.S.C. 811(h)(2). The Attorney General has delegated this authority to the Administrator of the DEA. 28 CFR 0.100.

Technical Amendments

The Synthetic Drug Abuse Prevention Act of 2012 (SDAPA) became effective on July 9, 2012.[1] SDAPA amended the CSA by permanently controlling ''cannabimimetic agents'' and 26 other specific substances in schedule I. At that time, some of the 26 permanently controlled substances were temporarily controlled and listed in 21 CFR 1308.11(g), including the following substances: 1-pentyl-3-(1-naphthoyl)indole (JWH–018); 1-butyl-3-(1-naphthoyl)indole (JWH–073); 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200); 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol or CP–47,497 C8 homologue);[2] 4-methyl-N-methylcathinone (mephedrone); and 3,4-methylenedioxypyrovalerone (MDPV).[3]

On January 4, 2013, the DEA published a final rule permanently placing cannabimimetic agents and all 26 substances specified in SDAPA into schedule I (including the 6 substances noted above that were previously temporarily controlled).[4]

The substance 3,4-methylenedioxy-N-methylcathinone (methylone) was not permanently controlled through SDAPA. However, DEA temporarily controlled methylone on October 21, 2011, pursuant to 21 U.S.C. 811(h), and listed it in 21 CFR 1308.11(g)(7).[5] On January 4, 2013, subparagraph (g) of 21 CFR 1308.11 was redesignated as subparagraph (h), and methylone was renumbered in section 1308.11(h)(1); it also inadvertently remained on the list of temporarily controlled substances in section 1308.11(h)(7). The DEA permanently controlled methylone in schedule I by a final rule published in the **Federal Register** on April 12, 2013.[6]

Because the above noted substances are permanently controlled in schedule I, the DEA is making technical and conforming amendments to the regulations by removing the above referenced 7 substances (JWH–018; JWH–073; JWH–200; CP–47,497 C8 homologue; mephedrone; MDPV; and methylone) from the list of temporarily controlled substances and redesignating the numerical order of the remaining controlled substances that are currently subject to temporary control.

Regulatory Analyses

The Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (APA), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest under 5 U.S.C. 533(b)(3)(B). This rule provides technical and conforming amendments to the DEA's regulations and imposes no new or substantive requirement on the public or DEA registrants. As such, the DEA has determined that notice and opportunity for public comment on this rule are unnecessary. In addition, because this is not a substantive rule and as the DEA finds good cause under 5 U.S.C. 553(d)(3) for the above reasons, this final rule shall take effect upon the date of publication in the **Federal Register**.

Executive Orders 12866 and 13563

The Administrator certifies that this is not a significant regulatory action within the meaning of Executive Order 12866 and the principles reaffirmed in Executive Order 13563, as it makes only technical amendments to the current regulations. Such actions are exempt from review by the Office of Management and Budget (OMB).

Executive Order 12988

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

Executive Order 13132

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

Paperwork Reduction Act of 1995

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

Executive Order 13175

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

Congressional Review Act

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This rule will not result in: An annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to

[1] Pub. L. 112–144, title XI, subtitle D, sections 1151–1153.

[2] *See* ''Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I of the Controlled Substances Act,'' 76 FR 11075, Mar. 1, 2011 and ''Schedules of Controlled Substances: Extension of Temporary Placement of Five Synthetic Cannabinoids Into Schedule I of the Controlled Substances Act,'' 77 FR 12201, Feb. 29, 2012.

[3] *See* ''Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cathinones Into Schedule I,'' 76 FR 65371, Oct. 21, 2011.

[4] ''Establishment of Drug Codes for 26 Substances,'' 78 FR 664, Jan. 4, 2013.

[5] ''Schedules of Controlled Substances: Temporary Placement of Three Synthetic Cathinones Into Schedule I,'' 76 FR 65371, Oct. 21, 2011.

[6] ''Schedules of Controlled Substances: Placement of Methylone Into Schedule I,'' 78 FR 21818, Apr. 12, 2013.

the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

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

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

§ 1308.11 [Amended]

■ 2. Amend § 1308.11 by removing paragraphs (h)(1) through (8) and redesignating paragraphs (h)(9) through (31) as paragraphs (h)(1) through (23), respectively.

Dated: March 12, 2015.

Michele M. Leonhart,

Administrator.

[FR Doc. 2015–06460 Filed 3–19–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0157]

Drawbridge Operation Regulation; Cerritos Channel, Long Beach, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Commodore Schuyler F. Heim highway bridge across the Cerritos Channel, mile 4.9 at Long Beach, CA. The deviation is necessary to allow Southern California Edison Company to temporarily disconnect electric service to the bridge while performing circuit switching. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective without actual notice from March 20, 2015 to 2 a.m. on March 23, 2015. For the purposes of enforcement, actual notice will be used from 10 p.m. on March 15, 2015, until March 20, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0157], is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: California Department of Transportation has requested a temporary change to the operation of the Commodore Schuyler F. Heim highway bridge, mile 4.9, over Cerritos Channel, at Long Beach, CA. The drawbridge navigation span provides a vertical clearance of 37 feet above Mean High Water in the closed-to-navigation position and a maximum of 43 feet due to construction falsework over the channel at the bridge. The draw opens on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 6 p.m., Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels, as required by 33 CFR 117.147(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 10 p.m. on March 15, 2015 to 2 a.m. on March 16, 2015; and from 10 p.m. on March 22, 2015 to 2 a.m. on March 23, 2015 to allow Southern California Edison Company to switch electrical power for the bridge to another source. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is an alternate route around Terminal Island for routine and emergency navigation. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 11, 2015.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2015–06491 Filed 3–19–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0171]

Drawbridge Operation Regulation; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the South Park highway bridge across the Duwamish Waterway, mile 3.8, at Seattle, WA. The deviation is necessary to enable timely completion of drawbridge maintenance. This deviation allows the drawbridge to remain closed to mariners needing a full channel, double bascule leaf drawbridge opening. Vessels that only require a single leaf, half channel drawbridge opening, will be given such an opening upon signal.

DATES: This deviation is effective without actual notice from March 20, 2015 to 11:59 p.m. on March 28, 2015. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on March 17, 2015, until March 20, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0171] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven M. Fischer, Thirteenth Coast Guard District Bridge Administrator; telephone 206–220–7282, email: *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The South Park highway bridge is a double bascule span drawbridge that requires under bridge maintenance. King County Road Services Division requested a deviation to the published drawbridge operation schedule to enable timely completion of the required bridge maintenance. The South Park highway bridge is located in the Duwamish Waterway, mile 3.8, at Seattle, WA, and provides 34.8 feet of vertical clearance at center span while in the closed position, 30 feet of vertical clearance at the extreme east and west ends of the navigable channel, and unlimited vertical clearance with half of the bascule bridge in the fully open position. Vertical clearances are referenced to mean high-water elevation (MHW). Horizontal clearance is 128 feet. However, horizontal clearance may be restricted by construction barges.

The normal operation schedule for the bridge is in 33 CFR 117.1041, which specifies that the draws of each bridge across the Duwamish Waterway shall open on signal, except the draw of the South Park highway bridge, mile 3.8, which need not be opened for the passage of vessels from 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

The deviation period is effective from 12:01 a.m. on March 17, 2015 to 11:59 p.m. on March 28, 2015, and allows the drawbridge to remain closed to mariners needing a full channel double bascule opening. For mariners that only require a single leaf, half channel, drawbridge opening, such an opening will be given upon signal. A drawtender will be present 24 hours a day, 7 days week. To request a single leaf opening, mariners may utilize any of the following methods: (1) Via VHF maritime radio; (2) telephone; (3) one prolonged blast followed quickly by one short blast and one prolonged blast.

Waterborne traffic on this stretch of the Duwamish waterway consists of vessels ranging from small pleasure craft, sailboats, small tribal fishing boats, and commercial tug and tow, and mega yachts. Vessels able to pass under the bridge in the closed positions may do so at anytime, but are advised to use caution as the area surrounding the bridge has numerous construction craft and equipment occupying half of the navigational channel. The bridge will be able to open half of the bridge for emergencies, and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform users of the waterway of the change in operating schedule for the bridge through our Local and Broadcast Notices to Mariners so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 11, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–06493 Filed 3–19–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0126]

RIN 1625–AA00

Safety Zone; Pittsburgh, PA; Ice Accumulations; Allegheny River Mile 1.0–72.0

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Allegheny River within the Captain of the Port Pittsburgh Zone, which includes mile 1.0 to mile 72.0 on the Allegheny River. This safety zone is needed to protect persons, property, and vessels transiting the area from the hazards associated with ice accumulations on the waterways. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: This rule is effective from March 20, 2015 through April 1, 2015, and enforceable through actual notice beginning on February 26, 2015, until April 1, 2015 or ice conditions within the COTP Pittsburgh Zone have improved, whichever occurs earlier.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0126. 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 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 221–0807, email *Jennifer.L.Haggins@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

BNM Broadcast Notices to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not using the Notice of Proposed Rulemaking (NPRM) Process. The Coast Guard, with recommendations from the Pittsburgh Ice Committee (comprised of Army Corps of Engineers—Pittsburgh District, National Weather Service, Marine Safety Unit Pittsburgh, and Chairperson of the Waterways Navigation Committee), has established a safety zone on all waters of the Allegheny Rivers within the COTP Pittsburgh Zone. This safety zone will remain in effect February 26, 2015, until April 1, 2015 or ice conditions within the COTP Pittsburgh Zone have improved, whichever occurs earlier. This safety zone is the result of significant ice formation within the navigable channels of the Allegheny River, due to extended periods of sub-freezing temperatures. Waterway users will be informed of the decisions by the Pittsburgh Ice Committee during the

Industry Teleconference that is hosted by MSU Pittsburgh. This emergent situation does not allow time for the NPRM Process. After full review of information provided by the Pittsburgh Ice Committee, Army Corps of Engineers—Pittsburgh District, and National Weather Service, the Coast Guard has determined that immediate action establishing additional safety measures is necessary to ensure public safety during the next several weeks. Delaying the implementation of this rule by completing the NPRM Process is contrary to public interest. Immediate action is needed to protect persons, property, and vessels transiting into, out of, or within the COTP Pittsburgh Zone during sub-freezing temperatures and resulting ice accumulations.

For the same reasons discussed above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Providing 30 days notice would unnecessarily delay the effective date and would be impracticable and contrary to public interest because immediate action is needed to protect persons, property, and vessels transiting into, out of, or within the COTP Pittsburgh Zone.

B. Basis and Purpose

The COTP Pittsburgh Zone has recently experienced consecutive weeks of sub-freezing temperatures. Accumulations of ice have formed on the Allegheny River resulting in vessels not being able to transit the river.

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

C. Discussion of Final Rule

The Coast Guard is establishing a safety zone for all waters of the Allegheny Rivers within the COTP Pittsburgh Zone, which includes mile 1.0 to mile 72.0 on the Allegheny River. Entry into this zone is prohibited to all vessels and persons, except persons and vessels specifically authorized by the COTP Pittsburgh. This rule is effective immediately and will be enforced February 26, 2015, until April 1, 2015 or ice conditions within the COTP Pittsburgh Zone have improved, whichever occurs earlier. As stated in the Basis and Purpose section above, on the recommendation from the Pittsburgh Ice Committee, entry into this zone is prohibited to all vessels and persons, except persons and vessels specifically authorized by the COTP Pittsburgh.

The COTP Pittsburgh will inform the public through Broadcast Notices to Mariners (BNM) of details regarding enforcement and any changes to this safety zone during ice accumulation conditions.

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 is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS). This rule will be in effect during emergency conditions involving ice accumulation on the Allegheny River. While some impacts on routine navigation will be recognized by waterway users, the recommendation for this emergency safety measure came from the Pittsburgh Ice Committee which is comprised of Army Corps of Engineers—Pittsburgh District, National Weather Service, Marine Safety Unit Pittsburgh, and Chairperson of the Waterways Navigation Committee. The Coast Guard will continue to make notifications to the marine community and local industry contacts that could be operating in the area during these conditions. Additionally, deviation from the rule may be requested and will be considered on a case-by-case basis by the COTP or a designated representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 mile 1.0 to mile 72.0 on the Allegheny River, from February 26, 2015, until April 1, 2015 or ice conditions within the COTP Pittsburgh Zone have improved, whichever occurs earlier. This emergency safety zone will not have a significant economic impact on a substantial number of small entities due to its limited scope and short duration.

Entry into this zone is prohibited to all vessels and persons, except persons and vessels specifically authorized by the COTP Pittsburgh. The Coast Guard will ensure that that the local marine community is aware of the safety zone through BNMs and other notification. Additionally, deviation from the rule may be requested and will be considered on a case-by-case basis by the COTP or a designated representative.

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 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 establishes an emergency safety zone for waters of the Allegheny River within the COTP Pittsburgh Zone. This rule is categorically excluded from further review under paragraph 34(g) of figure 2–1 of the Commandant Instruction an environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0126 to read as follows:

§ 165.T08–0126 Safety Zone; Pittsburgh, PA; Ice Accumulations; Allegheny River Mile 1.0–72.0.

(a) *Location.* The following area is a safety zone: all waters of the Allegheny River within the Captain of the Port (COTP) Pittsburgh Zone, mile 1.0 to mile 72.0 on the Allegheny River.

(b) *Effective date.* This temporary rule is effective from March 20, 2015 through April 1, 2015, and enforceable February 26, 2015, until April 1, 2015 or ice conditions within the Captain of the Port (COTP) Pittsburgh Zone have improved, whichever occurs earlier.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the COTP Pittsburgh or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP Pittsburgh or a designated representative. The COTP Pittsburgh or a representative may be contacted at (412) 221–0807.

(3) All persons and vessels shall comply with the instructions of the COTP Pittsburgh or their designated representative. Designated COTP representatives include United States Coast Guard commissioned, warrant, and petty officers.

(d) *Informational broadcasts.* The COTP Pittsburgh will inform the public through Broadcast Notices to Mariners (BNM) of the safety zone and any changes to the enforcement periods.

Dated: February 26, 2015.

L.N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

[FR Doc. 2015–06356 Filed 3–19–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2014–0712; FRL–9924–83–Region–4]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Tennessee has applied to the United States Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program

under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final rule. In the ''Proposed Rules'' section of this issue of the **Federal Register**, EPA is also publishing a separate document that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Tennessee's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing this direct final rule before it takes effect, and the separate document published in the ''Proposed Rules'' section of this issue of the **Federal Register** will serve as the proposal to authorize the changes.

DATES: This final authorization will become effective on May 19, 2015 unless EPA receives adverse written comment by April 20, 2015. If EPA receives such comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2014–0712, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: merizalde.carlos@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA must receive your comments by April 20, 2015. Direct your comments to Docket ID No. EPA–R04–RCRA–2014–0712. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made publicly 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 *www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov,* or in hard copy.

You may view and copy Tennessee's applications and associated publicly available materials from 8 a.m. to 4 p.m. at the following locations: EPA, Region 4, Resource Conservation and Restoration Division, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8512; and the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 14th Floor, Nashville, Tennessee; telephone number: (615) 532–0825. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8606; fax number: (404) 562–9964; email address: *merizalde.carlos@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to state programs necessary?

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

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, EPA will implement those requirements and prohibitions in Tennessee, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What decisions has EPA made in this rule?

On March 9, 2010 and January 15, 2013, Tennessee submitted final complete program revision applications seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2004 and June 30, 2006 (also known as RCRA Clusters XV and XVI). Tennessee

supplemented these applications on September 16, 2014. EPA concludes that Tennessee's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA grants Tennessee final authorization to operate its hazardous waste program with the changes described in the authorization applications, and as outlined below in Section G of this document.

Tennessee has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of HSWA, as discussed above.

C. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Tennessee's authorization applications will become part of the authorized State hazardous waste program, and will therefore be federally enforceable. Tennessee will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Tennessee is being authorized by this action are already effective and enforceable requirements under State law, and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

Along with this direct final rule, EPA is publishing a separate document in the ''Proposed Rules'' section of this issue of the **Federal Register** that serves as the proposal to authorize these State program changes. EPA did not publish a proposed rule before today because EPA views this as a routine program change and does not expect comments that oppose this approval. EPA is providing an opportunity for public comment now, as described in Section E of this document.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposed rule mentioned in the previous section, after considering all comments received during the comment period, and will address all such comments in a later final rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw that part of this direct final rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Tennessee previously been authorized for?

Tennessee initially received final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820), to implement a RCRA hazardous waste management program. EPA granted authorization for changes to Tennessee's program on the following dates: June 12, 1987, effective August 11, 1987 (52 FR 22443); June 1, 1992, effective July 31, 1992 (57 FR 23063); May 8, 1995, effective July 7, 1995 (60 FR 22524); August 24, 1995, effective October 23, 1995 (60 FR 43979); May 23, 1996, effective July 22, 1996 (61 FR 25796); January 30, 1998, effective March 31, 1998 (63 FR 4587); September 15, 1999, effective November 15, 1999 (64 FR 49998); October 26, 2000, effective December 26, 2000 (65 FR 64161); December 26, 2001, effective February 25, 2002 (66 FR 66342); April 11, 2003, effective June 10, 2003 (68 FR 17748); March 14, 2005, effective May 13, 2005 (70 FR 12416); May 11, 2006, effective July 10, 2006 (71 FR 27405); and October 5, 2012, effective December 4, 2012 (77 FR 60919).

G. What changes is EPA authorizing with this action?

On March 9, 2010 and January 15, 2013, Tennessee submitted final complete program revision applications seeking authorization of its changes in accordance with 40 CFR 271.21. Tennessee supplemented these applications on September 16, 2014. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Tennessee final authorization for the following program changes:

Description of federal requirement	**Federal Register** date and page	Analogous State Authority [1] [2]
206—Nonwastewaters from Dyes and Pigments.	70 FR 9138 02/24/05 and 70 FR 35032 06/16/05.	Tennessee Revised Code: 0400–12–01–.02(1)(d)2(xii)(I)–(V); 0400–12–01–.02(4)(c)1–4; 0400–12–01–.02(5) (App. VII & VIII); 0400–12–01–.10(2)(k)–(t); 0400–12–01–.10(3)(a) (Table of Treatment Standards for Hazardous Waste); and .10(3)(i)1 (Universal Treatment Standards Table)
Checklist 207—Uniform Hazardous Waste Manifest Rule.	70 FR 10776 03/04/05 and 70 FR 35034 06/16/05.	Tennessee Revised Code: 0400–12–01–.01(2)(a); 0400–12–01–.02(1)(g)2(i)(III)I–II; 0400–12–01–.03(3)(a)1(i)–(ii); .03(3)(b)1(a)–(m); .03(3)(h)1–2; 0400–12–01–.03(4)(c)2; .03(4)(d); .03(4)(e)16(i)–(ii); 0400–12–01–.03(7)(e)3 & 5;

Description of federal requirement	**Federal Register** date and page	Analogous State Authority [1 2]
		0400–12–01–.03(8)(a)3–5; 0400–12–01–.03(13)(a) (App.); 0400–12–01–.04(3)(a)1–3 & 7(i)–(iv); .04(3)(b)2(i)–(ii); 0400–12–01–.06(5)(a)1–2; .06(5)(b)1(i)–(iii); .06(5)(b)2(iv); .06(5)(b)5; .06(5)(c)1–5; .06(5)(c)6(i)–(vii); .06(5)(c)7; .06(5)(g)1–2; 0400–12–01–.05(5)(a)1–2; .05(5)(b)1(i)–(iii); .05(5)(b)2(iv); .05(5)(b)5; .05(5)(c)1–5; .05(5)(c)6(i)–(vii); .05(5)(c)7; and .05(5)(g)1–2.
208—Methods Innovation Rule and SW–846 Final Update IIIB.	70 FR 34538 06/14/05 and 70 FR 44150 08/01/05.	Tennessee Revised Code: 0400–12–01–.01(2)(b)1–2; 0400–12–01–02(1)(c)1(ii)(V); 0400–12–01–.02(3)(b)1(i); .02(3)(c)1(i)–(ii); 0400–12–01–.02(4)(f)2(ii)(III); 0400–12–01–02(5) (App. I–III); 0400–12–01–.06(10)(a)1; 0400–12–01–.06(14)(o)2; 0400–12–01–.06(30)(e)3(i)(II) & (IV); .06(30)(e)4(i)(III); .06(30)(e)6; 0400–12–01–.06(31)(n)4(ii); 0400–12–01–.06(57)(i) (App. IX); 0400–12–01–.05(10)(a)1; 0400–12–01–.05(14)(o)3; 0400–12–01–.05(27)(e)3(i)(II) & (IV); .05(27)(e)4(i)(III); .05(27)(e)6; 0400–12–01–.05(28)(n)4(ii); 0400–12–01–.05(29)(b); .05(29)(e)1(iii)(II)III; .05(29)(e)1(iii)(III); .05(29)(e)2(iii)(II)III; .05(29)(e)2(iii)(III); .05(29)(e)3(iii)(I); 0400–12–01–.09(8)(a)4(i)(II); .09(8)(a)7(ii); .09(8)(c)2(i); .09(8)(g)1; .09(8)(m)2(i); .09(8)(m)2(ii)(I); 0400–12–01–.09(30) (App. IX); 0400–12–01–.10(3)(a)2; .10(3)(a) (Table of Treatment Standards for Hazardous Waste), footnote 7; .10(3)(i)1 (Universal Treatment Standards Table), footnote 4; 0400–12–01–.07(5)(b)5(iii)(I)III–IV; .07(5)(b)8(i)(II)II.B; 0400–12–01–.07(1)(e)2(ii)(I)III–IV; .07(1)(j)3(ii)(I)–II); 0400–12–01–.11(2)(a)2(i)(II); 0400–12–01–.11(5)(e)3; 0400–12–01–.11(6)(d)3; and 0400–12–01–.11(7)(d)3.
209—Universal Waste Rule: Specific Provisions for Mercury Containing Equipment.	70 FR 45508 08/05/05	Tennessee Revised Code: 0400–12–01–.01(2)(a); 0400–12–01–.02(1)(j); 0400–12–01–.06(1)(b)2(x); 0400–12–01–.05(1)(b)2(xii); 0400–12–01–.10(1)(a)6; 0400–12–01–.07(1)(b)4(ix); 0400–12–01–.12(1)(a); .12(1)(a)1(iii); .12(1)(f)1–3; .12(1)(b); 0400–12–01–.12(2)(d)3(i)–(iv); .12(2)(e)4(i)–(ii); 0400–12–01–.12(3)(c)2(iv)–(v); .12(3)(d)3(i)–(iv); and .12(3)(e)4(i)–(ii).
211—Wastewater Treatment Exemptions for Hazardous Waste Mixtures (''Headworks exemptions'').	70 FR 57769 10/04/05	Tennessee Revised Code: 0400–12–01–.02(1)(c)1(ii)(IV)I–II; .02(1)(c)1(ii)(IV)IV; and .02(1)(c)1(ii)(IV)VI–VII.
213—Burden Reduction Initiative	71 FR 16862 04/04/06	Tennessee Revised Code: 0400–12–01–.01(4)(b)2(ii–vii); 0400–12–01–.02(1)(d)1(ix)(III)V; .02(1)(d)6(ix); 0400–12–01–.06(2)(f)2(iv)–(v); .06(2)(g)1(iv); 0400–12–01–.06(4)(c)2; .06(4)(g)9; 0400–12–01–.06(5)(d)2; .06(5)(d)2(i)–(ii), (vi), (viii), (x) & (xviii)–(xix); 0400–12–01–.06(6)(i)4; .06(6)(i)7(ii)–(iii); .06(6)(j)6–7; .06(6)(k)7; 0400–12–01–.06(7)(d)5(v); .06(7)(f) & (k); 0400–12–01–.06(8)(d)4(i); .06(8)(f)4(i); .06(8)(n)5; 0400–12–01–.06(9)(e); 0400–12–01–.06(10)(b)1; .06(10)(b)2(v)(II); .06(10)(c)1–2; .06(10)(d)1(i)–(ii); .06(10)(d)9(ii); .06(10)(f)2–8; .06(10)(g)6; 0400–12–01–.06(12)(b)3; 0400–12–01–.06(13)(k)2; 0400–12–01–.06(14)(o)1–5;

Description of federal requirement	**Federal Register** date and page	Analogous State Authority [1] [2]
		0400–12–01–.06(15)(d)1(ii); .06(15)(h)4; 0400–12–01–.06(22)(e)3(ii); 0400–12–01–.06(26)(b)1–3; .06(26)(d)1(iv)(II); .06(26)(d)7; .06(26)(e)1; 0400–12–01–.06(31)(l)2(i)–(ii); .06(31)(m)1; 0400–12–01–.06(33)(a); .06(33)(b)3(ii); 0400–12–01–.05(2)(f)2(iv); .05(2)(g)1(iv); 0400–12–01–.05(4)(c)2; .05(4)(g)9; 0400–12–01–.05(5)(d)2(i)–(ii), (vi)–(viii) & (xv); 0400–12–01–.05(6)(a)4(i) & (iii); .05(6)(d)4(ii) & (v); 0400–12–01–.05(7)(d)5(v); .05(7)(f); .05(7)(k); 0400–12–01–.05(8)(d)3(i); .05(8)(f)3(i); .05(8)(n)5; 0400–12–01–.05(9)(e); 0400–12–01–.05(10)(b)1; .05(10)(b)2(v)(II); .05(10)(c)1 & 2; .05(10)(d)1(i)–(ii); .05(10)(d)9(ii); .05(10)(f)1–7; .05(10)(g)6; .05(10)(l)3–8; 0400–12–01–.05(11)(b)1; .05(11)(e)1; 0400–12–01–.05(12)(j)1; 0400–12–01–.05(13)(k)5; 0400–12–01–.05(14)(b)1; .05(14)(d)1; .05(14)(o)1–6; 0400–12–01–.05(23)(b)1–3; .05(23)(d)1(iv)(II); .05(23)(d)7; .05(23)(e)1; 0400–12–01–.05(28)(l)2(i)–(ii); .05(28)(m)1; 0400–12–01–.05(30)(a); .05(30)(b)3(ii); 0400–12–01–.09(8)(c)5(x); .09(8)(d)4 & 11; 0400–12–01–.10(1)(g)1(i)–(ii); .10(1)(g)2(vi); .10(1)(i)1 & 4; 0400–12–01–.07(5); .07(5)(b)2(i); .07(5)(b)12(iii)(XV); and 0400–12–01–.07(10)(o).

[1] The Tennessee provisions for RCRA Cluster XV (Checklists 206, 207, and 208) and Cluster XVI (Checklists 209, 211, and 213) are from the Tennessee Hazardous Waste Management Regulations, Chapter 0400–12–01, effective November 5, 2013.

[2] Chapter 1200–01–11 was renumbered as Chapter 0400–12–01, effective September 17, 2012. The chapter title, ''Hazardous Waste Management,'' remained the same and the contents of the chapter did not change as a result of the renumbering.

H. Where are the revised State rules different from the Federal rules?

We consider Tennessee Hazardous Waste Management Regulations 0400–12–01–.05(5)(d)2 and –.06(5)(d)2 to be more stringent than the Federal counterparts at 40 CFR 265.73(b) and 264.73(b) because the State requires owners and operators of interim status and permitted treatment, storage, and disposal facilities to maintain information in the facility's operating record on site for no less than five (5) years. The Federal requirements at 40 CFR 265.73(b) and 264.73(b) require that owners and operators of the same types of facilities maintain such records for no less than three (3) years. These five-year document retention requirements are part of the Tennessee authorized program and are federally enforceable.

I. Who handles permits after the authorization takes effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not authorized.

J. What is codification and is EPA codifying Tennessee's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Tennessee's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart RR, for the authorization of Tennessee's program changes at a later date.

K. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental

health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective May 19, 2015, unless objections to this authorization are received.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: March 2, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–06512 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–11

[FTR Amendment 2015–01; FTR Case 2015–301; Docket No. 2009–0013; Sequence No. 2]

RIN 3090–AJ54

Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes); Technical Amendment

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule; technical amendment.

SUMMARY: General Services Administration published in the **Federal Register** of August 21, 2014, a document amending the Federal Travel Regulation (FTR) concerning calculation of reimbursement for taxes on relocation and extended temporary duty (TDY) benefits. Inadvertently, sections pertaining to Employee Responsibilities and Agency Responsibilities in subpart F were not removed. This document removes those sections.

DATES:

Effective: This rule is effective on March 20, 2015.

Applicability date: This rule is applicable for employees who relocated beginning January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Miller, Office of Government-wide Policy (MAE), U.S. General Services Administration, at 202–501–3822 or email at *rodney.miller@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FTR Amendment 2015–01, FTR case 2015–301.

SUPPLEMENTARY INFORMATION:

Background

GSA published a final rule in the **Federal Register** at 79 FR 49640, August 21, 2014, to update the Federal Travel Regulation (FTR) for Temporary Duty (TDY) Travel Allowances and Relocation Allowances (Taxes). Inadvertently the amendment did not include the removal of sections §§ 301–11.621 through 301–11.628, and 301–11.631 through 301–11.640 in part 301–11, subpart F. Therefore, GSA is issuing this amendment correction to the final rule to further amend the FTR by removing those sections.

List of Subjects in 41 CFR Part 301–11

Government employees, Income taxes, Travel and transportation.

Dated: March 16, 2015.

Giancarlo Brizzi,

Acting Associate Administrator.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5739, GSA is amending 41 CFR part 301–11 as set forth below:

PART 301–11—PER DIEM EXPENSES

■ 1. The authority for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

§§ 301–11.621, 301–11.622, 301–11.623, 301–11.624, 301–11.625, 301–11.626, 301–11.627, and 301–11.628 [Removed]

■ 2. Remove the undesignated center heading ''Employee Responsibilities'' and §§ 301–11.621 through 301–11.628.

§§ 301–11.631, 301–11.632, 301–11.633, 301–11.634, 301–11.635, 301–11.636, 301–11.637, 301–11.638, 301–11.639, and 301–11.640 [Removed]

■ 3. Remove the undesignated center heading ''Agency Responsibilities'' and §§ 301–11.631 through 301–11.640.

[FR Doc. 2015–06400 Filed 3–19–15; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 403, 405, 410, 411, 412, 413, 414, 425, 489, 495, and 498

[CMS–1612–F2]

RIN 0938–AS12

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the November 13, 2014 **Federal Register** (79 FR 67547–68092) entitled, ''Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015.'' The effective date for the rule was January 1, 2015.

DATES: *Effective date:* This correcting document is effective March 19, 2015. *Applicability date:* The corrections indicated in this document are applicable beginning January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Christine Estella, (410) 786–0485, for issues related to the physician quality reporting system. Donta Henson, (410) 786–1947 for all other issues.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014–26183 (79 FR 67547 through 68092) the final rule entitled, ''Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015'' (hereinafter referred to as the CY 2015 PFS final rule with comment period), there were a number of technical errors that are identified and corrected in section IV., Correction of Errors. These corrections are applicable as of January 1, 2015. We note that the Addenda B and C to the CY 2015 PFS final rule with comment period as corrected by this correction document are available on the CMS Web site at *www.cms.gov/PhysicianFeeSched/.*

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 67559, due to errors made in ratesetting, many of the values contained in Table 4: Calculation of PE RVUs Under Methodology for Selected Codes, are incorrect.

On page 67562, in Table 8: Codes Affected by Removal of Film Inputs, we inadvertently included CPT codes 93320, 93321, and 93325.

On page 67591, we incorrectly stated that in section II. G. of the rule, we address the interim final values and establish CY 2015 inputs for the lower gastrointestinal procedures.

On page 67612, in Table 14: Codes Reviewed by the 2014 Multi-Specialty Refinement Panel, the work RVUs for CPT codes 43204, 43205, and 43233 are incorrect.

On page 67633, due to a typographical error we referred to CPT code 41391 rather than CPT code 43391.

On page 67636, due to a technical error, the final work RVU for code 43278 is incorrect.

On pages 67651 through 67663, in Table 25: CY 2015 Interim Final Work RVUS For New/Revised or Potentially Misvalued Codes, the RUC/HCPAC recommended work RVUs listed on page 67658 for CPT codes 76932 and 76948 are incorrect and entries for CPT codes 76940 and 76965 were inadvertently omitted from the table.

On page 67660, the RUC/HCPAC recommended work RVU listed for CPT code 92545 is incorrect.

On page 67668,

a. We inadvertently omitted G0279 from the list of codes in the title of (13).

b. Due to a typographical error, G0279 is referred to as G–2079.

c. We inadvertently omitted the phrase '', whether or not a 2–D mammography is furnished'' from the sentence beginning, ''In addition, we are creating . . .''

On page 67669, we inadvertently listed CPT code 93644 in the title of (18).

On page 67671, in Table 28: CY 2015 Interim Final Codes with Direct PE Input Recommendations Accepted without Refinement, we inadvertently listed CPT code 31620.

On page 67673, in Table 29: Invoices Received for New Direct PE Inputs we inadvertently listed entries associated with CPT code 31620.

On page 67674, in Table 30: Invoices Received For Existing Direct PE Inputs, certain PE direct inputs for CPT code 31627 were inadvertently omitted.

On pages 67678 through 67711, in Table 31: CY 2015 Interim Final Codes With Direct PE Input Recommendations Accepted with Refinements, due to technical errors, on page 67678, entries associated with CPT codes 77061 and 77062 were inadvertently listed; on page 67702, entries associated with CPT codes 93320, 93321, and 93325 were inadvertently omitted and an input code for CPT code 93880 was inadvertently omitted.

On page 67726, we incorrectly stated that practitioners do not have to use any ''specific content exchange standard.''

On pages 67741 through 67742, we incorrectly stated the CY 2015 PFS conversion factors.

On page 67742, in Table 45: Calculation of the CY 2015 PFS CF, due to corrections being made in this document, the CY 2014 budget neutrality adjustment, the CY 2015 CFs, and the percentage changes from the CY 2014 CF stated in the table are incorrect.

On page 67743, due to technical errors, the budget neutrality factor, the anesthesia CF in effect from January 1, 2015 through March 31, 2015, and the anesthesia CF in effect from April 1, 2015 through December 31, 2015 are incorrectly stated. The entries in Table 46: Calculation of the CY 2015 Anesthesia CF for budget neutrality adjustments, CFs and percentage change are inaccurate.

On pages 67803 and 67804, in Table 52: Individual Quality Cross-Cutting Measures for the PQRS to Be Available for Satisfactory Reporting Via Claims, Registry, and EHR Beginning in 2015, we inadvertently listed the incorrect National Quality Strategy (NQS) domain for Physician Quality Reporting System (PQRS) Measure 131, Pain Assessment and Follow-Up.

On pages 67848 and 67849, in Table 55: Measures Being Removed from the Existing PQRS Measure Set Beginning in 2015, we inadvertently omitted adding an ''X'' to the claims reporting option for Physician Quality Reporting System (PQRS) Measure 0091/051: Chronic Obstructive Pulmonary Disease (COPD): Spirometry Evaluation, Measure 0102/052: Chronic Obstructive Pulmonary Disease (COPD): Inhaled Bronchodilator Therapy, and Measure 0050/109: Osteoarthritis (OA) Function and Pain Assessment.

On page 67854, in Table 56: Existing Individual Quality Measures and Those Included in Measures Groups for the PQRS for Which Measure Reporting Updates Will Be Effective Beginning in 2015, we inadvertently added an ''X'' to the Group Practice Reporting Option

(GPRO) Web Interface reporting option for Physician Quality Reporting System (PQRS) Measure 0067/006: Coronary Artery Disease (CAD): Antiplatelet Therapy.

On page 67877, in Table 56: Existing Individual Quality Measures and Those Included in Measures Groups for the PQRS for Which Measure Reporting Updates Will Be Effective Beginning in 2015, we inadvertently added an ''X'' to the claims reporting option and omitted adding an ''X'' to the registry reporting option for Physician Quality Reporting System (PQRS) Measure 0409/205: HIV/AIDS: Sexually Transmitted Disease Screening for Chlamydia, Gonorrhea, and Syphilis.

On page 67988, in Table 93: CY 2015 PFS Final Rule with Comment Period Estimated Impact Table: Impacts of Work, Practice Expense, and Malpractice RVUs, due to ratesetting errors, the values are inaccurate.

On page 67991 through 67992, in Table 94: Impact of the Final Rule with Comment Period on CY 2014 Payment for Selected Procedures, due to ratesetting errors, the stated payment rates are inaccurate.

On page 67999, the January 1–March 31, 2015 CF, the CY 2015 national payment amount in the nonfacility setting for CPT code 99203, and the beneficiary coinsurance amount are incorrect.

B. Summary and Correction of Errors in the Addenda on the CMS Web Site

Due to the errors identified and summarized in section II.A and B of this correction document, we are correcting errors in the work, PE or MP RVUs (or combinations of these RVUs) in Addendum B: CY 2015 Relative Value Units (RVUs) And Related Information Used In Determining Final Medicare Payments and Addendum C: CY 2015 Interim Final Relative Value Units (RVUs). We note that corrections to the RVUs for codes with identified errors affect additional codes due to the budget neutrality and relativity of the PFS. These errors are corrected in the revised Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

In addition to the errors identified in section II.A. of this correction document, the following errors occur in the addenda.

Due to a technical error in the creation of the direct PE database, nonfacility PE RVUs were created and displayed in Addendum B (and Addendum C, if applicable) for the following CPT codes: 21811, 21812, 21813, 22858, 33418, 33951, 33952, 33953, 33954, 33955, 33956, 33957, 33958, 33959, 33962, 33963, 33964, 33965, 33966, 33969, 33984, 33985, 33986, 33987, 33988, 33989, 37218, 43180, 44380, 44382, 66179, and 66184. These errors are corrected in the revised Direct PE Input Database available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.* Resulting changes to the PE RVUs are reflected in the corrected Addendum B (and Addendum C, if applicable) available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to technical errors in the creation of the direct PE database, some or all of the PE inputs were inadvertently omitted for CPT codes 22510, 22511, 22512, 22513, 22514, 22515, 31620, 33951, 33952, 33953, 33954, 33955, 33956, 33957, 33958, 33959, 33962, 33963, 33964, 33969, 33984, 33985, 33986, 33988, 33989, 58541, 58542, 58543, 58544, 58570, 58571, 58572, 64486, 64487, 64488, 64489, 70496, 70498, 76700, 76705, 77080, 88348, 93260, 93261, and 93644. These errors are corrected in the revised Direct PE Input Database available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to technical errors in the creation of the direct PE database, the incorrect inputs were used for creating PE RVUs for CPT codes 20982, 31620, 31627, 32998, 33262, 32998, 41530, 50592, 64600, 64605, 64610, 64633, 64634, 64635, 64636, 93925, 93880, and 93990. These errors are corrected in the revised Direct PE Input Database available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, we incorrectly displayed in Addenda B and C PE RVUs in a nonfacility setting for CPT codes 33270, 33271, 33272, and 33273. The PE RVUs for these codes in a non-facility setting have been removed in the corrected Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, HCPCS codes 33330, 33474, 61610, and 61870 were inadvertently left out of Addendum B. These codes are reflected in the corrected Addendum B available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, the average risk factor, and not the specialty risk factor that we indicated that we were using in the preamble, was applied when calculating the MP RVUs for CPT codes 33620 and 33622. As a result, the MP RVUs listed in Addendum B are incorrect for these codes. We have corrected these errors in the corrected Addendum B available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, the incorrect work RVUs were applied in calculating the MP RVUs for CPT codes 33418 and 33419. As a result, the MP RVUs listed in Addenda B and C are incorrect for these codes. We have corrected these errors in the corrected Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, the incorrect CY 2015 work RVUs are included in Addendum B (and Addendum C, if applicable) for the following codes: 43191, 43192, 43193, 43194, 43195, 43196, 43197, 43198, 43200, 43201, 43202, 43204, 43205, 43211, 43212, 43214, 43215, 43229, 43232, 43233, 43235, 43236, 43238, 43239, 43242, 43247, 43253, 43254, 43257, 43266, 43270, 43274, 43276, 43278, 58541, 58542, 58543, 58544, 58570, 58571, 58572, 58573, 71275, 76930, 76932, 76948, 92545, 93315, 93317, 93318, and 95973. The correct CY 2015 work RVUS for these codes are reflected in the corrected Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error in the creation of the direct PE database, PE RVUs for the facility setting were created and are displayed in Addendum B for HCPCS code 77372 and Addenda B and C for HCPCS code G0277. These technical errors are corrected in Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to technical errors in the creation of the direct PE database, direct PE inputs were inadvertently included for CPT code 99183 and are reflected in the PE RVUs shown in Addenda B and C. This error is corrected in the Direct PE Input Database available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.* The corrected PE RVUS are included in Addenda B and C available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, in Addendum B, work and MP RVUs for CPT codes 99487 and 99489 were inadvertently included. The work and MP RVUs for these codes have been removed in the corrected Addendum B available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error in the creation of the direct PE database, PE RVUs were not created for CPT code 99490 in the facility setting. The correct PE RVU for this code is reflected in the corrected Addendum B available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

Due to a technical error, HCPCS codes G9407 through G9472 are inadvertently included in Addendum B. These codes

have been removed in the corrected Addendum B available on the CMS Web site at *www.cms.gov//PhysicianFeeSched/.*

C. Summary of Errors in the Regulations Text

On page 68002 of the CY 2015 PFS final rule with comment period, we made a technical error in § 410.26(b)(5). In this paragraph, we inadvertently omitted language to limit the applicability of the exception that allows general, rather than direct, supervision of transitional care management services furnished incident to a practitioner's professional services to the non-face-to-face aspects of the service.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

In our view, this correction document does not constitute a rulemaking that would be subject to these requirements. This correction document corrects technical errors in the CY 2015 PFS final rule with comment period and the corresponding addenda posted on the CMS Web site. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted subjected to notice and comment procedures in the CY 2015 PFS final rule with comment period. As a result, the corrections made through this correction document are intended to ensure that the CY 2015 PFS final rule with comment period accurately reflects the policies adopted in that rule.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2015 PFS final rule with comment period or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the CY 2015 PFS final rule with comment period accurately reflects our final policies as soon as possible following the date they take effect. Further, such procedures would be unnecessary, because we are not altering the payment methodologies or policies, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the CY 2015 PFS final rule with comment period accurately reflects these policies. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors

In FR Doc. 2014–26183 of November 13, 2014 (79 FR 67547), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 67559, in Table 4: Calculation of PE RVUs Under Methodology for Selected Codes, the table is corrected to read as follows:

TABLE 4—CALCULATION OF PR RVUS UNDER METHODOLOGY FOR SELECTED CODES

Factor (CF) (2nd part)	Step	Source	Formula	99213 Office visit, est non-facility	33533 CABG, arterial, single facility	71020 Chest x-ray non-facility	71020–TC Chest x-ray, non-facility	71020–26 Chest x-ray, non-facility	93000 ECG, complete, non-facility	93005 ECG, tracing, non-facility	93010 ECG, report non-facility
(1) Labor cost (Lab)	Step 1	AMA		13.32	77.52	5.74	5.74	0	5.1	5.1	0
(2) Supply cost (Sup)	Step 1	AMA		2.98	7.34	0.53	0.53	0	1.19	1.19	0
(3) Equipment cost (Eqp)	Step 1	AMA		0.17	0.58	6.92	6.92	0	0.09	0.09	0
(4) Direct cost (Dir)	Step 1		'%=(1)+(2)+(3)	16.48	85.45	13.19	13.19	0	6.38	6.38	0
(5) Direct adjustment (Dir. Adj.)	Steps 2–4	See footnote*		0.5953	0.5953	0.5953	0.5953	0.5953	0.5953	0.5953	0.5953
(6) Adjusted Labor	Steps 2–4	'%=Labor* Dir Adj.	'%=(1)*(5)	7.93	46.15	3.42	3.42	0	3.04	3.04	0
(7) Adjusted Supplies	Steps 2–4	'%=Eqp* Dir Adj	'%=(2)*(5)	1.78	4.37	0.32	0.32	0	0.71	0.71	0
(8) Adjusted Equipment	Steps 2–4	'%=Sup* Dir Adj	'%=(3)*(5)	0.1	0.35	4.12	4.12	0	0.05	0.05	0
(9) Adjusted Direct	Steps 2–4		'%=(6)+(7)+(8)	9.81	50.87	7.85	7.85	0	3.8	3.8	0
(10) Conversion Factor (CF)	Step 5	PFS		35.8228	35.8228	35.8228	35.8228	35.8228	35.8228	35.8228	35.8228
(11) Adj. labor cost converted	Step 5	'%=(Lab* Dir Adj)/CF.	'%=(6)/(10)	0.22	1.29	0.1	0.1	0	0.08	0.08	0
(12) Adj. supply cost converted	Step 5	'%=(Sup* Dir Adj)/CF.	'%=(7)/(10)	0.05	0.12	0.01	0.01	0	0.02	0.02	0
(13) Adj. equipment cost converted	Step 5	'%=(Eqp* Dir Adj)/CF.	'%=(8)/(10)	0	0.01	0.11	0.11	0	0	0	0
(14) Adj. direct cost converted	Step 5		'%=(11)+(12)+(13)	0.27	1.42	0.22	0.22	0	0.11	0.11	0
(15) Work RVU	Setup File	PFS		0.97	33.75	0.22	0	0.22	0.17	0	0.17
(16) Dir_pct	Steps 6,7	Surveys		0.25	0.17	0.29	0.29	0.29	0.29	0.29	0.29
(17) Ind_pct	Steps 6,7	Surveys		0.75	0.83	0.71	0.71	0.71	0.71	0.71	0.71
(18) Ind. Alloc. Formula (1st part)	Step 8	See Step 8		(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)	(14)/(16)*(17)
(19) Ind. Alloc. (1st part)	Step 8		See 18	0.83	6.73	0.53	0.53	0	0.26	0.26	0
(20) Ind. Alloc. Formula (2nd part)	Step 8	See Step 8		−15%	−15%	%(15+11)	−11%	−15%	%(15+11)	−11%	−15%
(21) Ind. Alloc. (2nd part)	Step 8		See 20	0.97	33.75	0.32	0.1	0.22	0.25	0.08	0.17
(22) Indirect Allocator (1st + 2nd)	Step 8		'%=(19)+(21)	1.8	40.48	0.85	0.63	0.22	0.52	0.35	0.17
(23) Indirect Adjustment (Ind. Adj.)	Steps 9–11	See Footnote**		0.3829	0.3829	0.3829	0.3829	0.3829	0.3829	0.3829	0.3829
(24) Adjusted Indirect Allocator	Steps 9–11	'%=Ind Alloc* Ind Adj.		0.69	15.5	0.33	0.24	0.08	0.2	0.13	0.07
(25) Ind. Practice Cost Index (IPCI)	Steps 12–16			1.07	0.75	0.99	0.99	0.99	0.91	0.91	0.91
(26) Adjusted Indirect	Step 17	'%= Adj.Ind Alloc* PCI.	'%=(24)*(25)	0.74	11.64	0.32	0.24	0.08	0.18	0.12	0.06
(27) Final PE RVU	Step 18	'%=(Adj Dir + Adj Ind)* Other Adj.	'%=((14)+(26))* Other Adj)	1.01	12.99	0.54	0.46	0.08	0.29	0.23	0.06

Note: PE RVUs in Table 4, row 27, may not match Addendum B due to rounding.
The direct adj = [current pe rvus CF* avg dir pct]/[sum direct inputs] = [step2]/[step3]
**The indirect adj = [current pe rvus* avg ind pct]/[sum of ind allocators] = [step9]/[step10]
Note: The use of any particular conversion factor (CF) in Table 4 to illustrate the PE Calculation has no effect on the resulting RVUs.

2. On page 67562, in Table 8: Codes Affected by Removal of Film Inputs, the following listed entries are removed.

HCPCS	Short descriptor
93320	Doppler echo exam heart
93321	Doppler echo exam heart
93325	Doppler color flow add-on

3. On page 67591, third column, first full paragraph, line 10, the sentence ''In section II.G. of this CY 2015 PFS final rule with comment period, we address interim final values and establish CY 2015 inputs for the lower gastrointestinal procedures, many of which are also listed in Appendix G.'' is corrected to read ''In section II.G. of this CY 2015 PFS final rule with comment period, we note that we are delaying the adoption of the new code set for lower gastrointestinal procedures until CY 2016; many of these codes are also listed in Appendix G.''

4. On page 67612, in Table 14: Codes reviewed by the 2014 Multi-Specialty Refinement Panel, the entries for CPT codes 43204, 43205 and 43233 are corrected to read as follows:

HCPCS code	Descriptor	CY 2014 interim final work RVU	RUC recommended work RVU	Refinement panel median rating	CY 2015 work RVU
43204	Injection of dilated esophageal veins using an endoscope.	2.40	2.89	2.77	2.43
43205	Tying of esophageal veins using an endoscope	2.51	3.00	2.88	2.54
43233	Balloon dilation of esophagus, stomach, and/or upper small bowel using an endoscope.	4.05	4.45	4.26	4.17

5. On page 67633, third column, first full paragraph, line 14, the phrase ''CPT code 41391,'' is corrected to read ''CPT code 43391,''.

6. On page 67636, third column, first partial paragraph, lines 24 through 25, the sentence ''The final work RVU for CPT code 43278 is 8.'' is corrected to read ''The final work RVU for CPT code 43278 is 8.02.''

7. On pages 67651 through 67663, in Table 25: CY 2015 Interim Final Work RVUS For New/Revised or Potentially Misvalued Codes, the listed entries on page 67658 are corrected to read:

HCPCS code	Long descriptor	CY 2014 WRVU	RUC/HCPAC recommended work RVU	CY 2015 work RVU	CMS time refinement
76932	Ultrasonic guidance for endomyocardial biopsy, imaging supervision and interpretation.	C	0.67	0.67	No
76940	Ultrasound guidance for, and monitoring of, parenchymal tissue ablation.	2.00	2.00	2.00	No
76948	Ultrasonic guidance for aspiration of ova, imaging supervision and interpretation.	0.38	0.38	0.38	No
76965	Ultrasonic guidance for interstitial radioelement application.	1.34	1.34	1.34	No

8. On page 67660, in Table 25: CY 2015 Interim Final Work RVUS For New/Revised or Potentially Misvalued Codes, the listed entry is corrected to read:

HCPCS code	Long descriptor	CY 2014 WRVU	RUC/HCPAC recommended work RVU	CY 2015 work RVU	CMS time refinement
92545	Oscillating tracking test, with recording	0.23	0.25	0.25	No

9. On page 67668,

a. First column, line 1, the title ''(13) Breast Tomosynthesis (CPT codes 77061, 77062, and 77063)'' is corrected to read ''(13) Breast Tomosynthesis (CPT codes 77061, 77062, 77063 and G2079)''.

b. Second column, line 19, the phrase ''a new code, G–2079'' is corrected to read ''a new code, G0279''.

c. Second column, line 27, is corrected by adding ''whether or not a 2-D mammography is furnished'' after the phrase ''diagnostic breast tomosynthesis''.

10. On page 67669, second column, lines 8 through 11, we are correcting the title ''(18) Interventional Transesophageal Echocardiography (TEE) (CPT Codes 93312, 93313, 93314, 93315, 93316, 93317, 93318, 93355, and 93644)'' to read ''(18) Interventional Transesophageal Echocardiography (TEE) (CPT Codes 93312, 93313, 93314, 93315, 93316, 93317, 93318, and 93355).''

11. On page 67671, in Table 28: CY 2015 Interim Final Codes with Direct PE Input Recommendations Accepted without Refinements, the following listed entry is removed:

HCPCS	Short descriptor
31620	Endobronchial us add-on

12. On page 67673, in Table 29: Invoices Received for New Direct PE Inputs, the following listed entries for CPT code 31620 are removed:

CPT/HCPCS codes	Item name	CMS code	Average price	Number of invoices	Non-facility allowed services for HCPCS codes using this item (or projected services for new CPT codes*)
31620	Flexible dual-channeled EBUS bronchoscope, with radial probe.	EQ361	$160,260.06	6	107
31620	Video system, Ultrasound (processor, digital capture, monitor, printer, cart).	ER099	$13,379.57	6	107
31620	EBUS, single use aspiration needle, 21 g.	SC102	$145.82	5	107
31620	Balloon for Bronchosopy Fiberscope	SD294	$28.68	4	107

13. On page 67674, Table 30: Invoices Received for Existing Direct PE Inputs, the list entries for CPT code 31627 are corrected by adding the following:

CPT/HCPCS codes	Item name	CMS code	Current price	Updated price	% Change	Number of invoices	Non-facility allowed services for HCPCS codes using this item
31627	sensor, patch, bronchosopy (for kit, locatable guide) (patient).	SD235	$1.10	$3.00	173	2	37
31627	system, navigational bronchoscopy (superDimension).	EQ326	$137,800.00	$189,327.66	37	4	37
31627	kit, locatable guide, ext. working channel, w-b-scope adapter.	SA097	$995.00	$1,063.67	7	3	37

14. On pages 67678 through 67711, in Table 31: CY 2015 Interim Final Codes With Direct PE Input Recommendations Accepted with Refinements, we are correcting the table by

a. On page 67687, deleting the following listed entries:

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	NF/F / PO	Labor Activity (where applicable)	RUC Recomme nd-ation or current value (min or qty)	CMS Refine -ment (min or qty)	Comment	Direct Costs Change
77061	Breast tomosynthes is uni	L043 A	Mammography Technologist	NF	Availability of prior images confirmed	3	2	Standard times for clinical labor tasks associated with digital imaging	$-0.43
77062	Breast tomosynthes is bi	L043 A	Mammography Technologist	NF	Availability of prior images confirmed	3	2	Standard times for clinical labor tasks associated with digital imaging	$-0.43

b. On page 67702, correcting the bottom half of the table to read:

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	NF/F/PO	Labor Activity (where applicable)	RUC Recom-mendation or current value (min or qty)	CMS Refine-ment (min or qty)	Comment	Direct Costs Change
93320	Doppler echo exam heart	ED021	computer, desktop, w-monitor	NF		5	0	Duplicative; item is in vascular ultrasound room (EL016)	$-0.05
93320	Doppler echo exam heart	ED036	video printer, color (Sony medical grade)	NF		14	0		$-0.15
93321	Doppler echo exam heart	ED021	computer, desktop, w-monitor	NF		2	0	Duplicative; item is in vascular ultrasound room (EL016)	$-0.02
93321	Doppler echo exam heart	ED036	video printer, color (Sony medical grade)	NF		8	0		$-0.09
93325	Doppler color flow add-on	ED021	computer, desktop, w-monitor	NF		2	0	Duplicative; item is in vascular ultrasound room (EL016)	$-0.02
93325	Doppler color flow add-on	ED036	video printer, color (Sony medical grade)	NF		9	0		$-0.10
93702	Bis xtracell fluid analysis	L037D	RN/LPN/MTA	NF	Results are uploaded from the device into the analysis software and a report is generated and printed for physician review.	2	0	Included as an automatic process for the new device.	$-0.74
93880	Extracranial bilat study	ED021	computer, desktop, w-monitor	NF		7	0		$-0.07
93880	Extracranial bilat study	ED036	video printer, color (Sony medical grade)	NF		10	0	Duplicative; item is in vascular ultrasound room (EL016)	$-0.11

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	NF/F/PO	Labor Activity (where applicable)	RUC Recom-mendation or current value (min or qty)	CMS Refine-ment (min or qty)	Comment	Direct Costs Change
		L054A	Vascular Technologist	NF	QA Documentation	4	0	Included in overall clinical labor time; see preamble text	$-2.16
		L054A	Vascular Technologist	NF	Technologist reviews & optimizes all duplex images; reviews & optimizes spectrum analysis measuring velocities & assuring proper angle acquisition. Compiles findings with sufficient data for physician review & diagnosis.	8	2	Standard times for clinical labor tasks associated with digital imaging	$-3.24

15. On page 67726, first column, second full paragraph, lines 6 through 8, the phrase ''with a clarification that practitioners do not have to use any specific content exchange standard in CY 2015.'' is corrected to read ''with a clarification that practitioners do not have to use any specific exchange or transfer standard in CY 2015.''

16. On page 67741, first column, first paragraph, we are correcting the entire paragraph to read:

The CY 2015 PFS CF for January 1, 2015 through March 31, 2015 is $35.7547. The CY 2015 PFS CF for April 1, 2015 through December 31, 2015 is $28.1872. The CY 2015 national average anesthesia CF for January 1, 2015 through March 31, 2015 is $22.4968. The CY 2015 national average anesthesia CF for April 1, 2015 through December 31, 2015 is $17.7454.

17. On page 67742, third column, first partial paragraph,

a. Line 3, the phrase ''by 0.06 percent'' is corrected to read ''by 0.19 percent''.

b. Third column, first full paragraph, line 8, the figure ''$35.8013.'' is corrected to read ''$35.7547.''

c. Third column, second full paragraph, line 6, the figure ''$28.2239.'' is corrected to read ''$28.1872.''

d. Third column, second full paragraph, line 9, the phrase ''21.2 percent'' is corrected to read ''21.3 percent''.

18. On page 67742, in Table 45: Calculation of the CY 2015 PFS CF, the table is corrected to read as follows:

TABLE 45—CALCULATION OF THE CY 2015 PFS CF

January 1, 2015 through March 31, 2015		
Conversion Factor in effect in CY 2014		$35.8228
Update	0.0 percent (1.00)	
CY 2015 RVU Budget Neutrality Adjustment	−0.19 percent (0.9981)	
CY 2015 Conversion Factor (1/1/2015 through 3/31/2015)		$35.7547
April 1, 2015 through December 31, 2015		
Conversion Factor in effect in CY 2014		$35.8228

TABLE 45—CALCULATION OF THE CY 2015 PFS CF—Continued

CY 2014 Conversion Factor had statutory increases not applied		$27.2006
CY 2015 Medicare Economic Index	0.8 percent (1.008)	
CY 2015 Update Adjustment Factor	3.0 percent (1.03)	
CY 2015 RVU Budget Neutrality Adjustment	−0.19 percent (0.9981)	
CY 2015 Conversion Factor (4/1/2015 through 12/31/2015)		$28.1872
Percent Change in Conversion Factor on 4/1/2015 (relative to the CY 2014 CF)		−21.3%
Percent Change in Update (without budget neutrality adjustment) on 4/1/2015 (relative to the CY 2014 CF).		−21.2%

19. On page 67743,

a. First column, first full paragraph, line 5, the sentence ''After applying the 0.9994 budget'' is corrected to read ''After applying the 0.9981 budget''.

b. Second column, line 2, the figure ''$22.5550.'' is corrected to read ''$22.4968.''

c. Third column, line 12, the figure ''$17.7913.'' is corrected to read ''$17.7454.''

d. Table 46: Calculation of the CY 2015 Anesthesia CF is corrected to read as follows:

TABLE 46—CALCULATION OF THE CY 2015 ANESTHESIA CF

January 1, 2015 through March 31, 2015		
CY 2014 National Average Anesthesia CF		$22.6765
Update	0.0 percent (1.00)	
CY 2015 RVU Budget Neutrality Adjustment	−0.19 percent (0.9981)	
CY 2015 Anesthesia Fee Schedule Practice Expense Adjustment	−0.00494 percent (0.99506)	
CY 2015 National Average Anesthesia CF (1/1/2015 through 3/31/2015)		$22.4968
April 1, 2015 through December 31, 2015		
2014 National Average Anesthesia Conversion Factor in effect in CY 2015		$22.6765
2014 National Anesthesia Conversion Factor had Statutory Increases Not Applied		$17.2283
CY 2015 Medicare Economic Index	0.8 percent (1.008)	
CY 2015 Update Adjustment Factor	3.0 percent (1.03)	
CY 2015 Budget Neutrality Work and Malpractice Adjustment	−0.19 percent (0.9981)	
CY 2015 Anesthesia Fee Schedule Practice Expense Adjustment	−0.00494 percent (0.99506)	
CY 2015 Anesthesia Fee Schedule Practice Expense Adjustment	−0.00494 percent (0.99506)	
CY 2015 Anesthesia Conversion Factor (4/1/2015 through 12/31/2015)		$17.7454
Percent Change from 2014 to 2015 (4/1/2015 through 12/31/2015)		−21.7%

20. On page 67803, last row, in Table 52: Individual Quality Cross-Cutting Measures for the PQRS to Be Available for Satisfactory Reporting Via Claims, Registry, and EHR Beginning in 2015, the listed entry is corrected to read as follows:

NQF/ PQRS	CMS E-Measure ID	NQS Domain	Measure Title and Description¥	Measure Steward	Claims	CSV	Registry	EHR	GPRO (Web Interface)*	Measures Groups	Other Quality Reporting Programs
0420 /131	N/ A	Communit y/Populatio n Health	**Pain Assessment and Follow-Up:** Percentage of visits for patients aged 18 years and older with documentation of a pain assessment using a standardized tool(s) on each visit AND documentation of a follow-up plan when pain is present No comments were received regarding this measure being classified as cross-cutting. CMS is finalizing its proposal to make this measure reportable as a cross-cutting measure for 2015 PQRS.	CMS/QIP	X		X			X	

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21. On page 67848, the last two rows, and the first row on page 67849, in Table 55: Measures Being Removed from the Existing PQRS Measure Set Beginning in 2015, the listed are corrected to read as follows:

NQF/ PQRS	NQS Domain	Measure Title and Description[¥]	Measure Steward	Claims	CSV	Registry	EHR	GPRO (Web Interface)*	Measures Groups	Other Quality Reporting Programs
0091/051	Effective Clinical Care	**Chronic Obstructive Pulmonary Disease (COPD): Spirometry Evaluation:** Percentage of patients aged 18 years and older with a diagnosis of COPD who had spirometry evaluation results documented A steward has been identified for this measure, and for this reason CMS is not finalizing its proposal to remove this measure from reporting in 2015 PQRS.	American Thoracic Society	X		X			X	
0102/052	Effective Clinical Care	**Chronic Obstructive Pulmonary Disease (COPD): Inhaled Bronchodilator Therapy:** Percentage of patients aged 18 years and older with a diagnosis of COPD and who have an FEV_1/FVC less than 60% and have symptoms who were prescribed an inhaled bronchodilator A steward has been identified for this measure, and for this reason CMS is not finalizing its proposal to remove this measure from reporting in 2015 PQRS.	American Thoracic Society	X		X			X	
0050/109	Person and Caregiver-Centered Experience and Outcomes	**Osteoarthritis (OA): Function and Pain Assessment:** Percentage of patient visits for patients aged 21 years and older with a diagnosis of osteoarthritis (OA) with assessment for function and pain A steward has been identified for this measure, and for this reason CMS is not finalizing its proposal to remove this measure from reporting in 2015 PQRS.	AAOS	X		X				

22. On page 67854, the second row, in Table 56: Existing Individual Quality Measures and Those Included in Measures Groups for the PQRS for Which Measure Reporting Updates Will Be Effective Beginning in 2015, the listed entry is corrected to read as follows:

NQF/ PQRS	CMS E-Measure ID	National Quality Strategy Domain	Measure Title and Description[¥]	Measure Steward	Claims	CSV	Registry	EHR	GPRO (Web Interface)*	Measures Groups	Other Quality Reporting Programs
Measures Finalized as Proposed											
006 7/0 06		Effective Clinical Care	**Coronary Artery Disease (CAD): Antiplatelet Therapy:** Percentage of patients aged 18 years and older with a diagnosis of coronary artery disease (CAD) seen within a 12 month period who were prescribed aspirin or clopidogrel Several commenters were concerned with CMS' proposal to eliminate the claims-based reporting option for various measures, noting that not all eligible professionals have the resources to implement registry or EHR reporting and will no longer be able to participate in PQRS. CMS appreciates the commenters' concerns and believes that removal of the claims-based reporting option will not negatively impact a significant number of providers reporting these measures. CMS also received comments supporting inclusion of the measure in the Shared Savings Program CAD Composite measure but with composite measure testing and NQF review. Therefore, CMS is finalizing its proposal to remove the claims-based reporting option for this measure in 2015 PQRS as part of its goal to lower the data error rate and decrease provider burden. CMS will not finalize adding this measure in the Shared Savings Program CAD Composite.	AMA-PCPI ACCF AHA			X			X	ACO

23. On page 67877, second row, in Table 56: Existing Individual Quality Measures and Those Included in Measures Groups for the PQRS for Which Measure Reporting Updates Will Be Effective Beginning in 2015, the listed entry is corrected to read as follows:

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NQF/ PQRS	CMS E-Measure ID	National Quality Strategy Domain	Measure Title and Description[¥]	Measure Steward	Claims	CSV	Registry	EHR	GPRO (Web Interface)*	Measures Groups	Other Quality Reporting Programs
Measures Not Finalized as Proposed											
040 9 /20 5		Effective Clinical Care	**HIV/AIDS: Sexually Transmitted Disease Screening for Chlamydia, Gonorrhea, and Syphilis:** Percentage of patients aged 13 years and older with a diagnosis of HIV/AIDS for whom chlamydia, gonorrhea and syphilis screenings were performed at least once since the diagnosis of HIV infection This measure was erroneously listed as reportable by claims and measures groups (79 FR 67877). However, this measure never had a claims-based reporting option; this measure was only reportable by registry and measures groups in the previous program year. Therefore, this measure will remain reportable by registry and measures group in 2015 PQRS	NCQA AMA-PCPI			X			X	

24. On page 67988, in Table 93: CY 2015 PFS Final Rule with Comment Period Estimated Impact Table: Impacts of Work, Practice Expense, and Malpractice RVUs, the table is corrected to read as follows:

TABLE 93: CY 2015 PFS Final Rule with Comment Period Estimated Impact Table: Impacts of Work, Practice Expense, and Malpractice RVUs

(A) Specialty	(B) Allowed Charges (mil)	(C) Impact of Work RVU Changes	(D) Impact of PE RVU Changes	(E) Impact of MP RVU Changes	(F) Combined Impact
TOTAL	$88,095	0%	0%	0%	0%
ALLERGY/IMMUNOLOGY	$216	0%	0%	0%	0%
ANESTHESIOLOGY	$1,993	0%	0%	0%	0%
AUDIOLOGIST	$60	0%	0%	-1%	0%
CARDIAC SURGERY	$356	0%	0%	0%	0%
CARDIOLOGY	$6,470	0%	0%	0%	1%
CHIROPRACTOR	$812	0%	0%	-1%	-1%
CLINICAL PSYCHOLOGIST	$704	0%	-1%	-1%	-1%
CLINICAL SOCIAL WORKER	$522	0%	-1%	-1%	-1%
COLON AND RECTAL SURGERY	$159	0%	0%	1%	0%
CRITICAL CARE	$287	0%	0%	1%	0%
DERMATOLOGY	$3,177	0%	-1%	0%	-2%
DIAGNOSTIC TESTING FACILITY	$715	0%	-2%	0%	-2%
EMERGENCY MEDICINE	$3,053	0%	0%	1%	1%
ENDOCRINOLOGY	$457	0%	0%	0%	0%
FAMILY PRACTICE	$6,116	1%	0%	0%	1%
GASTROENTEROLOGY	$1,884	0%	0%	0%	0%
GENERAL PRACTICE	$507	0%	0%	0%	0%
GENERAL SURGERY	$2,256	0%	-1%	1%	0%
GERIATRICS	$227	1%	1%	0%	1%
HAND SURGERY	$160	0%	0%	0%	0%
HEMATOLOGY/ONCOLOGY	$1,811	0%	0%	0%	1%
INDEPENDENT LABORATORY	$714	-1%	0%	0%	-1%
INFECTIOUS DISEASE	$655	0%	0%	0%	0%
INTERNAL MEDICINE	$11,132	1%	0%	0%	1%
INTERVENTIONAL PAIN MGMT	$678	0%	0%	0%	0%
INTERVENTIONAL RADIOLOGY	$273	0%	1%	0%	1%
MULTISPECIALTY CLINIC/OTHER PHY	$84	0%	0%	0%	0%
NEPHROLOGY	$2,181	0%	0%	0%	0%
NEUROLOGY	$1,513	0%	0%	0%	0%
NEUROSURGERY	$740	0%	0%	2%	2%
NUCLEAR MEDICINE	$49	0%	0%	0%	0%
NURSE ANES / ANES ASST	$1,185	0%	0%	0%	0%
NURSE PRACTITIONER	$2,225	0%	0%	0%	0%
OBSTETRICS/GYNECOLOGY	$696	0%	0%	0%	-1%

25. On page 67991 through 67992, in Table 94: Impact of Final Rule with Comment Period on CY 2015 Payment for Selected Procedures the table is corrected to read as follows:

BILLING CODE 4120–01–P

(A) Specialty	(B) Allowed Charges (mil)	(C) Impact of Work RVU Changes	(D) Impact of PE RVU Changes	(E) Impact of MP RVU Changes	(F) Combined Impact
OPHTHALMOLOGY	$5,685	0%	0%	-2%	-2%
OPTOMETRY	$1,163	0%	0%	-1%	-1%
ORAL/MAXILLOFACIAL SURGERY	$45	0%	0%	0%	0%
ORTHOPEDIC SURGERY	$3,673	0%	-1%	0%	0%
OTHER	$28	0%	0%	-1%	-1%
OTOLARNGOLOGY	$1,174	0%	0%	0%	0%
PATHOLOGY	$1,077	-1%	1%	0%	0%
PEDIATRICS	$59	0%	0%	0%	0%
PHYSICAL MEDICINE	$1,009	0%	0%	0%	0%
PHYSICAL/OCCUPATIONAL THERAPY	$2,836	0%	0%	0%	0%
PHYSICIAN ASSISTANT	$1,565	0%	0%	0%	0%
PLASTIC SURGERY	$376	0%	0%	0%	-1%
PODIATRY	$2,003	0%	0%	0%	0%
PORTABLE X-RAY SUPPLIER	$112	0%	-2%	0%	-2%
PSYCHIATRY	$1,352	0%	0%	0%	0%
PULMONARY DISEASE	$1,795	0%	0%	0%	0%
RADIATION ONCOLOGY	$1,794	0%	0%	0%	0%
RADIATION THERAPY CENTERS	$57	0%	0%	0%	0%
RADIOLOGY	$4,524	0%	-1%	0%	-1%
RHEUMATOLOGY	$541	0%	0%	0%	-1%
THORACIC SURGERY	$344	0%	0%	0%	0%
UROLOGY	$1,838	0%	0%	0%	0%
VASCULAR SURGERY	$980	0%	0%	0%	0%

Note: Table 93 shows only the payment impact on PFS services. These impacts use a constant conversion factor and thus do not include the effects of the April 2015 conversion factor change required under current law.

TABLE 94: Impact of Final Rule with Comment Period on CY 2015 Payment for Selected Procedures

			Facility					Non-Facility				
CPT/ HCPCS [1]	MOD	Short Descriptor	CY 2014[2]	CY 2015 Jan 1– March 31[3]	% Change	CY 2015 April 1 – December 31[4]	% Change	CY 2014[2]	CY 2015 Jan 1– March 31[3]	% Change	CY 2015 April 1 – December 31[4]	% Change
11721		Debride nail 6 or more	$25.43	$25.03	-2%	$19.73	-22%	$45.14	$45.05	0%	$35.52	-21%
17000		Destruct premalg lesion	$53.38	$53.63	0%	$42.28	-21%	$75.23	$66.86	-11%	$52.71	-30%
27130		Total hip arthroplasty	$1,394.94	$1,401.58	0%	$1,104.94	-21%	NA	NA	NA	NA	NA
27244		Treat thigh fracture	$1,261.68	$1,272.15	1%	$1,002.90	-21%	NA	NA	NA	NA	NA
27447		Total knee arthroplasty	$1,394.22	$1,401.23	1%	$1,104.66	-21%	NA	NA	NA	NA	NA
33533		Cabg arterial single	$1,955.92	$1,943.63	-1%	$1,532.26	-22%	NA	NA	NA	NA	NA
35301		Rechanneling of artery	$1,200.42	$1,197.78	0%	$944.27	-21%	NA	NA	NA	NA	NA
43239		Egd biopsy	$152.25	$153.39	1%	$120.92	-21%	$405.51	$410.11	1%	$323.31	-20%
66821		After cataract laser	$324.55	$315.00	-3%	$248.33	-23%	$342.47	$333.59	-3%	$262.99	-23%
66984		Cataract surg w/iol 1	$673.11	$647.16	-4%	$510.19	-24%	NA	NA	NA	NA	NA
67210		Treatment of retinal	$523.37	$506.64	-3%	$399.41	-24%	$540.92	$524.16	-3%	$413.22	-24%
71010		Chest x-ray 1 view	NA	NA	NA	NA	NA	$24.00	$22.53	-6%	$17.76	-26%
71010	26	Chest x-ray 1 view	$9.31	$9.30	0%	$7.33	-21%	$9.31	$9.30	0%	$7.33	-21%
77056		Mammogram both	NA	NA	NA	NA	NA	$116.07	$115.49	0%	$91.04	-22%
77056	26	Mammogram both	$44.42	$44.34	0%	$34.95	-21%	$44.42	$44.34	0%	$34.95	-21%
77057		Mammogram screening	NA	NA	NA	NA	NA	$82.75	$82.59	0%	$65.11	-21%
77057	26	Mammogram screening	$35.82	$35.75	0%	$28.19	-21%	$35.82	$35.75	0%	$28.19	-21%
77427		Radiation tx management	$186.28	$186.28	0%	$146.86	-21%	$186.28	$186.28	0%	$146.86	-21%
88305	26	Tissue exam by	$38.33	$38.97	2%	$30.72	-20%	$38.33	$38.97	2%	$30.72	-20%
90935		Hemodialysis one	$73.44	$73.30	0%	$57.78	-21%	NA	NA	NA	NA	NA
92012		Eye exam establish	$54.81	$52.92	-3%	$41.72	-24%	$87.05	$85.45	-2%	$67.37	-23%
92014		Eye exam&tx estab pt	$82.75	$80.45	-3%	$63.42	-23%	$126.10	$124.07	-2%	$97.81	-22%
93000		Electrocardiogram	NA	NA	NA	NA	NA	$16.84	$17.16	2%	$13.53	-20%
93010		Electrocardiogram report	$8.60	$8.58	0%	$6.76	-21%	$8.60	$8.58	0%	$6.76	-21%
93015		Cardiovascular stress test	NA	NA	NA	NA	NA	$75.94	$76.87	1%	$60.60	-20%
93307	26	Tte w/o doppler complete	$45.85	$45.77	0%	$36.08	-21%	$45.85	$45.77	0%	$36.08	-21%

			Facility					Non-Facility				
CPT/ HCPCS[1]	MOD	Short Descriptor	CY 2014[2]	CY 2015 Jan 1– March 31[3]	% Change	CY 2015 April 1 – December 31[4]	% Change	CY 2014[2]	CY 2015 Jan 1– March 31[3]	% Change	CY 2015 April 1 – December 31[4]	% Change
93458	26	L hrt artery/ventricle	$325.63	$321.79	-1%	$253.68	-22%	$325.63	$321.79	-1%	$253.68	-22%
98941		Chiropract manj 3-4	$35.46	$35.04	-1%	$27.62	-22%	$41.55	$41.12	-1%	$32.42	-22%
99203		Office/outpatient visit	$77.02	$77.59	1%	$61.17	-21%	$108.18	$108.69	0%	$85.69	-21%
99213		Office/outpatient visit est	$51.58	$51.13	-1%	$40.31	-22%	$73.08	$72.94	0%	$57.50	-21%
99214		Office/outpatient visit est	$79.17	$79.02	0%	$62.29	-21%	$107.83	$107.98	0%	$85.13	-21%
99222		Initial hospital care	$138.63	$138.01	0%	$108.80	-22%	NA	NA	NA	NA	NA
99223		Initial hospital care	$204.19	$204.52	0%	$161.23	-21%	NA	NA	NA	NA	NA
99231		Subsequent hospital care	$39.41	$39.33	0%	$31.01	-21%	NA	NA	NA	NA	NA
99232		Subsequent hospital care	$72.36	$72.58	0%	$57.22	-21%	NA	NA	NA	NA	NA
99233		Subsequent hospital care	$104.24	$105.12	1%	$82.87	-21%	NA	NA	NA	NA	NA
99236		Observ/hosp same date	$219.24	$219.89	0%	$173.35	-21%	NA	NA	NA	NA	NA
99239		Hospital discharge day	$107.47	$108.34	1%	$85.41	-21%	NA	NA	NA	NA	NA
99283		Emergency dept visit	$61.97	$62.57	1%	$49.33	-20%	NA	NA	NA	NA	NA
99284		Emergency dept visit	$118.22	$119.06	1%	$93.86	-21%	NA	NA	NA	NA	NA
99291		Critical care first hour	$224.61	$225.97	1%	$178.14	-21%	$274.76	$277.46	1%	$218.73	-20%
99292		Critical care addl 30 min	$112.48	$112.63	0%	$88.79	-21%	$123.23	$123.35	0%	$97.25	-21%
99348		Home visit est patient	NA	NA	NA	NA	NA	$84.54	$84.38	0%	$66.52	-21%
99350		Home visit est patient	NA	NA	NA	NA	NA	$178.40	$178.06	0%	$140.37	-21%
G0008		Immunization admin	NA	NA	NA	NA	NA	$25.08	$25.39	1%	$20.01	-20%

[1] CPT codes and descriptions are copyright 2014 American Medical Association. All Rights Reserved. Applicable FARS/DFARS apply.
[2] The CY 2014 conversion factor is 35.8228.
[3] Payments based on the CY 2015 conversion factor of 35.7547 effective January 1 – March 31.
[4] Payments based on the CY 2015 conversion factor of 28.1872 effective April 1.

27. On page 67999, third column, first full paragraph,

a. Line 18, the figure "35.8013," is corrected to read "35.7547,".

b. Line 21, the figure "$109.19," is corrected to read "$108.18,".

c. Line 23, the phrase "this service would be $21.84," is corrected to read "this service would be $21.74."

List of Subjects in 42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 410:

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

■ 1. The authority citation for part 410 continues to read as follows:

Authority: Secs. 1102, 1834, 1871, 1881, and 1893 of the Social Security Act (42 U.S.C. 1302, 1395m, 1395hh, and 1395ddd.

■ 2. Section 410.26 is amended by revising paragraph (b)(5) to read as follows:

§ 410.26 Services and supplies incident to a physician's professional services: Conditions.

* * * * *

(b) * * *

(5) In general, services and supplies must be furnished under the direct supervision of the physician (or other practitioner). Chronic care management services and transitional care management services (other than the required face-to-face visit) can be furnished under general supervision of the physician (or other practitioner) when they are provided by clinical staff incident to the services of a physician (or other practitioner). The physician (or other practitioner) supervising the auxiliary personnel need not be the same physician (or other practitioner) upon whose professional service the incident to service is based.

* * * * *

Dated: March 13, 2015.

C'Reda Weeden,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2015–06427 Filed 3–19–15; 8:45 am]

BILLING CODE 4120–01–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140902739–5224–02]

RIN 0648–BE49

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS is implementing 2015 specifications and management measures for Atlantic mackerel, 2015–2017 specifications for *Illex* squid, 2015–2017 specifications for longfin squid, and 2015–2017 specifications for butterfish. This action also establishes a simplified butterfish fishery closure mechanism. These specifications set catch levels to prevent overfishing and allocate catch to commercial and recreational fisheries. Additionally, the simplified butterfish closure mechanism makes operation of the fishery more efficient and consistent with the higher catch limit for butterfish. These specifications and management measures are consistent with the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan and the recommendations of the Mid-Atlantic Fishery Management Council.

DATES: Effective April 20, 2015.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: *http://www.greateratlantic.fisheries.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Policy Analyst, (978) 281–9224.

SUPPLEMENTARY INFORMATION:

Background

Specifications, as referred to in this rule, are the combined suite of commercial and recreational catch levels established for one or more fishing years. The specifications process also allows for the modification of a select number of management measures, such as closure thresholds, gear restrictions, and possession limits. The Council's process for establishing specifications relies on provisions within the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) and its implementing regulations, as well as requirements established by the Magnuson-Stevens Fishery Conservation and Management Act. Specifically, section 302(g)(1)(B) of the Magnuson-Stevens Act states that the Scientific and Statistical Committee (SSC) for each Regional Fishery Management Council shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (ABC), preventing overfishing, maximum sustainable yield, and achieving rebuilding targets. The ABC is a level of catch that accounts for the scientific uncertainty in the estimate of the stock's defined overfishing level (OFL).

The Council's SSC met on May 7 and 8, 2014, to recommend ABCs for the 2015 Atlantic mackerel specifications, and the 2015–2017 butterfish, *Illex* squid, and longfin squid specifications. On November 14, 2014, NMFS published a proposed rule for fishing year 2015 for the mackerel, squid, and butterfish fishery specifications and management measures (79 FR 68202); the public comment period for the proposed rule ended December 15, 2014.

The Atlantic Mackerel, Squid, and Butterfish FMP regulations require the specification of annual catch limits (ACL) and accountability measures (AM) for mackerel and butterfish (both squid species are exempt from the ACL/AM requirements because they have a life cycle of less than 1 year). In addition, the regulations require the specification of domestic annual harvest (DAH), domestic annual processing (DAP), and total allowable level of foreign fishing (TALFF), along with joint venture processing for (JVP) commercial and recreational annual catch totals (ACT) for mackerel, the butterfish mortality cap in the longfin squid fishery, and initial optimum yield (IOY) for both squid species. Details concerning the Council's development of these measures were presented in the preamble of the proposed rule and are not repeated here.

In addition to the specifications, this action simplifies the management measure for the directed buttefish fishery and changes the regulations in regard to possession limits.

Final 2015 Specifications for Atlantic Mackerel

TABLE 1—2015 SPECIFICATIONS IN METRIC TONS (mt) FOR ATLANTIC MACKEREL

Overfishing limit (OFL)	Unknown
ABC	40,165
ACL	25,039
Commercial ACT	21,138
Recreational ACT/Recreational Harvest Limit (RHL)	1,397
DAH/DAP	20,872
JVP	0
TALFF	0

The proposed rule for this action included the details of how the Council derived its recommended mackerel specifications, and NMFS is not including these details in this final rule. This action establishes the mackerel stock-wide ABC of 40,165 mt and the U.S. ABC of 25,039 mt, based on the formula U.S. ABC = Stock-wide ABC − C, where C is the estimated catch of mackerel in Canadian waters (15,126 mt) for the 2014 fishing year. The ACL is set equal to U.S. ABC at 25,039 mt, the commercial ACT is set at 21,138 mt, the DAH and DAP are both set at 20,872 mt, and the recreational ACT is set at 1,397 mt.

The recreational fishery allocation for mackerel is 1,552 mt (6.2 percent of the U.S. ABC). The recreational ACT of 1,397 mt (90 percent of 1,552 mt) accounts for uncertainty in recreational catch and discard estimates. The Recreational ACT is equal to the Recreational Harvest Limit (RHL), which is the effective cap on recreational catch.

The commercial fishery allocation for mackerel is 23,487 mt (93.8 percent of the U.S. ABC, the portion of the ACL that was not allocated to the recreational fishery). The commercial ACT of 21,138 mt (90 percent of 23,487 mt) compensates for management uncertainty in estimated Canadian landings, uncertainty in discard estimates, and possible misreporting of mackerel catch. The commercial ACT is further reduced by a discard rate of 1.26 percent to arrive at the DAH of 20,872 mt. The DAH is the effective cap on commercial catch.

Additionally, this action maintains JVP at zero (the most recent allocation was 5,000 mt of JVP in 2004). In the past, JVP was set greater than zero because it believed U.S. processors lacked the ability to process the total amount of mackerel that U.S. harvesters could land. However, for the past 10 years, the Council has recommended zero JVP because U.S. shoreside processing capacity for mackerel has expanded. The Council concluded that processing capacity was no longer a limiting factor relative to domestic production of mackerel.

The Magnuson-Stevens Act provides that the specification of TALFF, if any, shall be the portion of the optimum yield (OY) of a fishery that will not be harvested by U.S. vessels. TALFF would allow foreign vessels to harvest U.S. fish and sell their product on the world market, in direct competition with U.S. industry efforts to expand exports. While a surplus existed between ABC and the mackerel fleet's harvesting capacity for many years, that surplus has disappeared due to downward adjustments of the specifications in recent years. Based on analysis of the global mackerel market and possible increases in U.S. production levels, the Council concluded that specifying a DAH/DAP that would result in zero TALFF would yield positive social and economic benefits to both U.S. harvesters and processors, and to the Nation. For these reasons, consistent with the Council's recommendation, the DAH is set at a level that can be fully harvested by the domestic fleet, thereby precluding the specification of a TALFF, in order to support the U.S. mackerel industry. NMFS concurs that it is reasonable to assume that in 2015 the commercial fishery has the ability to harvest 20,872 mt of mackerel.

2015 Final River Herring and Shad Catch Cap in the Mackerel Fishery

In order to limit river herring and shad catch, Amendment 14 to the FMP (February 24, 2014; 79 FR 10029) allows the Council to set a river herring and shad cap through annual specifications. For 2015 the cap is set at 89 mt initially, but if mackerel landings surpass 10,000 mt before closure, then the cap will increase to 155 mt. The 89-mt cap represents the median annual river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005–2012. These were years when the fishery caught about 13,000 mt of mackerel. The 155-mt cap is based on the median river herring and shad catch by all vessels landing over 20,000 lb (9.08 mt) of mackerel per trip from 2005–2012, adjusted to the 2015 proposed DAH (20,872 mt). The purpose of the two-tier system is to encourage the fishery to avoid river herring and shad regardless of the rate of mackerel catches. If mackerel catch is low, the 89-mt cap would encourage fishermen to avoid catching river herring and shad. If mackerel catch increases, the 155-mt cap should still allow mackerel fishing to occur as long as river herring and shad catch rates remain below the recent median. Once the mackerel fishery catches 95 percent of the river herring and shad cap, we will close the directed mackerel fishery and implement a 20,000-lb (9.08-mt) incidental catch trip limit for the remainder of the year.

2015–2017 Final Illex Specifications

TABLE 2—2015–2017 SPECIFICATIONS IN METRIC TON (mt) FOR ILLEX SQUID

OFL	Unknown
ABC	24,000
Initial Optimum Yield (IOY)	22,915
DAH/DAP	22,915

This action establishes the *Illex* ABC as 24,000 mt for the 2015–2017 fishing years, subject to annual review. The ABC is reduced by the status quo discard rate of 4.52 percent, which results in an IOY, DAH, and DAP of 22,914 mt for the 2015–2017 fishing years. These levels are the same as was specified for the *Illex* fishery in 2012–2014. The FMP does not authorize the specification of JVP and TALFF for the *Illex* fishery because of the domestic fishing industry's capacity to harvest and to process the OY from this fishery.

2015–2017 Final Longfin Squid Specifications

TABLE 3—2015–2017 SPECIFICATIONS IN METRIC TONS (mt) FOR LONGFIN SQUID

OFL	Unknown
ABC	23,400
IOY	22,445
DAH/DAP	22,445

This action establishes the longfin squid ABC of 23,400 mt for the 2015–2017 fishing years, subject to annual review. The ABC is reduced by the status quo discard rate of 4.08 percent, which results in an IOY, DAH, and DAP of 22,445 mt for the 2015–2017 fishing years. The FMP does not authorize the specification of JVP and TALFF for the longfin squid fishery because of the domestic industry's capacity to harvest and process the OY for this fishery.

Distribution of the Longfin DAH

As was done in all fishing years since 2007, the 2015–2017 longfin DAH is allocated into trimesters, according to percentages specified in the FMP, as follows:

TABLE 4—2015–2017 TRIMESTER ALLOCATION OF LONGFIN QUOTA

Trimester	Percent	Metric tons
I (Jan–Apr)	43	9,651
II (May–Aug)	17	3,816
III (Sep–Dec)	40	8,978
Total	100	22,445

2015–2017 Final Butterfish Specifications

TABLE 5—2015–2017 SPECIFICATIONS IN METRIC TONS (mt) FOR BUTTERFISH

	2015	2016	2017
OFL	41,092	N/A	N/A
ABC	33,278	31,412	30,922
Commercial ACT (ABC minus 10-percent buffer)	29,950	28,271	27,830
DAH (ACT minus butterfish cap and discards)	22,530	21,043	20,652
Directed Fishery closure limit (DAH minus 1,411 mt buffer)	21,119	19,631	19,241
Butterfish Cap (in the longfin squid fishery)	3,884	3,884	3,884

This action establishes the butterfish ABC at 33,278 mt for 2015 (increased dramatically from 9,100 mt in 2014) to account for the increased stock size and estimated expected fishing mortality in 2014. The butterfish ABC is set at 31,412 mt in 2016, and 30,933 mt in 2017 to account for fishing mortality in 2015 and 2016, respectively, with a 60-percent probability of not overfishing as required by the Council risk policy. The butterfish ACL is equal to the ABC, and establishing a 10-percent buffer between ACL and ACT for management uncertainty, results in an ACT of 29,950 mt in 2015, 28,271 mt in 2016, and 27,830 mt in 2017.

The butterfish cap is set at 3,884 mt for the 2015–2017 fishing years, which is the same level as 2014. This cap has not constrained the longfin fishery and reserves most of the available butterfish quota for the directed butterfish fishery. The DAH is set at 22,530 mt in 2015, 21,042 mt in 2016, and 20,652 in 2017, accounting for the butterfish cap and discards in non-longfin fisheries). Butterfish TALFF is only specified to address bycatch by foreign fleets targeting mackerel TALFF. Because there is no mackerel TALFF, butterfish TALFF would also be set at zero.

The 2015 butterfish mortality cap is allocated by Trimester, as follows:

TABLE 6—TRIMESTER ALLOCATION OF BUTTERFISH MORTALITY CAP ON THE LONGFIN SQUID FISHERY FOR 2015

Trimester	Percent	Metric tons
I (Jan–Apr)	43	1,670
II (May–Aug)	17	660
III (Sep–Dec)	40	1,554
Total	100	3,844

Butterfish Directed Fishery Closure Mechanism

This action simplifies butterfish directed fishery closure mechanism to account for the dramatic increase in butterfish availability and increased DAH. Instead of the three-phased butterfish management season, this rule will allow vessels issued longfin squid/butterfish moratorium permits (as specified at § 648.4(a)(5)(i)) to land unlimited amounts of butterfish if using mesh greater than or equal to 3 inches (76 mm) until projected landings reach within 1,411 mt of a given year's DAH. Once landings are within 1,411 mt of the DAH, NMFS will implement a 5,000-lb (2.27-mt) trip limit. Vessels issued a longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) are currently prohibited from landing more than 2,500 lb (1.13 mt) of butterfish per trip, and there are no changes for those vessels. The Council identified 1,411 mt as the amount that would allow some landings under a 5,000-lb (2.27-mt) trip limit without reaching the DAH. In the unlikely event that projected landings reach the annual DAH, then the trip limit will be reduced to 600 lb (0.27 mt) to prevent an overage of the ACT.

Corrections

This final rule also contains a minor adjustment to an existing regulation. The vessel monitoring system (VMS) power-down exemption for vessels that will be at the dock for more than 30 consecutive days, at § 648.10(c)(2)(i)(B), currently lists specific eligible permits. The regulatory text is simplified to clarify that the exemption is available to all permits that are required to have VMS.

Comments and Responses

NMFS received seven comments in response to the proposed rule for this action. Two were from industry groups, including Garden State Seafood Association (GSSA) (a New Jersey fishing industry advocacy group), and The Town Dock (a Rhode Island fishing company and seafood dealer). One comment was from the Herring Alliance, an environmental group, and the remaining four comments were from individuals. Two of the four comments from individuals were unrelated to the

action and are not included in this rule, and NMFS provides no response.

Comment 1: GSSA commented in support of the Council's recommended specifications and management measure with the exception of the butterfish quota reductions in 2016 and 2017. GSSA would like the butterfish quota to remain at the 2015 level for the 2016 and 2017 fishing years.

Response: NMFS is implementing the specifications as proposed. The SSC determined the 2015–2017 ABCs based on projections from the recently accepted 2014 butterfish assessment (SAW–SARC 58), which concluded that the stock was above target stock size and experiencing low fishing mortality. The ABC projections work in a stepwise fashion and assume average recruitment (fish entering the population). Assuming that the full ABC is caught each year and applying a fishing mortality rate that should result in 60-percent probability of not overfishing, the result is a slightly declining ABC each year from 2015 to 2017. Since the stock is estimated to be above its target, catches fall slightly over time, but as long as the stock remains at or above its target, ABCs would not be expected to fall below 29,000 mt (if the same approach to addressing scientific uncertainty is used and average recruitment occurs).

Comment 2: The Town Dock and one individual commented that they would like to see an increase in the Trimester II quota for longfin squid. Both commenters would like to see an increase in the rollover quota from Trimester I to Trimester II to prevent the closure of the longfin fishery during Trimester II.

Response: NMFS has forwarded these comments to the Council for its consideration. NMFS does not have the authority to make this change, and the Council did not consider changes to the Trimester allocations for the 2015–2017 specifications, but may in future actions.

Comment 3: The Herring Alliance suggested that there should be an incremental increase in butterfish quota starting lower than the proposed 2015 quota and increasing the quota in 2016 and 2017.

Response: The butterfish ABCs for 2015–2017 were recommended by the SSC based on the best available science including the recently accepted 2014 butterfish assessment (SAW–SARC 58), which concluded that the stock was above the target stock size and experiencing low fishing mortality.

Comment 4: The Herring Alliance supports the recommended 2015 mackerel ABC, but suggested that NMFS revisit the ABC within one year after a stock update.

Response: NMFS is implementing the specifications as proposed. There is not a scheduled stock update for 2016, but the SSC hopes to extend analysis that considers the performance of data poor approaches to ABC determination to include highly periodic catch time series. Based on the results of these simulations, the SSC expects to produce a revised 2016 ABC for this stock.

Comment 5: The Herring Alliance supports the lower river herring and shad cap of 89 mt, but does not support the increased cap option of 155 mt.

Response: The two-phased approach for the river herring and shad cap creates a strong incentive for the mackerel fishery to avoid river herring and shad when mackerel catch are low or high. The 155 mt river herring and shad cap will allow the fishery to catch the proposed mackerel quota in 2015 if the ratio of river herring and shad catch to total catch is relatively low. If the fishery does not maintain a low ratio of river herring and shad catch, then the fishery will be closed once the 89-mt cap is caught.

Comment 6: One individual commented that all of the quotas should be reduced by 50 percent.

Response: The quotas established through this final rule were based on the best available science, as recommended by the SSC.

Changes From the Proposed Rule

The proposed rule presented a table for the 2015–2017 butterfish specifications (Table 5 in the proposed rule). This table incorrectly listed the DAH subtracting the 1,411-mt buffer for 2017. The correct butterfish DAH (minus the 1,411-mt buffer) for 2017 is presented in Table 5 in this final rule, and will be presented to industry in the small entity compliance guide sent to butterfish permit holders after the publication of this final rule. Additionally, a minor wording change was made to § 648.26(d) for consistency.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries (AA) has determined that this final rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The Council prepared an EA for the 2015–2017 specifications and management measures, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available upon request (see **ADDRESSES**).

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of Executive Order 12866.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act, has prepared a FRFA, included in the preamble of this final rule, in support of the 2015–2017 specifications and management measures. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summaries in the IRFA, a summary of the significant issues raised by the public in response to the IRFA, and NMFS's responses to those comments. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**).

Statement of Need for This Action

This action establishes 2015 specifications for mackerel, and 2015–2017 specifications for butterfish, *Illex* squid, and longfin squid. It also modifies the river herring catch cap in the mackerel fishery and to simplify the closure mechanism in the butterfish fishery. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to this rule and are not repeated here.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

None of the public comments raised issues related to the IRFA or the economic impact of the rule on affected entities.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

Based on permit data for 2013, the numbers of potential fishing vessels in the 2015 fisheries are as follows: 384 separate vessels hold Atlantic mackerel, longfin squid, *Illex* squid, and butterfish limited access permits, 287 entities own those vessels, and, based on current Small Business Administration (SBA) definitions, 274 are small entities. Of the 274 small entities, 29 had no revenue in 2013 and those entities with no revenue are listed as small entities for the purposes of this analysis. All of the entities that had revenue fell into the finfish or shellfish categories, and

the SBA definitions for those categories for 2014 are $20.5 million for finfish fishing and $5.5 million for shellfish fishing. Many vessels participate in more than one of these fisheries; therefore, the number of permits is not additive. The only proposed alternatives that involve increased restrictions apply to mackerel limited access permits, so those numbers are listed separately (they are a subset of the above entities). This analysis found that 150 separate vessels hold Atlantic mackerel, longfin squid, *Illex* squid, and butterfish limited access permits, 114 entities own those vessels, and, based on current SBA definitions, 107 are small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no new reporting or record keeping requirements contained in any of the alternatives considered for this action. In addition, there are no Federal rules that duplicate, overlap, or conflict with this rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impacts 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

The mackerel commercial DAH (20,872 mt) represents a reduction from status quo (2014 DAH = 33,821 mt). Despite the reduction, the DAH is above recent U.S. landings; mackerel landings for 2010–2013 averaged 5,873 mt. Thus, the reduction does not pose a constraint to vessels relative to the landings in recent years. Even though the 2015 quota is lower than the 2014 quota, it will still allow more than a tripling of catch compared to any year 2011–2013. This action establishes a Recreational ACT/RHL of 1,552 mt. Because recreational harvest from 2010–2013 averaged 850 mt, it does not appear that the allocation for the recreational fishery will constrain recreational harvest. Overall, this action is not expected to result in any reductions in revenues for vessels that participate in either the commercial or recreational mackerel fisheries.

The river herring and shad catch cap in the mackerel fishery has the potential to prevent the fishery from achieving its full mackerel quota if the river herring and shad encounter rates are high, but it is very unlikely that the fishery would close before exceeding the levels of landings experienced since 2010, when landings have been less than 11,000 mt. Based on the operation of the cap in 2014 (the first year of the cap), as long as the fishery can maintain relatively low river herring and shad catch rates, this alternative is unlikely to constrain the mackerel fishery. Examination of river herring and shad catch rates in 2011–2013 suggest that the only year that the cap would have been binding would have been 2012. In 2012, relevant trips landed 5,074 mt of mackerel, but the fishery would have closed at approximately 4,439 mt if the 2015 cap had been in place. Given the river herring and shad encounter rate in 2012, approximately 608 mt of mackerel landings would have been forgone. Using the 2013 price of mackerel, 608 mt mackerel would have amounted to $265,105 of potentially forgone ex-vessel revenues. However, based on the operation of the cap in 2014, actual river herring and shad catch rates may be lower under the cap and, therefore, the cap may not be binding.

The *Illex* IOY (22,915 mt) renews the status quo for three more years. Though annual *Illex* landings have approached this amount in some recent years (15,825 mt for 2010, 18,797 mt for 2011, 11,709 mt for 2012, and 3,835 mt for 2013), the landings were lower than the 2015–2017 levels. Thus, implementation of this action should not result in a reduction in revenue or a constraint on expansion of the fishery in 2015–2017.

The longfin squid IOY (22,445 mt) renews the status quo levels for three more years. Because longfin squid landings from 2010–2013 averaged 10,093 mt, the 2015–2017 IOY provides an opportunity to increase landings, though if recent trends of low landings continue, there may be no increase in landings despite the increase in the allocation. No reductions in revenues for the longfin squid fishery are expected as a result of this action.

The butterfish DAHs established in this action (21,119 mt in 2015, 19,631 mt in 2016, and 19,241 mt in 2017) represents a 660-percent increase over the 2014 DAH (3,200 mt). Due to market conditions, there has not been a directed butterfish fishery in recent years; therefore, recent landings have been low. The increase in the DAH has the potential to increase revenue for permitted vessels, having a positive economic impact.

This action also simplifies the closure mechanism for the butterfish fishery. This allows permitted vessels to take butterfish when they are available or when dealers may process them, and should have a positive economic impact on the fishery.

The 2015–2017 butterfish discard cap of 3,884 mt renews the status quo for three more years. The longfin squid fishery will close during Trimester I, II, or III if the butterfish discards reach the trimester allocation. If the longfin squid fishery is closed in response to butterfish catch before the entire longfin squid quota is harvested, then a loss in revenue is possible. The potential for longfin squid revenue loss is dependent upon the size of the butterfish discard cap. This cap level was in effect for the 2013 and 2014 fishing years, and did not restrict the fishery in either year. For that reason, additional revenue losses are not expected as a result of this proposed action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 17, 2015.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.10, paragraph (c)(2)(i)(B) is revised to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(B) The vessel owner signs out of the VMS program for a minimum period of 30 consecutive days by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, the vessel does not engage in any fisheries or move from the dock/mooring until the VMS unit is turned back on, and the vessel complies with all conditions and requirements of said letter;

* * * * *

■ 3. In § 648.24, paragraph (c)(1) introductory text is revised to read as follows:

§ 648.24 Fishery closures and accountability measures.

* * * * *

(c) *Butterfish AMs*—(1) *Directed butterfish fishery closure.* When

butterfish catch reaches the butterfish closure threshold as determined in the annual specifications, NMFS shall implement a 5,000-lb (2.27-mt) possession limit for vessels issued a longfin squid/butterfish moratorium permit and that are fishing with a minimum mesh size of 3 inches (76 mm). When the butterfish catch is projected to reach the butterfish DAH as determined in the annual specifications, NMFS shall implement a 600-lb (0.27-mt) possession limit for all vessels issued a longfin squid/butterfish moratorium or incidental catch permit.

* * * * *

■ 4. In § 648.26, paragraph (d) is revised to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(d) *Butterfish.* (1) A vessel issued a longfin squid/butterfish moratorium permit (as specified at § 648.4(a)(5)(i)) fishing with a minimum mesh size of 3 inches (76 mm) is authorized to fish for, possess, or land butterfish with no possession restriction in the EEZ per trip, and may only land butterfish once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that directed butterfish fishery has not been closed and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the threshold for the butterfish fishery (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 5,000 lb (2.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day. When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day.

(2) A vessel issued longfin squid/butterfish moratorium permit fishing with mesh less than 3 inches (76 mm) may not fish for, possess, or land more than 2,500 lb (1.13 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, provided that butterfish harvest has not reached the DAH limit and the reduced possession limit has not been implemented, as described in § 648.24(c)(1). When butterfish harvest is projected to reach the DAH limit (as described in § 648.24(c)(1)), these vessels may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day.

(3) A vessels issued a longfin squid/butterfish incidental catch permit, regardless of mesh size used, may not fish for, possess, or land more than 600 lb (0.27 mt) of butterfish per trip at any time, and may only land butterfish once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

[FR Doc. 2015–06401 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 54

Friday, March 20, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket Nos. PRM–73–16; NRC–2013–0024]

Personnel Access Authorization Requirements for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; withdrawal by petitioner.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the withdrawal, without prejudice to a future filing, of a petition for rulemaking (PRM), PRM–73–16, filed with the Commission by the Nuclear Energy Institute (NEI or the petitioner) on January 25, 2013. The petitioner requested that the Commission amend its regulations to limit the scope of third-party review of licensee decisions denying or revoking an employee's unescorted access at licensee facilities. The petitioner sought to ensure that such decisions could not be overturned by any third party. By letter dated January 22, 2015, the petitioner withdrew its PRM.

DATES: The petition was withdrawn on January 22, 2015.

ADDRESSES: Please refer to Docket ID NRC–2013–0024 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–2013–0024. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jessica Kratchman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5112, email: *Jessica.Kratchman@nrc.gov.*

SUPPLEMENTARY INFORMATION: On January 25, 2013, the petitioner filed PRM–73–16 with the Commission requesting that it amend its regulations to limit the scope of third-party review of licensee decisions denying or revoking an employee's unescorted access at their facility (ADAMS Accession No. ML13035A186). The NRC published a notice of receipt and request for public comment on PRM–73–16 in the **Federal Register** of April 22, 2013 (78 FR 23684). The petition received over 300 individual comments from 212 individual commenters and co-signers. By letter dated January 22, 2015, the petitioner withdrew its PRM (ADAMS Accession No. ML15023A338).

Dated at Rockville, Maryland, this 12th day of March, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2015–06420 Filed 3–19–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0968; Airspace Docket No. 14–ASO–17]

Proposed Amendment of Class E Airspace; Dyersburg, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Dyersburg, TN as the Dyersburg VORTAC has been decommissioned, requiring airspace redesign at Dyersburg Regional Airport, formerly Dyersburg Municipal Airport. This action would enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also would update the geographic coordinates of airport.

DATES: Comments must be received on or before May 4, 2015.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2014–0968; Airspace Docket No. 14–ASO–17, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this proposed incorporation by reference material at NARA, call 202–741–6030, or go to

http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2014–0968; Airspace Docket No. 14–ASO–17) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0968; Airspace Docket No. 14–ASO–17.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface at Dyersburg Regional Airport, Dyersburg, TN. Airspace reconfiguration to within a 7.1-mile radius of the airport is necessary due to the decommissioning of the Dyersburg VORTAC and cancellation of the VOR approach, and for continued safety and management of IFR operations at the airport. This action would also recognize the airport's name change from Dyersburg Municipal Airport, to Dyersburg Regional Airport and update the geographic coordinates of the airport to be in concert with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Dyersburg Regional Airport, Dyersburg, TN.

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 Dyersburg, TN [Amended]

Dyersburg Regional Airport, TN
(Lat. 35°59′53″ N., long. 89°24′24″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Dyersburg Regional Airport.

Issued in College Park, Georgia, on March 10, 2015.

Gerald E. Lynch,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2015–06256 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–1003; Airspace Docket No. 14–AEA–9]

Proposed Amendment of Class D and Class E Airspace; Clarksburg, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D Airspace and Class E Airspace at Clarksburg, WV, as the Clarksburg VOR/DME has been decommissioned, requiring airspace redesign at North Central West Virginia Airport, formerly Benedum Airport. This action would enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also would update the airport's name and the geographic coordinates.

DATES: Comments must be received on or before May 4, 2015.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2014–1003; Airspace Docket No. 14–AEA–9, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Y, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this proposed incorporation by reference material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15. For further information, you can contact the Airspace Policy and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2014–1003; Airspace Docket No. 14–AEA–9) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–1003; Airspace Docket No. 14–AEA–9.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, and effective September 15, 2014. FAA Order 7400.9Y is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order 7400.9Y lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace designated as an extension to Class D at North Central West Virginia Airport, formerly known as Benedum Airport. A segment of the airspace would be amended from a 4.1-mile radius of the airport to 11 miles southwest of the airport. Class E airspace extending upward from 700 feet above the surface would be amended to within an 8.9-mile radius of the airport. Decommissioning of the Clarksburg VOR/DME and cancellation of the VOR approaches has made this action necessary for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport would be adjusted to coincide with the FAAs aeronautical database. The airport name would be changed from Benedum Airport to North Central West Virginia Airport in the Class D and E airspace areas listed above.

Class D and E airspace designations are published in Paragraphs 5000, 6004, and 6005 of FAA Order 7400.9Y, dated August 6, 2014, and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class D and Class E airspace at North Central West Virginia Airport, Clarksburg, WV.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014, effective September 15, 2014, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA WV D Clarksburg, WV [Amended]

North Central West Virginia Airport, WV
(Lat. 39°17′56″ N., long. 80°13′39″ W.)

That airspace extending upward from the surface up to and including 3,700 feet within a 4.1-mile radius of North Central West Virginia Airport. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA WV E4 Clarksburg, WV [Amended]

North Central West Virginia Airport, WV
(Lat. 39°17′56″ N., long. 80°13′39″ W.)

That airspace extending upward from the surface within 2.7 miles each side of the 220° bearing from North Central West Virginia Airport extending from the 4.1-mile radius of the airport to 11 miles southwest of the airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA WV E5 Clarksburg, WV [Amended]

North Central West Virginia Airport, WV
(Lat. 39°17′56″ N., long. 80°13′39″ W.)

That airspace extending upward from 700 feet above the surface within an 8.9-mile radius of North Central West Virginia Airport.

Issued in College Park, Georgia, on March 10, 2015.

Gerald E. Lynch,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2015–06257 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1307

[Docket No. CPSC–2014–0033]

Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates; Notice of Extension of Comment Period

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) published a notice of proposed rulemaking (NPR) in the **Federal Register** on December 30, 2014, proposing to prohibit children's toys and child care articles containing specified phthalates. The NPR invited

the public to submit comments; the comment period as set in the NPR ends March 16, 2015. The Commission is extending the comment period until April 15, 2015.

DATES: Submit comments by April 15, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2014–0033, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through: *http://www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov* and insert the Docket No. CPSC–2014–0033 into the ''Search'' box and follow the prompts.

SUPPLEMENTARY INFORMATION: On December 30, 2014, the Commission published an NPR in the **Federal Register** proposing to prohibit children's toys and child care articles containing specified phthalates. (79 FR 78324). The Commission issued the proposed rule under the authority of section 108 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The Commission is extending the comment period until April 15, 2015 to allow additional time for public comment on the NPR.

Alberta E. Mills,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2015–06389 Filed 3–19–15; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR 23

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113]

RIN 1076–AF25

Regulations for State Courts and Agencies in Indian Child Custody Proceedings

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a new subpart to the Department of the Interior's (Department) regulations implementing the Indian Child Welfare Act (ICWA), to improve ICWA implementation by State courts and child welfare agencies. These regulations complement recently published *Guidelines for State Courts and Agencies in Indian Child Custody Proceedings,* reflect recommendations made by the Attorney General's Advisory Committee on American Indian/Alaska Native Children Exposed to Violence, and address significant developments in jurisprudence since ICWA's inception. This publication also announces the dates and locations for tribal consultation sessions and public meetings to receive comment on this proposed rule.

DATES: Comments must be received on or before May 19, 2015. *Comments on the information collections contained in this proposed regulation are separate from those on the substance of the proposed rule.* Comments on the information collection burden should be received by April 20, 2015 to ensure consideration, but must be received no later than May 19, 2015. See the **SUPPLEMENTARY INFORMATION** section of this document for dates of public meetings and tribal consultation sessions.

ADDRESSES: You may submit comments by any of the following methods:

—*Federal rulemaking portal: www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs'' or ''BIA.'' The rule has been assigned Docket ID: BIA–2015–0001.

—*Email: comments@bia.gov.* Include ''ICWA'' in the subject line of the message.

—*Mail or hand-delivery:* Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240, (202) 273–4680.

Comments on the Paperwork Reduction Act information collections contained in this rule are separate from comments on the substance of the rule. Submit comments on the information collection requirements in this rule to the Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov* or by facsimile at (202) 395–5806. Please also send a copy of your comments to *comments@bia.gov.*

See the **SUPPLEMENTARY INFORMATION** section of this document for locations of public meetings and tribal consultation sessions.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240, (202) 273–4680; *elizabeth.appel@bia.gov.* You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Since ICWA was enacted by Congress in 1978, it has improved child welfare practices regarding Indian children. Commentators have asserted, however, that it has not reached its full potential due largely to ineffective or inconsistent implementation in some case. This proposed rule would establish a new subpart to regulations implementing ICWA at 25 CFR 23 to address Indian child welfare proceedings in State courts. This proposed rule is published in response to comments received during several listening sessions, written comments submitted throughout 2014, and recommendations that regulations are needed to fully implement ICWA. *See, e.g.,* Attorney General's Advisory Committee on American Indian and Alaska Native Children Exposed to Violence: Ending Violence So Children Can Thrive (November 2014), p. 77. This proposed rule would also respond to significant developments in jurisprudence since

the regulations were established in 1979 and last substantively updated in 1994.

This proposed rule would incorporate many of the changes made to the recently revised guidelines into regulations, establishing the Department's interpretation of ICWA as a binding interpretation to ensure consistency in implementation of ICWA across all States. This consistency is necessary to ensure that the goals of ICWA are carried out with each Indian child custody proceeding, regardless of the child welfare worker, judge, and State involved. The proposed rule would establish the following procedures to ensure compliance with ICWA: Determining whether ICWA applies to any child custody proceeding, providing notice to the parents or Indian custodian and Indian tribe(s), requesting and responding to requests to transfer proceedings to tribal court, adjudication of involuntary placements, adoptions, and terminations of parental rights, undertaking voluntary proceedings, identifying and applying placement preferences, and post-proceeding actions.

The Department requests comment on this proposed rule.

II. Background

Congress enacted ICWA in 1978 to address the Federal, State, and private agency policies and practices that resulted in the ''wholesale separation of Indian children from their families.'' H. Rep. 95–1386 (July 24, 1978), at 9. Congress found ''that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions . . . .'' 25 U.S.C. 1901(4). Congress determined that cultural ignorance and biases within the child welfare system were significant causes of this problem and that state administrative and judicial bodies ''have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.'' 25 U.S.C. 1901(5); H. Rep. 95–1386, at 10. Congress enacted ICWA to ''protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes or institutions which will reflect the unique values of Indian culture.'' H. Rep. 95–1386, at 8. The ICWA thus articulates a strong ''federal policy that, where possible, an Indian child should remain in the Indian community.'' *Mississippi Band of Choctaw Indians* v. *Holyfield,* 490 U.S. 30, 37 (1989) (citing H. Rep. 95–1386 at 24).

Following ICWA's enactment, in July 1979, the Department issued regulations addressing notice procedures for involuntary child custody proceedings involving Indian children, as well as governing the provision of funding for and administration of Indian child and family service programs as authorized by ICWA. *See* 25 CFR part 23. Those regulations did not address the specific requirements and standards that ICWA imposes upon State court child custody proceedings, beyond the requirements for contents of the notice. Also, in 1979, BIA published guidelines for State courts to use in interpreting many of ICWA's requirements in Indian child custody proceedings. 44 FR 67584 (Nov. 26, 1979).

In 2014, the Department invited comments to determine whether to update its guidelines and if so, what changes should be made. The Department held several listening sessions, including sessions with representatives of federally recognized Indian tribes, State court representatives (*e.g.,* the National Council of Juvenile and Family Court Judges and the National Center for State Courts' Conference of Chief Justices Tribal Relations Committee), the National Indian Child Welfare Association, and the National Congress of American Indians. The Department received comments from those at the listening sessions and also received written comments, including comments from individuals and additional organizations. An overwhelming proportion of the commenters requested not only that the Department update its ICWA guidelines but that the Department also issue regulations addressing the requirements and standards that ICWA imposes upon State court child custody proceedings. The Department reviewed and considered each comment in developing this proposed rule.

The Department has examined its authority to interpret and implement ICWA, including through a rulemaking, and has concluded that it possesses authority to implement the statute through rulemaking. ICWA instructs that ''[w]ithin [180] days after November 8, 1978, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter.'' 25 U.S.C. 1952. This is a broad grant of authority to the Secretary of the Interior (Secretary) to issue rules in order to ensure that the statute is fully and properly implemented. In addition to this express authority in ICWA, the Secretary is charged with ''the management of all Indian affairs and of all matters arising out of Indian relations,'' 25 U.S.C. 2, and may ''prescribe such regulations as [s]he may think fit for carrying into effect the various provisions of any act relating to Indian affairs.'' 25 U.S.C. 9. Finally, the United States has long been understood to have a special relationship with Indian nations, which includes the duty and power to protect them. Congress referred to this inherent authority in the opening language of ICWA, which explains that the ''United States has a direct interest, as trustee, in protecting Indian children.'' 25 U.S.C. 1901(3). These regulations, which are intended to improve the implementation of ICWA, uphold this Federal interest.

The Department has concluded that these regulations are now necessary to effectively carry out the provisions of ICWA. In issuing the guidelines in 1979, the Department found that primary responsibility for interpreting many of ICWA's provisions rests with the State courts that decide Indian child custody cases. *See, e.g.,* 44 FR 67,584 (November 26, 1979). At the time, the Department opined that the promulgation of regulations was not necessary to carry out ICWA. Since that time, it has become clear that a uniform interpretation of key provisions is necessary to ensure compliance with ICWA. These regulations will provide a stronger measure of consistency in the implementation of ICWA, which has been interpreted in different, and sometimes conflicting, ways by various State courts and agencies and has resulted in different minimum standards being applied across the United States, contrary to Congress' intent. Moreover, conflicting interpretations can lead to arbitrary outcomes, and certain interpretations and applications threaten the rights that ICWA was intended to protect. *See, e.g., Holyfield,* 490 U.S. at 45–46 (describing the need for uniformity in defining ''domicile'' under ICWA).

III. Overview of the Proposed Rule

This proposed rule addresses ICWA implementation by State courts and child welfare agencies, including updating definitions, and replacing current notice provisions at 25 CFR 23.11 with a proposed new subpart I to 25 CFR part 23. The proposed new subpart also addresses other aspects of ICWA compliance by State courts and child welfare agencies including, but

not limited to, other pretrial requirements, procedures for requesting transfer of an Indian child custody proceeding to tribal court, adjudications of involuntary placements, adoptions, and termination of parental rights, voluntary proceedings, dispositions, and post-trial rights. For example, the proposed rule clarifies ICWA applicability and codifies that there is no ''Existing Indian Family Exception (EIF)'' to ICWA. Since first identification of the EIF in 1982, the majority of State appellate courts that have considered the EIF have rejected it as contrary to the plain language of ICWA. Some State legislatures have also explicitly rejected the EIF within their State ICWA statutes. When Congress enacted ICWA, it intended that an ''Indian child'' was the threshold for application of ICWA. The Department agrees with the States that have concluded that there is no existing Indian family exception to application of ICWA. The proposed rule also promotes the early identification of ICWA applicability. Such identifications will promote proper implementation of ICWA at an early stage, to prevent—as much as possible—delayed discoveries that ICWA applies.

We welcome comments on all aspects of this rule. We are particularly interested in the use of ''should'' versus ''must.'' The proposed rule makes several of the provisions issued in the recently published *Guidelines for State Courts and Agencies in Indian Child Custody Proceedings,* 80 FR 10146 (February 25, 2015), binding as regulation. These proposed mandatory provisions (indicating an action ''must'' be taken, for example) are authorized by ICWA. Some proposed provisions indicate that certain actions ''should'' be taken. We welcome comment on whether mandatory language is authorized by ICWA in those instances and any appropriate revisions to further promote compliance with ICWA.

IV. Public Meetings & Tribal Consultation Sessions

The Department will host both public meetings and tribal consultation sessions on this proposed rule.

A. Public Meetings

All are invited to the public meetings. Dates and locations for the public meetings are as follows:

Date	Time	Location	Venue
Wednesday, April 22, 2015	9 a.m.–noon Local Time	Portland, Oregon	BIA Regional Office, 911 NE 11th Ave, Portland, OR 97232*.
Thursday, April 23, 2015	1–4 p.m. Local Time	Rapid City, South Dakota	Best Western Ramkota Hotel, 2111 N Lacrosse St., Rapid City, SD 57701.
Tuesday, May 5, 2015	1–4 p.m. Local Time	Albuquerque, New Mexico	National Indian Programs Training Center, 1011 Indian School Road NW., Suite 254 Albuquerque, NM 87104*.
Thursday, May 7, 2015	1–4 p.m. Local Time	Prior Lake, Minnesota	Mystic Lake Casino Hotel, 2400 Mystic Lake Blvd., Prior Lake, MN 55372.
Tuesday, May 12, 2015	1 p.m.–4 p.m. Eastern Time	Via teleconference	888–730–9138, Passcode: INTERIOR.
Thursday, May 14, 2015	1–4 p.m. Local Time	Tulsa, Oklahoma	Tulsa Marriott Southern Hills, 1902 East 71st, Tulsa, OK 74136.

* Please RSVP for the Portland and Albuquerque meetings to *consultation@bia.gov,* bring photo identification, and arrive early to allow for time to get through security, as these are Federal buildings. No RSVP is necessary for the other locations.

B. Tribal Consultation Sessions

Tribal consultation sessions are for representatives of currently federally recognized tribes only, to discuss the rule on a government-to-government basis with the Department. These sessions may be closed to the public. The dates and locations for the tribal consultations are as follows:

Date	Time	Location	Venue
Monday, April 20, 2015	3:30 p.m.–5:30 p.m. Local Time	Portland, Oregon	Hilton Portland & Executive Towers, 921 SW. Sixth Avenue, Portland, OR 97204, (at the same location as NICWA conference).
Thursday, April 23, 2015	9 a.m.–12 p.m. Local Time	Rapid City, South Dakota	Best Western Ramkota Hotel, 2111 N Lacrosse St, Rapid City, SD 57701.
Tuesday, May 5, 2015	9 a.m.–12 p.m. Local Time	Albuquerque, New Mexico	National Indian Programs Training Center, 1011 Indian School Road, NW., Suite 254, Albuquerque, NM 87104*.
Thursday, May 7, 2015	9 a.m.–12 p.m. Local Time	Prior Lake, Minnesota	Mystic Lake Casino Hotel, 2400 Mystic Lake Blvd., Prior Lake, MN 55372.
Monday, May 11, 2015	1 p.m.–4 p.m. Eastern Time	Via teleconference	Call-in number: 888–730–9138 Passcode: INTERIOR =.

Date	Time	Location	Venue
Thursday, May 14, 2015	9 a.m.–12 p.m. Local Time	Tulsa, Oklahoma	Tulsa Marriott Southern Hills, 1902 East 71st, Tulsa, OK 74136.

V. Statutory Authority

The Department is issuing this proposed rule pursuant to ICWA, 25 U.S.C. 1901 *et seq.,* and its authority over the management of all Indian affairs under 25 U.S.C. 2, 9.

VI. Procedural Requirements

1. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department has developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' A takings implication assessment is therefore not required.

6. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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. The Department has determined that this rule complies with the fundamental Federalism principles and policymaking criteria established in EO 13132. Congress determined that the issue of Indian child welfare is sufficiently national in scope and significance to justify a statute that applies uniformly across States. This rule invokes the United States' special relationship with Indian tribes and children by establishing a regulatory baseline for implementation to further the goals of ICWA. Such goals include protecting the best interests of Indian children and promoting the stability and security of Indian tribes and families by establishing minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes that reflect the unique values of Indian culture. States are required to comply with ICWA even in the absence of this rule, and that requirement has existed since ICWA's passage in 1978. In the spirit of EO 13132, the Department specifically solicits comment on this proposed rule from State officials, including suggestions for how the rule could be made more flexible for State implementation.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

8. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. The Department hosted several listening sessions on the ICWA guidelines and notified each federally recognized tribal leader of the sessions. Several federally recognized Indian tribes submitted written comments and many suggested developing regulations. The Department considered each tribe's comments and concerns and have addressed them, where possible, in the proposed rule. The Department will be continuing to consult with tribes during the public comment period on this rule. The dates and locations of consultation sessions are listed in section IV, above.

9. Paperwork Reduction Act

OMB Control Number: 1076–NEW

Title: Indian Child Welfare Act (ICWA) Proceedings in State Court

Brief Description of Collection: This collection addresses the reporting, third-party disclosure, and recordkeeping requirements of ICWA, which requires State courts and agencies to provide notice to tribes and parents/custodians of any child custody proceeding that may involve an ''Indian child,'' and

requires State courts and agencies to document certain actions and maintain certain records regarding the removal and placement of an ''Indian child.''

Type of Review: Existing collection in use without OMB control number.

Respondents: State governments and individuals.

Number of Respondents: 5,500 on average (each year).

Number of Responses: 116,100 on average (each year).*

Frequency of Response: On occasion.

Estimated Time per Response: Ranges from 15 minutes to 12 hours.

Estimated Total Annual Hour Burden: 277,276 hours.

Estimated Total Annual Non-Hour Cost: $868,400.**

Sec.	Information collection	Annual number of respondents	Frequency of responses	Annual number of responses	Completion time per response	Total annual burden hours
23.107	Obtain information on whether child is ''Indian child''.	50	260	13,000	12	156,000
23.109(c)(3)	Notify of tribal membership where more than 1 tribe.	50	130	6,500	1	6,500
23.111, 23.113	Notify tribe, parents, Indian custodian of child custody proceeding.	50	260	13,000	6	78,000
23.113	Document basis for emergency removal/placement.	50	260	13,000	0.5	6,500
23.113	Maintain records detailing steps to provide notice.	50	260	13,000	0.5	6,500
23.113	Petition for court order authorizing emergency removal/placement (with required contents).	50	260	13,000	0.5	6,500
23.118	Notify tribal court of transfer, provide records.	50	5	250	0.25	63
23.120	Document ''active efforts''	50	130	6,500	0.5	3,250
23.125	Parental consent to termination or adoption (with required contents).	5,000	1	5,000	0.5	2,500
23.126, 127	Notify placement of withdrawal of consent.	50	2	100	0.25	25
23.128	Document each placement (including required documents).	50	130	6,500	0.5	3,250
23.128	Maintain records of placements	50	130	6,500	0.5	3,250
23.132	Notify of petition to vacate	50	5	250	0.25	63
23.135	Notify of change in status quo	50	130	6,500	0.25	1,625
23.136	Notify of final adoption decree/order.	50	130	6,500	0.25	1,625
23.137	Maintain records in a single location and respond to inquiries.	50	130	6,500	0.25	1,625
				116,100	6.75	277,276

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature. *See,* 43 CFR 46.210(i). No extraordinary circumstances exist that would require greater review under the National Environmental Policy Act.

11. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

12. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 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 clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the ''COMMENTS'' section. To better help revise the rule, your comments should be as specific as possible. For example, include the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where lists or tables would be useful, etc.

13. 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

* The following table shows estimates of the hour burden above what a State court or agency would do in a child custody proceeding that does not involve ICWA requirements:

** In many cases, there are no start-up costs associated with these information collections because State courts are agencies are already implementing child custody actions. However, it is possible that some States may not yet have a single location, or electronic database accessible from anywhere, housing all placement records. For this reason, we are estimating a start-up cost of $487,500 (or just under $10,000 per state on average, with the understanding that there will be no start-up costs in some states and up to $20,000 or more in others). The annual cost burden to respondents associated with providing notice by registered mail is $11.95 and the cost of a return receipt green card is $2.70. For each Indian child custody proceeding, at least two notices must be sent—one to the parent and one to the tribe, totaling $29.30. At an annual estimated 13,000 child welfare proceedings that may involve an ''Indian child,'' this totals: $380,900. Together with the start-up cost, the total non-hour cost burden for all 50 States is $868,400.

information from public review, we cannot guarantee that we will be able to do so.

The Department cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

List of Subjects in 25 CFR Part 23

Administrative practice and procedure, Child welfare, Indians, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend part 23 in Title 25 of the Code of Federal Regulations as follows:

PART 23—INDIAN CHILD WELFARE ACT

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 1901–1952.

■ 2. In § 23.2:
■ a. Add a definition for ''active efforts'';
■ b. Revise the definition of ''child custody proceeding'';
■ c. Add definitions for ''continued custody'', ''custody'', and ''domicile'';
■ d. Revise the definition of ''extended family member'';
■ e. Add a definition for ''imminent physical danger or harm'';
■ f. Revise the definition of ''Indian child's tribe'', ''Indian custodian'', ''parent'', ''reservation'', and ''Secretary'';
■ g. Add a definition for ''status offenses'';
■ h. Revise the definition of ''tribal court''; and
■ i. Add definitions for ''upon demand'' and ''voluntary placement''.

The additions and revisions read as follows:

Revise the following definitions to read as follows:

§ 23.2 Definitions.

* * * * *

Active efforts means actions intended primarily to maintain and reunite an Indian child with his or her family or tribal community and constitute more than reasonable efforts as required by Title IV–E of the Social Security Act (42 U.S.C. 671(a)(15)). Active efforts include, for example:

(1) Engaging the Indian child, the Indian child's parents, the Indian child's extended family members, and the Indian child's custodian(s);

(2) Taking steps necessary to keep siblings together;

(3) Identifying appropriate services and helping the parents to overcome barriers, including actively assisting the parents in obtaining such services;

(4) Identifying, notifying, and inviting representatives of the Indian child's tribe to participate;

(5) Conducting or causing to be conducted a diligent search for the Indian child's extended family members for assistance and possible placement;

(6) Taking into account the Indian child's tribe's prevailing social and cultural conditions and way of life, and requesting the assistance of representatives designated by the Indian child's tribe with substantial knowledge of the prevailing social and cultural standards;

(7) Offering and employing all available and culturally appropriate family preservation strategies;

(8) Completing a comprehensive assessment of the circumstances of the Indian child's family, with a focus on safe reunification as the most desirable goal;

(9) Notifying and consulting with extended family members of the Indian child to provide family structure and support for the Indian child, to assure cultural connections, and to serve as placement resources for the Indian child;

(10) Making arrangements to provide family interaction in the most natural setting that can ensure the Indian child's safety during any necessary removal;

(11) Identifying community resources including housing, financial, transportation, mental health, substance abuse, and peer support services and actively assisting the Indian child's parents or extended family in utilizing and accessing those resources;

(12) Monitoring progress and participation in services;

(13) Providing consideration of alternative ways of addressing the needs of the Indian child's parents and extended family, if services do not exist or if existing services are not available;

(14) Supporting regular visits and trial home visits of the Indian child during any period of removal, consistent with the need to ensure the safety of the child; and

(15) Providing post-reunification services and monitoring.

* * * * *

Child custody proceeding means and includes any proceeding or action that involves:

(1) *Foster care placement,* which is any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, although parental rights have not been terminated;

(2) *Termination of parental rights,* which is any action resulting in the termination of the parent-child relationship;

(3) *Preadoptive placement,* which is the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; or

(4) *Adoptive placement,* which is the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

* * * * *

Continued custody means physical and/or legal custody that a parent already has or had at any point in the past. The biological mother of a child has had custody of a child.

Custody means physical and/or legal custody under any applicable tribal law or tribal custom or State law. A party may demonstrate the existence of custody by looking to tribal law or tribal custom or State law.

Domicile means:

(1) For a parent or any person over the age of eighteen, physical presence in a place and intent to remain there;

(2) For an Indian child, the domicile of the Indian child's parents. In the case of an Indian child whose parents are not married to each other, the domicile of the Indian child's mother.

Extended family member is defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, is a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

* * * * *

Imminent physical damage or harm means present or impending risk of serious bodily injury or death.

* * * * *

Indian child's tribe means:

(1) The Indian tribe in which an Indian child is a member or eligible for membership; or

(2) In the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts.

Indian custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child. An Indian person may demonstrate that he or she is an Indian custodian by looking to tribal law or tribal custom or State law.

* * * * *

Parent means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include an unwed father where paternity has not been acknowledged or established.

Reservation means Indian country as defined in 18 U.S.C. 1151, including any lands, title to which is held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

Secretary means the Secretary of the Interior or the Secretary's authorized representative acting under delegated authority.

* * * * *

Status offenses mean offenses that would not be considered criminal if committed by an adult; they are acts prohibited only because of a person's status as a minor (*e.g.,* truancy, incorrigibility).

* * * * *

Tribal court means a court with jurisdiction over child custody proceedings, including a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe vested with authority over child custody proceedings.

* * * * *

Upon demand means that the parent or Indian custodians can regain custody simply upon request, without any contingencies such as repaying the child's expenses.

* * * * *

Voluntary placement means a placement that either parent has, of his or her free will, chosen for the Indian child, including private adoptions.

■ 3. In § 23.11, revise paragraph (d) and remove paragraphs (e), (f), and (g).

The revision reads as follows:

§ 23.11 Notice.

* * * * *

(d) Notice to the appropriate BIA Area Director pursuant to paragraph (b) of this section must be sent by registered mail with return receipt requested and must include the information required by § 23.111 of these regulations.

* * * * *

■ 4. Add subpart I to read as follows:

Subpart I—Indian Child Welfare Act Proceedings

General Provisions

Sec.

23.101 What is the purpose of this subpart?
23.102 What terms do I need to know?
23.103 When does ICWA apply?
23.104 How do I contact a tribe under the regulations in this subpart?
23.105 How does this subpart interact with State laws?

Pretrial Requirements

23.106 When does the requirement for active efforts begin?
23.107 What actions must an agency and State court undertake to determine whether a child is an Indian child?
23.108 Who makes the determination as to whether a child is a member of a tribe?
23.109 What is the procedure for determining an Indian child's tribe when the child is a member or eligible for membership in more than one tribe?
23.110 When must a State court dismiss an action?
23.111 What are the notice requirements for a child custody proceeding involving an Indian child?
23.112 What time limits and extensions apply?
23.113 What is the process for the emergency removal of an Indian child?
23.114 What are the procedures for determining improper removal?

Procedures for Making Requests for Transfer to Tribal Court

23.115 How are petitions for transfer of proceeding made?
23.116 What are the criteria and procedures for ruling on transfer petitions?
23.117 How is a determination of ''good cause'' not to transfer made?
23.118 What happens when a petition for transfer is made?

Adjudication of Involuntary Placements, Adoptions, or Terminations of Parental Rights

23.119 Who has access to reports or records?
23.120 What steps must a party take to petition a State court for certain actions involving an Indian child?
23.121 What are the applicable standards of evidence?
23.122 Who may serve as a qualified expert witness?

Voluntary Proceedings

23.123 What actions must an agency and State court undertake in voluntary proceedings?
23.124 How is consent obtained?
23.125 What information should the consent document contain?
23.126 How is withdrawal of consent achieved in a voluntary foster care placement?
23.127 How is withdrawal of consent to a voluntary adoption achieved?

Dispositions

23.128 When do the placement preferences apply?
23.129 What placement preferences apply in adoptive placements?
23.130 What placement preferences apply in foster care or preadoptive placements?
23.131 How is a determination for ''good cause'' to depart from the placement preferences made?

Post-Trial Rights & Recordkeeping

23.132 What is the procedure for petitioning to vacate an adoption?
23.133 Who can make a petition to invalidate an action?
23.134 What are the rights of adult adoptees?
23.135 When must notice of a change in child's status be given?
23.136 What information must States furnish to the Bureau of Indian Affairs?
23.137 How must the State maintain records?
23.138 How does the Paperwork Reduction Act affect this subpart?

General Provisions

§ 23.101 What is the purpose of this subpart?

These regulations clarify the minimum Federal standards governing implementation of the Indian Child Welfare Act (ICWA) to ensure that ICWA is applied in all States consistent with the Act's express language, Congress' intent in enacting the statute, and the canon of construction that statutes enacted for the benefit of Indians are to be liberally construed to their benefit. In order to fully implement ICWA, these regulations apply in all proceedings and stages of a proceeding in which ICWA is or becomes applicable.

§ 23.102 What terms do I need to know?

The following terms and their definitions apply to this subpart. All other terms have the meanings assigned in § 23.2.

Agency means a private State-licensed agency or public agency and their employees, agents or officials involved in and/or seeking to place a child in a child custody proceeding.

Indian organization means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians or a tribe, or a majority of whose members are Indians.

§ 23.103 When does ICWA apply?

(a) ICWA applies whenever an Indian child is the subject of a State child custody proceeding as defined by the Act. ICWA also applies to proceedings involving status offenses or juvenile delinquency proceedings if any part of

those proceedings results in the need for placement of the child in a foster care, preadoptive or adoptive placement, or termination of parental rights.

(b) There is no exception to application of ICWA based on the so-called ''existing Indian family doctrine'' and, the following non-exhaustive list of factors that have been used by courts in applying the existing Indian family doctrine may not be considered in determining whether ICWA is applicable:

(1) The extent to which the parent or Indian child

(i) Participates in or observes tribal customs,

(ii) Votes in tribal elections or otherwise participates in tribal community affairs,

(iii) Contributes to tribal or Indian charities, subscribes to tribal newsletters or other periodicals of special interest in Indians,

(iv) Participates in Indian religious, social, cultural, or political events, or maintains social contacts with other members of the tribe;

(2) The relationship between the Indian child and his/her Indian parents;

(3) The extent of current ties either parent has to the tribe;

(4) Whether the Indian parent ever had custody of the child;

(5) The level of involvement of the tribe in the State court proceedings; and/or

(6) Blood quantum.

(c) Agencies and State courts, in every child custody proceeding, must ask whether the child is or could be an Indian child and conduct an investigation into whether the child is an Indian child.

(d) If there is any reason to believe the child is an Indian child, the agency and State court must treat the child as an Indian child, unless and until it is determined that the child is not a member or is not eligible for membership in an Indian tribe.

(e) ICWA and these regulations or any associated Federal guidelines do not apply to:

(1) Tribal court proceedings;

(2) Placements based upon an act by the Indian child which, if committed by an adult, would be deemed a criminal offense; or

(3) An award, in a divorce proceeding, of custody of the Indian child to one of the parents.

(f) Voluntary placements that do not operate to prohibit the child's parent or Indian custodian from regaining custody of the child upon demand are not covered by ICWA. Such placements should be made pursuant to a written agreement, and the agreement should state explicitly the right of the parent or Indian custodian to regain custody of the child upon demand.

(g) Voluntary placements in which a parent consents to a foster care placement or seeks to permanently terminate his or her rights or to place the child in a preadoptive or adoptive placement are covered by ICWA.

§ 23.104 How do I contact a tribe under the regulations in this subpart?

To contact a tribe to provide notice or obtain information or verification under these regulations, you should direct the notice or inquiry as follows:

(a) Many tribes designate an agent for receipt of ICWA notices. The BIA publishes a list of tribes' designated tribal agents for service of ICWA notice in the **Federal Register** each year and makes the list available on its Web site at *www.bia.gov.*

(b) For tribes without a designated tribal agent for service of ICWA notice, contact the tribe(s) to be directed to the appropriate individual or office.

(c) If you do not have accurate contact information for the tribe(s) or the tribe(s) contacted fail(s) to respond to written inquiries, you may seek assistance in contacting the Indian tribe(s) from the BIA Regional Office and/or Central Office in Washington, DC (see *www.bia.gov*).

§ 23.105 How does this subpart interact with State laws?

(a) These regulations provide minimum Federal standards to ensure compliance with ICWA and are applicable in all child custody proceedings in which ICWA applies.

(b) In any child custody proceeding where applicable State or other Federal law provides a higher standard of protection to the rights of the parent or Indian custodian than the protection accorded under the Act, ICWA requires that the State court must apply the higher standard.

Pretrial Requirements

§ 23.106 When does the requirement for active efforts begin?

(a) The requirement to engage in ''active efforts'' begins from the moment the possibility arises that an agency case or investigation may result in the need for the Indian child to be placed outside the custody of either parent or Indian custodian in order to prevent removal.

(b) Active efforts to prevent removal of the child must be conducted while investigating whether the child is a member of the tribe, is eligible for membership in the tribe, or whether a biological parent of the child is or is not a member of a tribe.

§ 23.107 What actions must an agency and State court undertake in order to determine whether a child is an Indian child?

(a) Agencies must ask whether there is reason to believe a child that is subject to a child custody proceeding is an Indian child. If there is reason to believe that the child is an Indian child, the agency must obtain verification, in writing, from all tribes in which it is believed that the child is a member or eligible for membership, as to whether the child is an Indian child.

(b) State courts must ask, as a threshold question at the start of any State court child custody proceeding, whether there is reason to believe the child who is the subject of the proceeding is an Indian child by asking each party to the case, including the guardian ad litem and the agency representative, to certify on the record whether they have discovered or know of any information that suggests or indicates the child is an Indian child.

(1) In requiring this certification, courts may wish to consider requiring the agency to provide:

(i) Genograms or ancestry charts for both parents, including all names known (maiden, married and former names or aliases); current and former addresses of the child's parents, maternal and paternal grandparents and great grandparents or Indian custodians; birthdates; places of birth and death; tribal affiliation including all known Indian ancestry for individuals listed on the charts, and/or other identifying information; and/or

(ii) The addresses for the domicile and residence of the child, his or her parents, or the Indian custodian and whether either parent or Indian custodian is domiciled on or a resident of an Indian reservation or in a predominantly Indian community.

(2) If there is reason to believe the child is an Indian child, the court must confirm that the agency used active efforts to work with all tribes of which the child may be a member to verify whether the child is in fact a member or eligible for membership in any tribe, under paragraph (a) of this section.

(c) An agency or court has reason to believe that a child involved in a child custody proceeding is an Indian child if:

(1) Any party to the proceeding, Indian tribe, Indian organization or public or private agency informs the agency or court that the child is an Indian child;

(2) Any agency involved in child protection services or family support has discovered information suggesting that the child is an Indian child;

(3) The child who is the subject of the proceeding gives the agency or court

reason to believe he or she is an Indian child;

(4) The domicile or residence of the child, parents, or the Indian custodian is known by the agency or court to be, or is shown to be, on an Indian reservation or in a predominantly Indian community; or

(5) An employee of the agency or officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

(d) In seeking verification of the child's status, in a voluntary placement proceeding where a consenting parent evidences a desire for anonymity, the agency or court must keep relevant documents confidential and under seal. A request for anonymity does not relieve the obligation to obtain verification from the tribe(s) or to provide notice.

§ 23.108 Who makes the determination as to whether a child is a member of a tribe?

(a) Only the Indian tribe(s) of which it is believed a biological parent or the child is a member or eligible for membership may make the determination whether the child is a member of the tribe(s), is eligible for membership in the tribe(s), or whether a biological parent of the child is a member of the tribe(s).

(b) The determination by a tribe of whether a child is a member, is eligible for membership, or whether a biological parent is or is not a member, is solely within the jurisdiction and authority of the tribe.

(c) No other entity or person may authoritatively make the determination of whether a child is a member of the tribe or is eligible for membership in the tribe.

(d) The State court may not substitute its own determination regarding a child's membership or eligibility for membership in a tribe or tribes.

§ 23.109 What is the procedure for determining an Indian child's tribe when the child is a member or eligible for membership in more than one tribe?

(a) Agencies must notify all tribes, of which the child may be a member or eligible for membership, that the child is involved in a child custody proceeding. The notice should specify the other tribe or tribes of which the child may be a member or eligible for membership.

(b) If the Indian child is a member or eligible for membership in only one tribe, that tribe should be designated as the Indian child's tribe.

(c) If an Indian child is a member or eligible for membership in more than one tribe, ICWA requires that the Indian tribe with which the Indian child has the more significant contacts be designated as the Indian child's tribe.

(1) In determining significant contacts, the following may be considered:

(i) Preference of the parents for membership of the child;

(ii) Length of past domicile or residence on or near the reservation of each tribe;

(iii) Tribal membership of custodial parent or Indian custodian; and

(iv) Interest asserted by each tribe in response to the notice that the child is involved in a child custody proceeding;

(2) When an Indian child is already a member of a tribe, but is also eligible for membership in another tribe, deference should be given to the tribe in which the Indian child is a member, unless otherwise agreed to by the tribes. However, if the Indian child is not a member of any tribe, an opportunity should be provided to allow the tribes to determine which of them should be designated as the Indian child's tribe.

(i) If the tribes are able to reach an agreement, the agreed upon tribe should be designated as the Indian child's tribe.

(ii) If the tribes do not agree, the following factors should be considered in designating the Indian child's tribe:

(A) The preference of the parents or extended family members who are likely to become foster care or adoptive placements; and/or

(B) Tribal membership of custodial parent or Indian custodian; and/or

(C) If applicable, length of past domicile or residence on or near the reservation of each tribe; and/or

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes; and/or

(E) Self-identification by the child; and/or

(F) Availability of placements.

(3) Once an Indian tribe is designated as the child's Indian tribe, all tribes which received notice of the child custody proceeding must be notified in writing of the determination and a copy of that document must be filed with the court and sent to each party to the proceeding and to each person or governmental agency that received notice of the proceeding.

(4) A determination of the Indian child's tribe for purposes of ICWA and these regulations does not constitute a determination for any other purpose or situation.

(d) The tribe designated as the Indian child's tribe may authorize another tribe to act as a representative for the tribe in a child custody case.

§ 23.110 When must a State court dismiss an action?

Subject to § 23.113 (emergency procedures), the following limitations on a State court's jurisdiction apply:

(a) The court must dismiss any child custody proceeding as soon as the court determines that it lacks jurisdiction.

(b) The court must make a determination of the residence and domicile of the Indian child. If either the residence or domicile is on a reservation where the tribe exercises exclusive jurisdiction over child custody proceedings, the State court must dismiss the State court proceedings, the agency must notify the tribe of the dismissal based on the tribe's exclusive jurisdiction, and the agency must transmit all available information regarding the Indian child custody proceeding to the tribal court.

(c) If the Indian child has been domiciled or previously resided on an Indian reservation, the State court must contact the tribal court to determine whether the child is a ward of the tribal court. If the child is a ward of a tribal court, the State court must dismiss the State court proceedings, the agency must notify the tribe of the dismissal, and the agency must transmit all available information regarding the Indian child custody proceeding to the tribal court.

§ 23.111 What are the notice requirements for a child custody proceeding involving an Indian child?

(a) When an agency or court knows or has reason to believe that the subject of a voluntary or involuntary child custody proceeding is an Indian child, the agency or court must send notice of each such proceeding (including but not limited to a temporary custody proceeding, any removal or foster care placement, any adoptive placement, or any termination of parental or custodial rights) by registered mail with return receipt requested to:

(1) Each tribe where the child may be a member or eligible for membership;

(2) The child's parents; and

(3) If applicable, the Indian custodian.

(b) Notice may be sent via personal service or electronically in addition to the methods required by ICWA, but such alternative methods do not replace the requirement for notice to be sent by registered mail with return receipt requested.

(c) Notice must be in clear and understandable language and include the following:

(1) Name of the child, the child's birthdate and birthplace;

(2) Name of each Indian tribe(s) in which the child is a member or may be eligible for membership;

(3) A copy of the petition, complaint or other document by which the proceeding was initiated;

(4) Statements setting out:

(i) The name of the petitioner and name and address of petitioner's attorney;

(ii) The right of the parent or Indian custodian to intervene in the proceedings.

(iii) The Indian tribe's right to intervene at any time in a State court proceeding for the foster care placement of or termination of a parental right.

(iv) If the Indian parent(s) or, if applicable, Indian custodian(s) is unable to afford counsel based on a determination of indigency by the court, counsel will be appointed to represent the parent or Indian custodian where authorized by State law.

(v) The right to be granted, upon request, a specific amount of additional time (up to 20 additional days) to prepare for the proceedings due to circumstances of the particular case.

(vi) The right to petition the court for transfer of the proceeding to tribal court under 25 U.S.C. 1911, absent objection by either parent: *Provided, that* such transfer is subject to declination by the tribal court.

(vii) The mailing addresses and telephone numbers of the court and information related to all parties to the proceeding and individuals notified under this section.

(viii) The potential legal consequences of the proceedings on the future custodial and parental rights of the Indian parents or Indian custodians.

(d) If the identity or location of the Indian parents, Indian custodians or tribes in which the Indian child is a member or eligible for membership cannot be ascertained, but there is reason to believe the child is an Indian child, notice of the child custody proceeding must be sent to the appropriate Bureau of Indian Affairs Regional Director (see *www.bia.gov*). To establish tribal identity, as much information as is known regarding the child's direct lineal ancestors should be provided (see § 23.111 of this subpart regarding notice requirements). The Bureau of Indian Affairs will not make a determination of tribal membership, but may, in some instances, be able to identify tribes to contact.

(e) The original or a copy of each notice sent under this section should be filed with the court together with any return receipts or other proof of service.

(f) If a parent or Indian custodian appears in court without an attorney, the court must inform him or her of the right to appointed counsel, the right to request that the proceeding be transferred to tribal court, the right to object to such transfer, the right to request additional time to prepare for the proceeding and the right (if the parent or Indian custodian is not already a party) to intervene in the proceedings.

(g) If the court or an agency has reason to believe that a parent or Indian custodian possesses limited English proficiency and is therefore not likely to understand the contents of the notice, the court or agency must, at no cost, provide a translated version of the notice or have the notice read and explained in a language that the parent or Indian custodian understands. To secure such translation or interpretation support, a court or agency should contact the Indian child's tribe or the local BIA agency for assistance in locating and obtaining the name of a qualified translator or interpreter.

(h) No substantive proceedings, rulings or decisions on the merits related to the involuntary placement of the child or termination of parental rights may occur until the notice and waiting periods in this section have elapsed.

(i) If the child is transferred interstate, regardless of whether the Interstate Compact on the Placement of Children (ICPC) applies, both the originating State court and receiving State court must provide notice to the tribe(s) and seek to verify whether the child is an Indian child.

§ 23.112 What time limits and extensions apply?

(a) No proceedings regarding decisions for the foster care or termination of parental rights may begin until the waiting periods to which the parents or Indian custodians and to which the Indian child's tribe are entitled have passed. Additional extensions of time may also be granted beyond the minimum required by ICWA.

(b) A tribe, parent or Indian custodian entitled to notice of the pendency of a child custody proceeding has a right, upon request, to be granted an additional 20 days from the date upon which notice was received in accordance with 25 U.S.C. 1912(a) to prepare for participation in the proceeding.

(c) The proceeding may not begin until all of the following dates have passed:

(1) 10 days after each parent or Indian custodian (or Secretary where the parent or Indian custodian is unknown to the petitioner) has received notice in accordance with 25 U.S.C. 1912(a);

(2) 10 days after the Indian child's tribe (or the Secretary if the Indian child's tribe is unknown to the party seeking placement) has received notice in accordance with 25 U.S.C. 1912(a);

(3) 30 days after the parent or Indian custodian has received notice in accordance with 25 U.S.C. 1912(a), if the parent or Indian custodian has requested an additional 20 days to prepare for the proceeding; and

(4) 30 days after the Indian child's tribe has received notice in accordance with 25 U.S.C. 1912(a), if the Indian child's tribe has requested an additional 20 days to prepare for the proceeding.

(d) The court should allow, if it possesses the capability, alternative methods of participation in State court proceedings by family members and tribes, such as participation by telephone, videoconferencing, or other methods.

§ 23.113 What is the process for the emergency removal of an Indian child?

(a) Any emergency removal or emergency placement of any Indian child under State law must be as short as possible. Each involved agency or court must:

(1) Diligently investigate and document whether the removal or placement is proper and continues to be necessary to prevent imminent physical damage or harm to the child;

(2) Promptly hold a hearing to hear evidence and evaluate whether the removal or placement continues to be necessary whenever new information is received or assertions are made that the emergency situation has ended; and

(3) Immediately terminate the emergency removal or placement once the court possesses sufficient evidence to determine that the emergency has ended.

(b) If the agency that conducts an emergency removal of a child whom the agency knows or has reason to believe is an Indian child, the agency must:

(1) Treat the child as an Indian child until the court determines that the child is not an Indian child;

(2) Conduct active efforts to prevent the breakup of the Indian family as early as possible, including, if possible, before removal of the child;

(3) Immediately take and document all practical steps to confirm whether the child is an Indian child and to verify the Indian child's tribe;

(4) Immediately notify the child's parents or Indian custodians and Indian tribe of the removal of the child;

(5) Take all practical steps to notify the child's parents or Indian custodians and Indian tribe about any proceeding, or hearings within a proceeding,

regarding the emergency removal or emergency placement of the child; and

(6) Maintain records that detail the steps taken to provide any required notifications under § 23.111.

(d) A petition for a court order authorizing emergency removal or continued emergency physical custody must be accompanied by an affidavit containing the following information:

(1) The name, age and last known address of the Indian child;

(2) The name and address of the child's parents and Indian custodians, if any;

(3) If such persons are unknown, a detailed explanation of what efforts have been made to locate them, including notice to the appropriate BIA Regional Director (see *www.bia.gov*);

(4) Facts necessary to determine the residence and the domicile of the Indian child;

(5) If either the residence or domicile is believed to be on an Indian reservation, the name of the reservation;

(6) The tribal affiliation of the child and of the parents and/or Indian custodians;

(7) A specific and detailed account of the circumstances that led the agency responsible for the emergency removal of the child to take that action;

(8) If the child is believed to reside or be domiciled on a reservation where the tribe exercises exclusive jurisdiction over child custody matters, a statement of efforts that have been made and are being made to transfer the child to the tribe's jurisdiction;

(9) A statement of the specific active efforts that have been taken to assist the parents or Indian custodians so the child may safely be returned to their custody; and

(10) A statement of the imminent physical damage or harm expected and any evidence that the removal or emergency custody continues to be necessary to prevent such imminent physical damage or harm to the child.

(e) At any court hearing regarding the emergency removal or emergency placement of an Indian child, the court must determine whether the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child.

(f) Temporary emergency custody should not be continued for more than 30 days. Temporary emergency custody may be continued for more than 30 days only if:

(1) A hearing, noticed in accordance with these regulations, is held and results in a determination by the court, supported by clear and convincing evidence and the testimony of at least one qualified expert witness, that custody of the child by the parent or Indian custodian is likely to result in imminent physical damage or harm to the child; or

(2) Extraordinary circumstances exist.

(g) The emergency removal or placement must terminate as soon as the imminent physical damage or harm to the child which resulted in the emergency removal or placement no longer exists, or, if applicable, as soon as the tribe exercises jurisdiction over the case, whichever is earlier.

(h) Once an agency or court has terminated the emergency removal or placement, it must expeditiously:

(1) Return the child to the parent or Indian custodian within one business day; or

(2) Transfer the child to the jurisdiction of the appropriate Indian tribe if the child is a ward of a tribal court or a resident of or domiciled on a reservation; or

(3) Initiate a child custody proceeding subject to the provisions of ICWA and these regulations.

(i) The court should allow, if it possesses the capability, alternative methods of participation in State court proceedings by family members and tribes, such as participation by telephone, videoconferencing, or other methods.

§ 23.114 What are the procedures for determining improper removal?

(a) If, in the course of any Indian child custody proceeding, any party asserts or the court has reason to believe that the Indian child may have been improperly removed from the custody of his or her parent or Indian custodian, or that the Indian child has been improperly retained, such as after a visit or other temporary relinquishment of custody, the court must immediately stay the proceeding until a determination can be made on the question of improper removal or retention, and such determination must be conducted expeditiously.

(b) If the court finds that the Indian child was improperly removed or retained, the court must terminate the proceeding and the child must be returned immediately to his or her parents or Indian custodian, unless returning the child to his parent or custodian would subject the child to imminent physical damage or harm.

Procedures for Making Requests for Transfer to Tribal Court

§ 23.115 How are petitions for transfer of proceeding made?

(a) Either parent, the Indian custodian, or the Indian child's tribe may request, orally on the record or in writing, that the State court transfer each distinct Indian child custody proceeding to the tribal court of the child's tribe.

(b) The right to request a transfer occurs with each proceeding.

(c) The right to request a transfer is available at any stage of an Indian child custody proceeding, including during any period of emergency removal.

(d) The court should allow, if possible, alternative methods of participation in State court proceedings by family members and tribes, such as participation by telephone, videoconferencing, or other methods.

§ 23.116 What are the criteria and procedures for ruling on transfer petitions?

(a) Upon receipt of a petition to transfer by a parent, Indian custodian or the Indian child's tribe, the State court must transfer the case unless any of the following criteria are met:

(1) Either parent objects to such transfer;

(2) The tribal court declines the transfer; or

(3) The court determines that good cause exists for denying the transfer.

(b) The court should expeditiously provide all records related to the proceeding to the tribal court.

§ 23.117 How is a determination of ''good cause'' not to transfer made?

(a) If the State court believes, or any party asserts, that good cause not to transfer exists, the reasons for such belief or assertion must be stated on the record or in writing and made available to the parties who are petitioning for transfer.

(b) Any party to the proceeding must have the opportunity to provide the court with views regarding whether good cause to deny transfer exists.

(c) In determining whether good cause exists, the court may not consider whether the case is at an advanced stage or whether transfer would result in a change in the placement of the child.

(d) In addition, in determining whether there is good cause to deny the transfer, the court may not consider:

(1) The Indian child's contacts with the tribe or reservation;

(2) Socio-economic conditions or any perceived inadequacy of tribal or BIA social services or judicial systems; or

(3) The tribal court's prospective placement for the Indian child.

(e) The burden of establishing good cause not to transfer is on the party opposing the transfer.

§ 23.118 What happens when a petition for transfer is made?

(a) Upon receipt of a transfer petition the State court must promptly notify the

tribal court in writing of the transfer petition and request a response regarding whether the tribal court wishes to decline the transfer. The notice should specify how much time the tribal court has to make its decision; provided that the tribal court must be provided 20 days from the receipt of notice of a transfer petition to decide whether to accept or decline the transfer.

(b) If the tribal court accepts the transfer, the State court should promptly provide the tribal court with all court records.

Adjudication of Involuntary Placements, Adoptions, or Terminations or Terminations of Parental Rights

§ 23.119 Who has access to reports or records?

(a) The court must inform each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child of his or her right to timely examination of all reports or other documents filed with the court and all files upon which any decision with respect to such action may be based.

(b) Decisions of the court may be based only upon reports, documents or testimony presented on the record.

§ 23.120 What steps must a party take to petition a State court for certain actions involving an Indian child?

(a) Any party petitioning a State court for foster care placement or termination of parental rights to an Indian child must demonstrate to the court that prior to, and until the commencement of, the proceeding, active efforts have been made to avoid the need to remove the Indian child from his or her parents or Indian custodians and show that those efforts have been unsuccessful.

(b) Active efforts must be documented in detail and, to the extent possible, should involve and use the available resources of the extended family, the child's Indian tribe, Indian social service agencies and individual Indian care givers.

§ 23.121 What are the applicable standards of evidence?

(a) The court may not issue an order effecting a foster care placement of an Indian child unless clear and convincing evidence is presented, including the testimony of one or more qualified expert witnesses, demonstrating that the child's continued custody with the child's parents or Indian custodian is likely to result in serious physical damage or harm to the child.

(b) The court may not order a termination of parental rights unless the court's order is supported by evidence beyond a reasonable doubt, supported by the testimony of one or more qualified expert witnesses, that continued custody of the child by the parent or Indian custodian is likely to result in serious physical damage or harm to the child.

(c) Clear and convincing evidence must show a causal relationship between the existence of particular conditions in the home that are likely to result in serious emotional or physical damage to the particular child who is the subject of the proceeding.

(d) Evidence that only shows the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse, or nonconforming social behavior does not by itself constitute clear and convincing evidence that continued custody is likely to result in serious emotional or physical-damage to the child.

§ 23.122 Who may serve as a qualified expert witness?

(a) A qualified expert witness should have specific knowledge of the Indian tribe's culture and customs.

(b) Persons with the following characteristics, in descending order, are presumed to meet the requirements for a qualified expert witness:

(1) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.

(2) A member of another tribe who is recognized to be a qualified expert witness by the Indian child's tribe based on their knowledge of the delivery of child and family services to Indians and the Indian child's tribe.

(3) A layperson who is recognized by the Indian child's tribe as having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(4) A professional person having substantial education and experience in the area of his or her specialty who can demonstrate knowledge of the prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(c) The court or any party may request the assistance of the Indian child's tribe or the BIA agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

Voluntary Proceedings

§ 23.123 What actions must an agency and State court undertake in voluntary proceedings?

(a) Agencies and State courts must ask whether a child is an Indian child in any voluntary proceeding under § 23.107 of these regulations.

(b) Agencies and State courts must provide the Indian tribe with notice of the voluntary child custody proceedings, including applicable pleadings or executed consents, and their right to intervene under § 23.111 of this part.

§ 23.124 How is consent obtained?

(a) A voluntary termination of parental rights, foster care placement or adoption must be executed in writing and recorded before a court of competent jurisdiction.

(b) Prior to accepting the consent, the court must explain the consequences of the consent in detail, such as any conditions or timing limitations for withdrawal of consent and, if applicable, the point at which such consent is irrevocable.

(c) A certificate of the court must accompany a written consent and must certify that the terms and consequences of the consent were explained in detail in the language of the parent or Indian custodian, if English is not the primary language, and were fully understood by the parent or Indian custodian.

(d) Execution of consent need not be made in open court where confidentiality is requested or indicated.

(e) A consent given prior to or within 10 days after birth of the Indian child is not valid.

§ 23.125 What information should a consent document contain?

(a) The consent document must contain the name and birthdate of the Indian child, the name of the Indian child's tribe, identifying tribal enrollment number, if any, or other indication of the child's membership in the tribe, and the name and address of the consenting parent or Indian custodian. If there are any conditions to the consent, the consent document must clearly set out the conditions.

(b) A consent to foster care placement should contain, in addition to the information specified in paragraph (a) of this section, the name and address of the person or entity by or through whom the placement was arranged, if any, or the name and address of the prospective foster parents, if known at the time.

§ 23.126 How is withdrawal of consent achieved in a voluntary foster care placement?

(a) Withdrawal of consent must be filed in the same court where the consent document was executed.

(b) When a parent or Indian custodian withdraws consent to foster care placement, the child must be returned to that parent or Indian custodian immediately.

§ 23.127 How is withdrawal of consent to a voluntary adoption achieved?

(a) A consent to termination of parental rights or adoption may be withdrawn by the parent at any time prior to entry of a final decree of voluntary termination or adoption, whichever occurs later. To withdraw consent, the parent must file, in the court where the consent is filed, an instrument executed under oath asserting his or her intention to withdraw such consent.

(b) The clerk of the court in which the withdrawal of consent is filed must promptly notify the party by or through whom any preadoptive or adoptive placement has been arranged of such filing and the child must be returned to the parent or Indian custodian as soon as practicable.

Dispositions

§ 23.128 When do the placement preferences apply?

(a) In any preadoptive, adoptive or foster care placement of an Indian child, ICWA's placement preferences apply; except that, if the Indian child's tribe has established by resolution a different order of preference than that specified in ICWA, the agency or court effecting the placement must follow the tribe's placement preferences.

(b) The agency seeking a preadoptive, adoptive or foster care placement of an Indian child must always follow the placement preferences. If the agency determines that any of the preferences cannot be met, the agency must demonstrate through clear and convincing evidence that a diligent search has been conducted to seek out and identify placement options that would satisfy the placement preferences specified in §§ 23.129 and 23.130 of these regulations, and explain why the preferences could not be met. A search should include notification about the placement proceeding and an explanation of the actions that must be taken to propose an alternative placement to:

(1) The Indian child's parents or Indian custodians;

(2) All of the known, or reasonably identifiable, members of the Indian child's extended family members;

(3) The Indian child's tribe;

(4) In the case of a foster care or preadoptive placement:

(i) All foster homes licensed, approved, or specified by the Indian child's tribe; and

(ii) All Indian foster homes located in the Indian child's State of domicile that are licensed or approved by any authorized non-Indian licensing authority.

(c) Where there is a request for anonymity, the court should consider whether additional confidentiality protections are warranted, but a request for anonymity does not relieve the agency or the court of the obligation to comply with the placement preferences.

(d) Departure from the placement preferences may occur only after the court has made a determination that good cause exists to place the Indian child with someone who is not listed in the placement preferences.

(e) Documentation of each preadoptive, adoptive or foster care placement of an Indian child under State law must be provided to the State for maintenance at the agency. Such documentation must include, at a minimum: The petition or complaint; all substantive orders entered in the proceeding; the complete record of, and basis for, the placement determination; and, if the placement deviates from the placement preferences, a detailed explanation of all efforts to comply with the placement preferences and the court order authorizing departure from the placement preferences.

§ 23.129 What placement preferences apply in adoptive placements?

(a) In any adoptive placement of an Indian child under State law, preference must be given in descending order, as listed below, to placement of the child with:

(1) A member of the child's extended family;

(2) Other members of the Indian child's tribe; or

(3) Other Indian families, including families of unwed individuals.

(b) The court should, where appropriate, also consider the preference of the Indian child or parent.

§ 23.130 What placement preferences apply in foster care or preadoptive placements?

In any foster care or preadoptive placement of an Indian child:

(a) The child must be placed in the least restrictive setting that:

(1) Most approximates a family;

(2) Allows his or her special needs to be met; and

(3) Is in reasonable proximity to his or her home, extended family, and/or siblings.

(b) Preference must be given, in descending order as listed below, to placement of the child with:

(1) A member of the Indian child's extended family;

(2) A foster home, licensed, approved or specified by the Indian child's tribe, whether on or off the reservation;

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(4) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs.

§ 23.131 How is a determination for ''good cause'' to depart from the placement preferences made?

(a) If any party asserts that good cause not to follow the placement preferences exists, the reasons for such belief or assertion must be stated on the record or in writing and made available to the parties to the proceeding and the Indian child's tribe.

(b) The party seeking departure from the preferences bears the burden of proving by clear and convincing evidence the existence of ''good cause'' to deviate from the placement preferences.

(c) A determination of good cause to depart from the placement preferences must be based on one or more of the following considerations:

(1) The request of the parents, if both parents attest that they have reviewed the placement options that comply with the order of preference.

(2) The request of the child, if the child is able to understand and comprehend the decision that is being made.

(3) The extraordinary physical or emotional needs of the child, such as specialized treatment services that may be unavailable in the community where families who meet the criteria live, as established by testimony of a qualified expert witness; provided that extraordinary physical or emotional needs of the child does not include ordinary bonding or attachment that may have occurred as a result of a placement or the fact that the child has, for an extended amount of time, been in another placement that does not comply with ICWA.

(4) The unavailability of a placement after a showing by the applicable agency in accordance with § 23.128(b) of this subpart, and a determination by the

court that active efforts have been made to find placements meeting the preference criteria, but none have been located. For purposes of this analysis, a placement may not be considered unavailable if the placement conforms to the prevailing social and cultural standards of the Indian community in which the Indian child's parent or extended family resides or with which the Indian child's parent or extended family members maintain social and cultural ties.

(d) The court should consider only whether a placement in accordance with the preferences meets the physical, mental and emotional needs of the child; and may not depart from the preferences based on the socio-economic status of any placement relative to another placement.

Post-Trial Rights

§ 23.132 What is the procedure for petitioning to vacate an adoption?

(a) Within two years after a final decree of adoption of any Indian child by a State court, or within any longer period of time permitted by the law of the State, a parent who executed a consent to termination of paternal rights or adoption of that child may petition the court in which the final adoption decree was entered to vacate the decree and revoke the consent on the grounds that consent was obtained by fraud or duress, or that the proceeding failed to comply with ICWA.

(b) Upon the filing of such petition, the court must give notice to all parties to the adoption proceedings and the Indian child's tribe.

(c) The court must hold a hearing on the petition.

(d) Where the court finds that the parent's consent was obtained through fraud or duress, the court must vacate the decree of adoption, order the consent revoked and order that the child be returned to the parent.

§ 23.133 Who can make a petition to invalidate an action?

(a) Any of the following may petition any court of competent jurisdiction to invalidate an action for foster care placement or termination of parental rights where it is alleged that ICWA has been violated:

(1) An Indian child who is the subject of any action for foster care placement or termination of parental rights;

(2) A parent or Indian custodian from whose custody such child was removed; and

(3) The Indian child's tribe.

(b) Upon a showing that an action for foster care placement or termination of parental rights violated any provision of 25 U.S.C. 1911, 1912, or 1913, the court must determine whether it is appropriate to invalidate the action.

(c) There is no requirement that the particular party's rights under ICWA be violated to petition for invalidation; rather, any party may challenge the action based on violations in implementing ICWA during the course of the child custody proceeding.

(d) The court should allow, if it possesses the capability, alternative methods of participation in State court proceedings by family members and tribes, such as participation by telephone, videoconferencing, or other methods.

§ 23.134 What are the rights of adult adoptees?

(a) Upon application by an Indian individual who has reached age 18 who was the subject of an adoptive placement, the court that entered the final decree must inform such individual of the tribal affiliations, if any, of the individual's biological parents and provide such other information necessary to protect any rights, which may include tribal membership, resulting from the individual's tribal relationship.

(b) Where State law prohibits revelation of the identity of the biological parent, assistance of the BIA should be sought to help an adoptee who is eligible for membership in a tribe to become a tribal member without breaching the Privacy Act or confidentiality of the record.

(c) In States where adoptions remain closed, the relevant agency should communicate directly with the tribe's enrollment office and provide the information necessary to facilitate the establishment of the adoptee's tribal membership.

(d) Agencies should work with the tribe to identify at least one tribal designee familiar with 25 U.S.C. 1917 to assist adult adoptees statewide with the process of reconnecting with their tribes and to provide information to State judges about this provision on an annual basis.

§ 23.135 When must notice of a change in child's status be given?

(a) Notice by the court, or an agency authorized by the court, must be given to the child's biological parents or prior Indian custodians and the Indian child's tribe whenever:

(1) A final decree of adoption of an Indian child has been vacated or set aside; or

(2) The adoptive parent has voluntarily consented to the termination of his or her parental rights to the child; or

(3) Whenever an Indian child is removed from a foster care home or institution to another foster care placement, preadoptive placement, or adoptive placement.

(b) The notice must inform the recipient of the right to petition for return of custody of the child.

(c) A parent or Indian custodian may waive his or her right to such notice by executing a written waiver of notice filed with the court. The waiver may be revoked at any time by filing with the court a written notice of revocation. A revocation of the right to receive notice does not affect any proceeding which occurred before the filing of the notice of revocation.

§ 23.136 What information must States furnish to the Bureau of Indian Affairs?

(a) Any state entering a final adoption decree or order must furnish a copy of the decree or order to the Bureau of Indian Affairs, Chief, Division of Human Services, 1849 C Street NW., Mail Stop 4513 MIB, Washington, DC 20240, along with the following information:

(1) Birth name of the child, tribal affiliation and name of the child after adoption;

(2) Names and addresses of the biological parents;

(3) Names and addresses of the adoptive parents;

(4) Name and contact information for any agency having files or information relating to the adoption;

(5) Any affidavit signed by the biological parent or parents asking that their identity remain confidential; and

(6) Any information relating to tribal membership or eligibility for tribal membership of the adopted child.

(b) Confidentiality of such information must be maintained and is not subject to the Freedom of Information Act, 5 U.S.C. 552, as amended.

§ 23.137 How must the State maintain records?

(a) The State must establish a single location where all records of every voluntary or involuntary foster care, preadoptive placement and adoptive placement of Indian children by courts of that State will be available within seven days of a request by an Indian child's tribe or the Secretary.

(b) The records must contain, at a minimum, the petition or complaint, all substantive orders entered in the proceeding, and the complete record of the placement determination (including, but not limited to the findings in the court record and social worker's statement).

§ 23.138 How does the Paperwork Reduction Act affect this subpart?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–XXXX. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer—Indian Affairs, 1849 C Street NW., Washington, DC 20240.

Dated: March 16, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–06371 Filed 3–18–15; 11:15 am]

BILLING CODE 4310–6W–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2014–0712; FRL–9924–82–Region–4]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Tennessee has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes correspond to certain Federal rules promulgated between July 1, 2004 and June 30, 2006 (also known as RCRA Clusters XV and XVI). With this proposed rule, EPA is proposing to grant final authorization to Tennessee for these changes.

DATES: Send your written comments by April 20, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2014–0712, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: merizalde.carlos@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below)
- *Mail:* Send written comments to Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule in the ''Rules and Regulations'' section of this issue of the **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Carlos E. Merizalde, RCRA Corrective Action and Permitting Section, RCRA Cleanup and Brownfields Branch, Resource Conservation and Restoration Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303; telephone number: (404) 562–8606; fax number: (404) 562–9964; email address: *merizalde.carlos@epa.gov.*

SUPPLEMENTARY INFORMATION: Along with this proposed rule, EPA is publishing a direct final rule in the ''Rules and Regulations'' section of this issue of the **Federal Register** pursuant to which EPA is authorizing these changes. EPA did not issue a proposed rule before today because EPA believes this action is not controversial and does not expect comments that oppose it. EPA has explained the reasons for this authorization in the direct final rule. Unless EPA receives written comments that oppose this authorization during the comment period, the direct final rule in this issue of the **Federal Register** will become effective on the date it establishes, and EPA will not take further action on this proposal. If EPA receives comments that oppose this action, EPA will withdraw the direct final rule and it will not take effect. EPA will then respond to public comments in a later final rule based on this proposed rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this action, you must do so at this time. For additional information, please see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Dated: March 2, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2015–06511 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 15–53; FCC 15–30]

Amendment to the Commission's Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission asks whether it should adopt a rebuttable presumption that cable operators are subject to effective competition. A franchising authority is permitted to regulate basic cable rates only if the cable system is not subject to effective competition. This proceeding will also implement section 111 of the STELA Reauthorization Act of 2014, which directs the Commission to adopt a streamlined effective competition process for small cable operators.

DATES: Comments are due on or before April 9, 2015; reply comments are due on or before April 20, 2015. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 19, 2015.

ADDRESSES: You may submit comments, identified by MB Docket No. 15–53, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 15–30, adopted and released on March 16, 2015. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due May 19, 2015.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

To view or obtain a copy of this information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR as shown in the Supplementary Information section below (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

OMB Control Number: 3060–0550.

Title: Local Franchising Authority Certification, FCC Form 328; Section 76.910, Franchising Authority Certification.

Form No.: FCC Form 328.

Type of Review: Revision of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 7 respondents; 13 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 26 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On March 16, 2015, the Commission released a Notice of Proposed Rulemaking, MB Docket No. 15–53; FCC 15–30. The Notice of Proposed Rulemaking sought comment on whether the Commission should adopt a rebuttable presumption that cable operators are subject to effective competition.

The proposed information collection requirements consist of: FCC Form 328. Pursuant to section 76.910, a franchising authority must be certified by the Commission to regulate the basic service tier and associated equipment of a cable system within its jurisdiction. To obtain this certification, the franchising authority must prepare and submit FCC Form 328. The NPRM seeks comment on revising section 76.910 to require a franchising authority filing Form 328 to submit specific evidence demonstrating its rebuttal of the proposed presumption in section 76.906 that the cable operator is subject to competing provider effective competition pursuant to section 76.905(b)(2). The franchising authority would bear the burden of rebutting the presumption that effective competition exists with evidence that effective competition, as defined in section 76.905(b)(2), does not exist in the franchise area. Unless a franchising authority has actual knowledge to the contrary, it may continue to presume that the cable operator is not subject to one of the other three types of effective competition.

Evidence establishing lack of effective competition. If the evidence establishing the lack of effective competition is not otherwise available, the proposed note to section 76.910(b)(4) as set forth in Appendix A of the NPRM provides that franchising authorities may request from a multichannel video programming distributor (''MVPD'') information regarding the MVPD's reach and number of subscribers. An MVPD must respond to such request within 15 days. Such

responses may be limited to numerical totals.

Franchising authority's obligations if certified. Section 76.910(e) of the Commission's rules currently provides that, unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, provided, however, that the franchising authority may not regulate the rates of a cable system unless it: (1) Adopts regulations (i) consistent with the Commission's regulations governing the basic tier and (ii) providing a reasonable opportunity for consideration of the views of interested parties, within 120 days of the effective date of the certification; and (2) notifies the cable operator that the franchising authority has been certified and has adopted the required regulations.

The Commission is seeking OMB approval for the proposed information collection requirements.

OMB Control Number: 3060–0560.

Title: Section 76.911, Petition for Reconsideration of Certification.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 15 respondents; 25 responses.

Estimated Time per Response: 2–10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 130 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On March 16, 2015, the Commission released a Notice of Proposed Rulemaking, MB Docket No. 15–53; FCC 15–30. The Notice of Proposed Rulemaking sought comment on whether the Commission should adopt a rebuttable presumption that cable operators are subject to effective competition. Reversing the rebuttable presumption and adopting the procedures discussed in the NPRM could result in changes to the information collection burdens.

The proposed information collection requirements consist of: petitions for reconsideration of certification, oppositions and replies thereto, cable operator requests to competitors for information regarding the competitor's reach and number of subscribers if evidence establishing effective competition is not otherwise available, and the competitors supplying this information.

Summary of the Notice of Proposed Rulemaking

I. Introduction

1. In this Notice of Proposed Rulemaking (''NPRM''), we seek comment on how we should improve the effective competition process. Specifically, we ask whether we should adopt a rebuttable presumption that cable operators are subject to effective competition. Pursuant to the Communications Act of 1934, as amended (the ''Act''), a franchising authority is permitted to regulate basic cable rates only if the cable system is not subject to effective competition.[1] As a result, where effective competition exists, basic cable rates are dictated by the marketplace and not by regulation. In 1993, the Commission adopted a presumption that cable operators are not subject to effective competition, absent a cable operator's demonstration to the contrary.[2] Given the changes to the video marketplace that have occurred since 1993, including in particular the widespread availability of Direct Broadcast Satellite (''DBS'') service, we now seek comment on whether to reverse our presumption and instead presume that cable operators are subject to effective competition. Such an approach would reflect the fact that today, based on application of the effective competition test in the current market, the Commission grants nearly all requests for a finding of effective competition. If the Commission were to presume that cable operators are subject to effective competition, a franchising authority would be required to demonstrate to the Commission that one or more cable operators in its franchise area is not subject to effective competition if it wishes to regulate cable service rates. We intend to implement policies that are mindful of the evolving video marketplace.

2. In initiating this proceeding, we are also implementing part of the STELA Reauthorization Act of 2014 (''STELAR''), enacted on December 4, 2014. Specifically, section 111 of STELAR directs the Commission to adopt a streamlined effective competition petition process for small cable operators. Through this proceeding, we intend to fulfill Congress' goal that we ease the burden of the existing effective competition process on small cable operators, especially those that serve rural areas, through a rulemaking that shall be completed by June 2, 2015. We seek comment on whether the adoption of a rebuttable presumption of effective competition would reflect the current multichannel video programming distributor (''MVPD'') marketplace and reduce regulatory burdens on all cable operators—large and small—and on their competitors, while more efficiently allocating the Commission's resources and amending outdated regulations.

II. Background on Effective Competition Rules

3. In the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Congress adopted certain requirements for regulation of cable service rates. Specifically, section 623 of the Act indicates a ''preference for competition,'' pursuant to which a franchising authority may regulate basic cable service rates and equipment only if the Commission finds that the cable system is not subject to effective competition. Section 623(l)(1) of the Act defines ''effective competition'' to mean that:

- Fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;[3]
- the franchise area is (i) served by at least two unaffiliated [MVPDs] each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and (ii) the number of households subscribing to programming services offered by [MVPDs] other than the largest [MVPD] exceeds 15 percent of the households in the franchise area;[4]
- a[n MVPD] operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area;[5] or
- a local exchange carrier or its affiliate (or any [MVPD] using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means

[1] *See* 47 U.S.C. 543(a)(2).

[2] *See* 47 CFR 76.906.

[3] This first type of effective competition is referred to as ''low penetration effective competition.'' 47 U.S.C. 543(l)(1)(A).

[4] This second type of effective competition is referred to as ''competing provider effective competition.'' *Id.* 543(l)(1)(B).

[5] This third type of effective competition is referred to as ''municipal provider effective competition.'' *Id.* 543(l)(1)(C).

(other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.[6] Section 623 of the Act does not permit franchising authority regulation of any cable service rates other than the basic service rate.

4. In 1993, the Commission implemented the statute's effective competition provisions. The Commission adopted a presumption that cable systems are not subject to effective competition and it provided that a franchising authority that wanted to regulate a cable operator's basic rates must be certified by the Commission. To obtain such certification, a franchising authority files with the Commission FCC Form 328, in which it indicates its belief that the cable system at issue is not subject to effective competition in the franchise area. Unless the franchising authority has actual knowledge to the contrary, under the current rules, it may rely on the presumption of no effective competition. If a cable operator wishes to prevent the franchising authority from regulating its basic service rate, it may rebut the presumption and demonstrate that it is in fact subject to effective competition. In addition to foreclosing regulation of the cable operator's basic rates, a Commission finding that a cable operator is subject to effective competition also affects applicability of other Commission rules.[7]

III. Changes in the Video Programming Landscape Since the 1992 Cable Act

5. In 1993, when the Commission adopted its presumption that cable systems are not subject to effective competition, incumbent cable operators had approximately a 95 percent market share of MVPD subscribers. Only a single cable operator served the local franchise area in all but ''a few scattered areas of the country'' [8] and those operators had ''substantial market power at the local distribution level.'' [9] DBS service had yet to enter the market, and local exchange carriers (''LECs''), such as Verizon and AT&T, had yet to enter the MVPD business in any significant way.

6. Today's MVPD marketplace is markedly different, with cable operators facing dramatically increased competition. The Commission has determined that the number of subscribers to MVPD service has decreased from year-end 2012 to year-end 2013 (from 101.0 million to 100.9 million) and this decrease is entirely due to cable MVPD subscribership, which fell from approximately 55.8 percent of MVPD video subscribers (56.4 million) to approximately 53.9 percent of MVPD video subscribers (54.4 million). In contrast, DBS's market share increased slightly from approximately 33.8 percent of MVPD video subscribers (34.1 million) to approximately 33.9 percent of MVPD video subscribers (34.2 million), and the market share for telephone MVPDs increased significantly from approximately 9.8 percent of MVPD video subscribers (9.9 million) to approximately 11.2 percent of MVPD video subscribers (11.3 million). DIRECTV provides local broadcast channels to 197 markets representing over 99 percent of U.S. homes, and DISH Network provides local broadcast channels to all 210 markets. According to published data, nearly 26 percent of American households in 2013 subscribed to DBS service. Given the 15 percent threshold needed to constitute competing provider effective competition, on a national scale DBS alone has close to double the percentage of subscribers needed for competing provider effective competition. As of year-end 2013, the two DBS MVPDs, DIRECTV and DISH Network, are the second and third largest MVPDs in the United States, respectively.

7. The current state of competition in the MVPD marketplace is further evidenced by the outcomes of recent effective competition determinations. From the start of 2013 to the present, the Media Bureau granted in their entirety 224 petitions requesting findings of effective competition and granted four such petitions in part; the Commission did not deny any such requests in their entirety. In these decisions, the Commission determined that 1,433 communities (as identified by separate Community Unit Identification Numbers (''CUIDs'')) have effective competition,[10] and for the vast majority of these communities (1,150, or over 80 percent) this decision was based on competing provider effective competition.[11] Franchising authorities filed oppositions to only 18 (or less than 8 percent) of the 228 petitions. In the four instances in which the Commission partially granted a petition for a finding of effective competition, the Commission denied the request for a total of seven CUIDs, or less than half a percent of the total number of communities evaluated. The Commission has issued affirmative findings of effective competition in the country's largest cities, suburban areas, and rural areas where subscription to DBS is high. To date, the Media Bureau has granted petitions for a finding of effective competition affecting thousands of cable communities, but has found a lack of effective competition for less than half a percent of the communities evaluated since the start of 2013. Against that backdrop, we seek comment on procedures that could ensure the most efficient use of Commission resources and reduce unnecessary regulatory burdens on industry.

IV. Discussion

A. Presumption That Cable Systems Are Subject to Effective Competition

8. As noted above, at the time of its adoption, the presumption of no effective competition was eminently supportable. We seek comment on whether market changes over the intervening two decades have greatly

[6] This fourth type of effective competition is referred to as ''local exchange carrier,'' or ''LEC,'' effective competition.'' *Id.* 543(l)(1)(D). In 1996 Congress added LEC effective competition to the statute.

[7] *See, e.g., id.* 47 U.S.C. 543(d) (A cable operator shall have a rate structure, for the provision of cable service, that is uniform throughout the geographic area in which cable service is provided over its cable system. This subsection does not apply to a cable operator with respect to the provision of cable service over its cable system in any geographic area in which the video programming services offered by the operator in that area are subject to effective competition); 47 CFR 76.921(a) (No cable system operator, other than an operator subject to effective competition, may require the subscription to any tier other than the basic service tier as a condition of subscription to video programming offered on a per channel or per program charge basis).

[8] *Implementation of Section 19 of the Cable Television Consumer Protection & Competition Act of 1992,* First Report, 9 FCC Rcd 7442, 7449, ¶ 15 (1994).

[9] *Id.* at 7449, ¶ 13.

[10] A CUID is a unique identification code that the Commission assigns a single cable operator within a community to represent an area that the cable operator services. A CUID often includes a single franchise area, but it sometimes includes a larger or smaller area. CUID data is the available data that most closely approximates franchise areas.

[11] Of the total number of CUIDs in which the Commission granted a request for a finding of effective competition during this timeframe, 229 (nearly 16 percent) were granted due to low penetration effective competition, and 54 (nearly 4 percent) were granted due to LEC effective competition. None of the requests granted during this timeframe were based on municipal provider effective competition. Where a finding of effective competition was based on one of the other types of effective competition besides competing provider effective competition, it does not mean that competing provider effective competition was not present. Rather, it means that the pleadings raised one of the other types of effective competition, and the Commission thus evaluated effective competition in the context of one or more of those other tests.

eroded, if not completely undercut, the basis for the presumption. Specifically, we ask whether we should adopt a presumption that cable systems are subject to competing provider effective competition, absent a franchising authority's demonstration to the contrary. Would such a presumption be consistent with current market realities, pursuant to which the Commission has found that there is effective competition in nearly all of the communities for which it was asked to make this determination since the start of 2013?

9. As explained above, a finding of competing provider effective competition requires that (1) the franchise area is ''served by at least two unaffiliated [MVPDs] each of which offers comparable video programming to at least 50 percent of the households in the franchise area;'' and (2) ''the number of households subscribing to programming services offered by [MVPDs] other than the largest [MVPD] exceeds 15 percent of the households in the franchise area.'' [12] We seek comment on whether the facts that over 99.5 percent of effective competition requests are currently granted, that over 80 percent of those grants are based on competing provider effective competition, and that DBS has a ubiquitous presence demonstrate that the current state of competition in the MVPD marketplace supports a rebuttable presumption that the two-part test is met. Is such a rebuttable presumption supported by the market changes since 1993, when the presumption of no effective competition was first adopted?

10. With regard to the first prong of the test, we invite comment on whether we should presume that the ubiquitous nationwide presence of DBS providers, DIRECTV and DISH Network, satisfies the requirement that the franchise area be served by two unaffiliated MVPDs each of which offers comparable programming to at least 50 percent of the households in the franchise area. The Commission has held in hundreds of competing provider effective competition decisions that the presence of DIRECTV and DISH Network satisfies the first prong of the test. In fact, the Commission has never determined that the presence of DIRECTV and DISH Network failed to satisfy the first prong of the competing provider test. Moreover, nearly all homes in the U.S. have access to at least three MVPDs. And many areas have access to at least four MVPDs. With respect to the second prong of the competing provider test, we invite comment on whether we should presume that MVPDs other than the largest MVPD have captured more than 15 percent of the households in the franchise area, given that on a nationwide basis competitors to incumbent cable operators have captured approximately 34 percent of U.S. households, or more than twice the percentage needed to satisfy the second prong of the competing provider test.[13] Although we recognize that not every franchise area has subscribership approaching 34 percent for MVPDs other than the incumbent cable operator, data show that nationwide subscription to DBS service alone is nearly twice that required to satisfy the second prong of the competing provider test. Further, out of the 1,440 CUIDs for which the Commission has made an effective competition determination since the start of 2013, it found that 1,150 CUIDs (or nearly 80 percent of the CUIDs evaluated) have satisfied the competing provider test. Given these facts, would adopting a presumption of competing provider effective competition be consistent with the current state of the market? [14]

11. Based on the analysis above, we seek comment on whether we should adopt a presumption that all cable operators are subject to competing provider effective competition. Is such a presumption warranted even though there may be some franchise areas that are not yet subject to effective competition? Based on market developments, is effective competition the norm throughout the United States today even though there still may be pockets of areas that may not be subject to effective competition? Is the most efficient process to establish a nationwide presumption that effective competition does exist, and to address these pocket areas on a case-by-case basis using the procedures we seek comment on below? We also seek comment on any proposals that we should consider in the alternative. For example, are there any areas in which DBS reception is so limited that the Commission should not presume DBS subscribership in excess of 15 percent of households? If there are any areas in which the Commission should not presume the existence of competing provider effective competition, what approach should the Commission take to the effective competition presumption in these areas? Should we retain in certain defined geographic areas the current presumption that cable operators are not subject to effective competition? If commenters support adoption of different rules in certain areas, we ask them to support such differentiated treatment with specific evidence and clear definitions for the areas in which the different rules would apply.

12. We seek comment on whether reversing the presumption would appropriately implement section 111 of STELAR. In section 111, Congress directed the Commission ''to establish a streamlined process for filing of an effective competition petition pursuant to this section for small cable operators,'' and reversing the presumption would establish a streamlined process for all cable operators including small operators. Congress also stated that ''[n]othing in this subsection shall be construed to have any effect on the duty of a small cable operator to prove the existence of effective competition under this section.'' Would changing the presumption fulfill the Commission's responsibilities under section 111? Or, in light of the language in section 111 quoted above, would the Commission need to rely on other statutory authority to change the presumption and thus be required to take action beyond changing the presumption to implement section 111? Does section 111 alter or impose any additional duty on a small cable operator to prove the existence of effective competition? We note that, if this provision were read to restrict the Commission from changing the presumption for small operators, it could have the perverse effect of permitting the Commission, consistent with market realities, to reduce burdens on larger operators but not on smaller ones. We also note that section 111 does not by its own terms preclude the Commission from altering the burden of proof with respect to effective competition. Rather, it simply states that nothing in that particular statutory provision shall be construed as speaking to the issue with respect to small cable operators.

13. If we find that adopting a presumption of effective competition would not implement STELAR's effective competition provision, then how should we implement section 111? Specifically, we invite comment on what streamlined procedures, if any, we should adopt for small cable operators. We note that STELAR directs us to define a ''small cable operator'' in this

[12] 47 U.S.C. 543(l)(1)(B).

[13] *See supra* ¶ 6 ((34.2 million DBS subscribers + 11.3 million telephone MVPD subscribers)/133.8 million U.S. households = 34%, or more than twice the 15% threshold).

[14] The market changes since the adoption of the original presumption do not appear to support a presumption that any of the other effective competition tests (low penetration, municipal provider, or LEC) are met. We seek comment on the accuracy of this observation.

context as ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' If we adopt any streamlined procedures for filing an effective competition petition, should those procedures apply to all cable operators regardless of size? Overall, how can we make the effective competition process more efficient and accessible, particularly for small cable operators?

B. Procedures and Rule Changes To Implement a New Presumption

14. In this section, we invite comment on revised procedures and rule changes that would be necessary if we decide to implement a presumption of effective competition. At the outset, we note that many franchising authorities have certified to regulate basic service tier rates and equipment based on the existing presumption of no effective competition. We seek comment on the appropriate treatment of these certifications. If the presumption is ultimately reversed, should these certifications be administratively revoked on the effective date of the new presumption pursuant to sections 623(a)(1) and (2) because their reliance on the presumption of no effective competition would no longer be supportable? If such certifications are administratively revoked, the franchising authority would have to demonstrate that the cable operator is not subject to effective competition pursuant to the procedures we seek comment on below before it could regulate rates in a community. In such instances, we seek comment on whether -section 76.913(a) of our rules, which otherwise directs the Commission to regulate rates upon revocation of a franchising authority's certification, would apply. In this regard, we note that section 76.913(a) states that ''the Commission will regulate rates for cable services and associated equipment of a cable system not subject to effective competition,'' and here the revocation would be based on a presumption of effective competition. Would a finding that section 76.913(a) does not apply in this context be consistent with section 623(a)(6) of the Act, which requires the Commission to ''exercise the franchising authority's regulatory jurisdiction [over the rates for the provision of basic cable service]'' if the Commission either (1) disapproves a franchising authority's certification filing under section 623(a)(4) or (2) grants a petition requesting revocation of the franchising authority's jurisdiction to regulate rates under section 623(a)(5)? We note that here we would be administratively revoking the franchising authority's jurisdiction under -sections 623(a)(1) and (2), rather than based on a determination described in section 623(a)(5). Would the one-time revocation of existing certifications following adoption of the order in this proceeding necessitate any revisions to section 76.913(a) or any other Commission rules? [15]

15. Alternatively, we seek comment on whether certifications should be revoked 90 days after the effective date of the new presumption. During this 90-day period, a franchising authority with an existing certification would have the opportunity to file a new certification demonstrating that effective competition does not exist in a particular franchise area. If a franchising authority did not file such a new certification, then rate regulation would end in that community at the conclusion of the 90-day period. If a franchising authority did file a new certification, we seek comment on whether that franchising authority should retain the authority to regulate rates until the Commission completes its review of that certification. We also seek comment on whether such a transition process would be consistent with -section 76.913(a) of our rules and section 623(a)(6) of the Act and whether implementing it would require any revisions to section 76.913(a).

16. If we were to reverse the presumption, we seek comment on procedures by which a franchising authority may file a Form 328 demonstrating that effective competition does not exist in a particular franchise area. We seek comment on whether it would be most administratively efficient for franchising authorities, cable operators, and the Commission to incorporate effective competition showings within the certification process, rather than requiring a separate filing. Specifically, when a franchising authority seeks certification to regulate a cable operator's basic service tier and associated equipment, should it continue to file FCC Form 328? Should we revise Question 6 of that form to state the new presumption that cable systems are subject to effective competition, and to require a supplement to Form 328 which contains evidence adequate to satisfy the franchising authority's burden of rebutting the presumption of competing provider effective competition with specific evidence that such effective competition does not exist in the franchise area in question? [16] Unless a franchising authority has actual knowledge to the contrary, should we permit it to continue to presume that the cable operator is not subject to any other type of effective competition in the franchise area? Under such an approach, the franchising authority would not need to submit evidence rebutting the presence of effective competition under those other tests. Except as otherwise discussed herein, should we retain the existing provisions in section 76.910 of our rules, including that a certification will become effective 30 days after the date filed unless the Commission notifies the franchising authority that it has failed to meet one of the specified requirements? [17] Would such an approach be consistent with a presumption of effective competition, and with STELAR's requirement that we streamline the effective competition process for small cable operators? We invite comment on appropriate procedures, and we welcome commenters to propose alternate procedures for the Commission's consideration. For example, we note that section 623(a)(4)(B) of the Act provides that a certification does not become effective if the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that ''the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations.'' Based on a presumption of competing provider effective competition, should the Commission make such a finding of a lack of legal authority, and how could the Commission comply with the required notice and opportunity to comment as stated in the statute if it takes such an approach? Should we make any other changes to FCC Form 328, or to the rules or procedures that apply to franchising authority certifications? We note that

[15] *See, e.g.,* 47 CFR 76.914(b).

[16] The form's instructions for completing Question 6 would be revised accordingly. In addition, we note that instruction number 2 to the form has not been updated to reference LEC effective competition, even though the form itself contains such an update. For accuracy and completeness, we propose to revise instruction number 2 to reference LEC effective competition, in addition to making any necessary changes to Question 6.

[17] *See id.* 76.910(e). In practice, it is the Media Bureau that evaluates certifications and related pleadings on behalf of the Commission, and the Media Bureau would continue to do so. This NPRM contains references to the Commission's role in the franchising authority certification process. Although our rules refer to the Commission having these responsibilities, the Media Bureau has delegated authority to act on certification matters under 47 CFR 0.61.

the Commission has authority to dismiss a pleading that fails on its face to satisfy applicable requirements, and thus, the Commission on its own motion could deny a certification based on failure to meet the applicable burden. Should the cable operator have an opportunity before the 30-day period expires to respond to the franchising authority's showing?

17. We seek comment on procedures by which a cable operator may oppose a certification. Should we permit a cable operator to file a petition for reconsideration pursuant to section 76.911 of our rules, demonstrating that it satisfies any of the four tests for effective competition? Should the procedures set forth in section 1.106 of our rules continue to govern responsive pleadings thereto? If a franchising authority successfully rebuts a presumption of competing provider effective competition, a cable operator seeking to demonstrate that low penetration, municipal provider, or LEC effective competition exists in the franchise area would bear the burden of demonstrating the presence of such effective competition, whereas we would presume the presence of competing provider effective competition absent a franchising authority's demonstration to the contrary. We ask commenters whether we should retain the requirement in section 76.911(b)(1) that the filing of a petition for reconsideration alleging that effective competition exists would automatically stay the imposition of rate regulation pending the outcome of the reconsideration proceeding. Should we make any revisions to existing section 76.911 of our rules? If the Commission does not act on a section 76.911 petition for reconsideration within six months, should the petition be deemed granted based on the same finding that would underlie a presumption of competing provider effective competition, *i.e.,* that the ubiquitous nationwide presence of DBS providers has made effective competition the norm throughout the United States? We seek comment on whether a deemed granted process can be implemented consistent with the requirements of sections 623(a)(2) and/or 623(a)(4). As with any Commission action, the franchising authority would have the right to file a petition for reconsideration or an application for review to the full Commission of any certification denial or petition for reconsideration grant.[18] We seek comment on any other changes to our rules that would best effectuate the process for certification of franchising authorities to regulate the basic service tier and petitions for reconsideration of such certifications.

18. Our rules currently permit cable operators to request information from a competitor about the competitor's reach and number of subscribers, if the evidence establishing effective competition is not otherwise available. We invite comment on whether we should amend our rules to provide that if a franchising authority filing Form 328 wishes to demonstrate a lack of effective competition and necessary evidence is not otherwise available, the franchising authority may request directly from an MVPD information regarding the MVPD's reach and number of subscribers in a particular franchise area. What would be the costs and benefits of such an approach? As currently required for such requests by cable operators, should we require the MVPD to respond to such a request within 15 days, and should we retain the requirement that such responses may be limited to numerical totals related to subscribership and reach? Existing section 76.907(c), which governs such requests in the context of petitions for a determination of effective competition and which also applies to petitions for reconsideration of certification pursuant to section 76.911(a)(1), would remain in effect.

19. We ask commenters to indicate whether any other revisions to the rules would be necessary to implement a new effective competition framework in which we presume the existence of competing provider effective competition. In addition, we invite comment on whether the new rules and procedures for effective competition should go into effect once the Commission announces approval by the Office of Management and Budget (''OMB'') of the rules that require such approval.

20. Similarly, if the Commission adopts an order implementing the presumption that cable operators are subject to effective competition, how should we address cable operator petitions seeking findings of effective competition that are pending as of the adoption date? Should any such petitions that are pending as of the effective date of the new rules be granted? Or should such petitions be adjudicated on the merits under the new presumption of competing provider effective competition? Should different procedures apply if a pending petition seeking a finding of effective competition was opposed? We also seek comment on any other appropriate manner in which we should dispose of these pending petitions.

21. If the Commission adopts a new presumption, we invite comment on whether the new procedures we seek comment on above overall would be less burdensome for cable operators including small operators, and whether fewer effective competition determinations would require Commission adjudication. Approximately how many franchising authorities with current certifications will submit a new FCC Form 328, and for approximately how many CUIDs? We invite comment on whether we should retain section 76.907 of our rules, which governs petitions for a determination of effective competition. If a franchising authority is certified after a presumption of competing provider effective competition is adopted, a cable operator may at a later date wish to file a petition for a determination of effective competition demonstrating that circumstances have changed and one of the four types of effective competition exists. If we retain section 76.907 and adopt a presumption of competing provider effective competition, we would need to revise section 76.907(b) to reflect the new presumption.

22. We invite comment on whether franchising authorities, including small franchising authorities, would face significant, unreasonable burdens in preparing revised Form 328, including the attachment rebutting a presumption of competing provider effective competition. Would any such burdens be justified given the prevalence of effective competition in the market today? Should we take any actions to mitigate the burdens on franchising authorities, particularly small franchising authorities, or do so few franchising authorities expend the resources needed to regulate basic cable rates that separate procedures are not needed? If commenters seek different rules applicable to small franchising authorities, what rules should we adopt and how should we define ''small franchising authority'' in this context? For example, the Regulatory Flexibility Act (''RFA'') defines ''small governmental jurisdictions'' as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.''

23. What are the costs and benefits that would result from the adoption of a presumption of competing provider effective competition? Would such a presumption ease significant burdens that cable operators currently face in filing effective competition petitions

[18] *See* 47 CFR 1.106 and 1.115. Cable operators would have the same recourse for certification grants.

under the current presumption that is inconsistent with market realities? Would such a presumption also conserve Commission resources by significantly reducing the number of effective competition determinations that the Commission needs to adjudicate? While franchising authorities would face the costs of demonstrating a lack of competing provider effective competition, we invite comment on whether these costs would be modest given the small number of affected franchise areas due to the prevalence of effective competition throughout the nation, and whether they would be outweighed by the significant cost-saving benefits of a presumption that is consistent with today's marketplace. Finally, what would be the costs and benefits associated with streamlining the effective competition process for small cable operators?

V. Procedural Matters

A. Initial Regulatory Flexibility Act Analysis

24. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), *see* 5 U.S.C. 603, the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') concerning the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (''NPRM''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA''). *See* 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

25. In the NPRM, the Commission seeks comment on how it should improve the effective competition process. Specifically, it asks whether it should adopt a rebuttable presumption that cable operators are subject to effective competition. Pursuant to the Communications Act of 1934, as amended (the ''Act''), a franchising authority is permitted to regulate basic cable rates only if the cable system is not subject to effective competition.[19] As a result, where effective competition exists, basic cable rates are dictated by the marketplace and not by regulation. In 1993, the Commission adopted a presumption that cable operators are not subject to effective competition, absent a cable operator's demonstration to the contrary.[20] Given the changes to the video marketplace that have occurred since 1993, including in particular the widespread availability of Direct Broadcast Satellite (''DBS'') service, we now seek comment on whether to reverse our presumption and instead presume that cable operators are subject to effective competition. Such an approach would reflect the fact that today, based on application of the effective competition test in the current market, the Commission grants nearly all requests for a finding of effective competition. If the Commission were to presume that cable operators are subject to effective competition, a franchising authority would be required to demonstrate to the Commission that one or more cable operators in its franchise area is not subject to effective competition if it wishes to regulate cable service rates. We intend to implement policies that are mindful of the evolving video marketplace.

26. In initiating this proceeding, we are also implementing part of the STELA Reauthorization Act of 2014 (''STELAR''), enacted on December 4, 2014. Specifically, section 111 of STELAR directs the Commission to adopt a streamlined effective competition petition process for small cable operators. Through this proceeding, we intend to fulfill Congress' goal that we ease the burden of the existing effective competition process on small cable operators, especially those that serve rural areas, through a rulemaking that shall be completed by June 2, 2015. We seek comment on whether the adoption of a rebuttable presumption of effective competition would reflect the current multichannel video programming distributor (''MVPD'') marketplace and reduce regulatory burdens on all cable operators—large and small—and on their competitors, while more efficiently allocating the Commission's resources and amending outdated regulations.

2. Legal Basis

27. The proposed action is authorized pursuant to sections 4(i), 4(j), 303(r), and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 543, and section 111 of the STELA Reauthorization Act of 2014, Public Law 113–200, section 111, 128 Stat. 2059 (2014).

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

28. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

29. *Small Governmental Jurisdictions.* The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, a substantial majority may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

30. *Wired Telecommunications Carriers.* The 2007 North American Industry Classification System (''NAICS'') defines ''Wired Telecommunications Carriers'' as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.''

[19] *See* 47 U.S.C. 543(a)(2).

[20] *See* 47 CFR 76.906.

The SBA has developed a small business size standard for wireline firms within the broad economic census category, ''Wired Telecommunications Carriers.'' Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated for the entire year. Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees. Therefore, under this size standard, we estimate that the majority of businesses can be considered small entities.

31. *Cable Companies and Systems.* The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rate regulation rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. According to SNL Kagan, there are 1,258 cable operators. Of this total, all but 10 incumbent cable companies are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,584 cable systems nationwide. Of this total, 4,012 cable systems have fewer than 20,000 subscribers, and 572 systems have 20,000 subscribers or more, based on the same records. Thus, under this standard, we estimate that most cable systems are small.

32. *Direct Broadcast Satellite (''DBS'') Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category, ''Wired Telecommunications Carriers,'' which was developed for small wireline firms. Under this category, the SBA deems a wireline business to be small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated for the entire year. Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small. However, the data we have available as a basis for estimating the number of such small entities were gathered under a superseded SBA small business size standard formerly titled ''Cable and Other Program Distribution.'' The 2002 definition of Cable and Other Program Distribution provided that a small entity is one with $12.5 million or less in annual receipts. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offers subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

33. *Open Video Systems.* The open video system (''OVS'') framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated for the entire year. Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, at least some of the OVS operators may qualify as small entities.

34. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

35. *Incumbent Local Exchange Carriers (''ILECs'').* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated for the entire year. Of this total, 2,940 firms had fewer than 100 employees, and 248 firms had 100 or more employees. Therefore, under this size standard, the majority of such businesses can be considered small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

36. The NPRM invites comment on whether the Commission should presume that cable operators are subject to competing provider effective competition, with the burden of rebutting this presumption falling on the franchising authority. If such an approach is adopted, a franchising authority seeking certification to regulate a cable system's basic service would file FCC Form 328, including a demonstration that the franchising authority has met its burden. Franchising authorities are already required to file FCC Form 328 to obtain certification to regulate a cable system's basic service, but the demonstration rebutting a presumption of competing provider effective competition would be a new requirement. Cable operators, including small cable operators, would retain the burden of demonstrating the presence of any other type of effective competition, which a cable operator may seek to demonstrate if a franchising authority rebuts the presumption of competing provider effective competition. A cable operator opposing a certification would be permitted to file a petition for reconsideration pursuant to section 76.911 of our rules, as is currently the case, demonstrating that it satisfies any of the four tests for effective competition. The procedures set forth in section 1.106 of our rules would continue to govern responsive pleadings thereto. While a certification would become effective 30 days after the date filed unless the Commission notifies the franchising authority otherwise, the filing of a petition for reconsideration based on the presence

of effective competition would automatically stay the imposition of rate regulation pending the outcome of the reconsideration proceeding.

37. Some franchising authorities have current certifications that will be in place as of the effective date of the new rules. The NPRM asks whether, if the presumption is ultimately reversed, these certifications should be administratively revoked on the effective date of the new presumption. The NPRM also asks how the Commission should address cable operator petitions seeking findings of effective competition that are pending as of the adoption date of a presumption of competing provider effective competition, including whether the Commission should grant any such petitions.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

39. Overall, the Commission seeks to adopt an approach that will more closely correspond to the current marketplace, and it aims to lessen the number of effective competition determinations addressed by the Commission and thus to reduce regulatory burdens on cable operators and their competitors, and to more efficiently allocate the Commission's resources and amend outdated regulations. In paragraphs 21–23 of the NPRM, the Commission considers the impact of procedures implementing a presumption of competing provider effective competition on all entities, including small entities. The Commission invites comment on whether the new procedures it seeks comment on overall would be less burdensome for cable operators, including small operators, and whether fewer effective competition determinations would require Commission adjudication. The NPRM asks whether franchising authorities, including small franchising authorities, would face significant, unreasonable burdens in preparing revised Form 328, including the attachment rebutting a presumption of competing provider effective competition. The NPRM asks whether any such burdens would be justified given the prevalence of effective competition in the market today, and whether the Commission should take any actions to mitigate the burdens on franchising authorities, particularly small franchising authorities. If commenters seek different rules applicable to small franchising authorities, the Commission asks what rules it should adopt and how it should define ''small franchising authority'' in this context. Overall, the Commission solicits alternative proposals, and it will welcome those that would alleviate any burdens on small entities. The Commission will consider alternatives to minimize the regulatory impact on small entities. For example, the NPRM seeks comment on any proposals that it should consider in the alternative, including whether there are any areas in which DBS reception is so limited that the Commission should not presume DBS subscribership in excess of 15 percent of households. Additionally, the NPRM asks whether the Commission should implement an alternate approach of presuming that the franchising authority lacks legal authority to adopt rate regulations, based on a presumption of competing provider effective competition.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

40. None.

B. Initial Paperwork Reduction Act Analysis

41. This document contains proposed new or revised information collection requirements, including the processes that would apply if the Commission adopts a rebuttable presumption of effective competition. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (''OMB'') to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

C. Ex Parte Rules

42. *Permit-But-Disclose.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Filing Requirements

43. *Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

44. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

45. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

E. Additional Information

46. For additional information on this proceeding, contact Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–2120.

VI. Ordering Clauses

47. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303(r), and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 543, and section 111 of the STELA Reauthorization Act of 2014, this Notice of Proposed Rulemaking *is adopted.*

48. *It is further ordered* that, the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Revise § 76.906 to read as follows:

§ 76.906 Presumption of effective competition.

In the absence of a demonstration to the contrary, cable systems are presumed to be subject to effective competition pursuant to § 76.905(b)(2).

■ 3. Amend § 76.907 by revising paragraph (b) to read as follows:

§ 76.907 Petition for a determination of effective competition.

* * * * *

(b) If the cable operator seeks to demonstrate that effective competition as defined in § 76.905(b)(1), (3) or (4) exists in the franchise area, it bears the burden of demonstrating the presence of such effective competition. Effective competition as defined in § 76.905(b)(2) is governed by the presumption in § 76.906.

Note to paragraph (b): The criteria for determining effective competition pursuant to § 76.905(b)(4) are described in Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996, Report and Order in CS Docket No. 96–85, FCC 99–57 (released March 29, 1999).

* * * * *

■ 4. Amend § 76.910 by revising paragraph (b)(4) to read as follows:

§ 76.910 Franchising authority certification.

* * * * *

(b) * * *

(4) The cable system in question is not subject to effective competition. The franchising authority must submit specific evidence demonstrating its rebuttal of the presumption in § 76.906 that the cable operator is subject to effective competition pursuant to § 76.905(b)(2). Unless a franchising authority has actual knowledge to the contrary, the franchising authority may presume that the cable operator is not subject to effective competition pursuant to § 76.905(b)(1), (3) or (4).

Note to paragraph (b)(4): The franchising authority bears the burden of rebutting the presumption that effective competition exists with evidence that effective competition, as defined in § 76.905(b)(2), does not exist in the franchise area. If the evidence establishing the lack of effective competition is not otherwise available, franchising authorities may request from a multichannel video programming distributor information regarding the multichannel video programming distributor's reach and number of subscribers. A multichannel video programming distributor must respond to such request within 15 days. Such responses may be limited to numerical totals.

* * * * *

[FR Doc. 2015–06541 Filed 3–19–15; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 80, No. 54
Friday, March 20, 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

Submission for OMB Review; Comment Request

March 16, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 20, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Milk and Milk Products.

OMB Control Number: 0535–0020.

Summary of Collection: The National Agricultural Statistics Service's (NASS) primary function is to prepare and issue current official state and national estimates of crop and livestock production, prices and disposition, and to collect information on related environmental, land values, farm numbers, and other economic factors. Estimates of milk production and manufactured dairy products are an integral part of this program. Milk and dairy statistics are used by the U.S. Department of Agriculture (USDA) to help administer price support programs and by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. The general authority for these data collection activities is granted under U.S. Code title 7, section 2204. The legislative actions which affect these surveys are the ''Dairy Market Enhancement Act of 2000,'' U.S. Code title 7, section 1621, and Public Law 106–532 which changed the program from voluntary to mandatory for reporting the moisture content of cheddar cheese plus the price and quantity of cheddar cheese, butter, non-fat dry milk, and dry whey.

In April 2012 the authority for collecting Dairy Product Prices was moved from NASS to the Agricultural Marketing Service.

Need and Use of the Information: NASS will collect information quarterly with the Milk Production Survey. The monthly Milk and Milk Products surveys obtain basic agricultural statistics on milk production and manufactured dairy products from farmers and processing plants throughout the nation. Data are gathered for milk production, evaporated and condensed milk, dairy products, manufactured dry milk and manufactured whey products. Estimates of total milk production, number of milk cow, and milk production per cow, are used by the dairy industry in planning, pricing, and projecting supplies of milk and milk products. The mandatory dairy product information reporting requires each manufacturer to report the price, quantity and moisture content of dairy products sold and each entity storing dairy products to report information on the quantity of dairy products stored. Collecting data less frequently would prevent USDA and the agricultural industry from keeping abreast of changes at the State and national level.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 14,200.

Frequency of Responses: Reporting: Quarterly; Monthly; Annually.

Total Burden Hours: 10,035.

National Agricultural Statistics Service

Title: Field Crops Objective Yield.

OMB Control Number: 0535–0088.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. General authority for these data collection activities is granted under U.S. Code title 7, section 2204. This statue specifies the ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . . and shall distribute them among agriculturists''. Data collected provides yield estimates for corn, cotton, potatoes, soybeans and winter wheat. The yield estimates are extremely important because they're used in conjunction with price data to estimate production and in making policy decisions in agricultural sectors.

Need and Use of the Information: NASS will collect information on sample fields of, corn, cotton, potatoes, soybeans, and winter wheat. The information will be used by USDA to anticipate loan receipts and pricing of loan stocks for grains. Farmers and businesses use the production estimates in marketing decisions to evaluate expected prices and to determine when to sell.

Description of Respondents: Farms.

Number of Respondents: 8,000.

Frequency of Responses: Reporting: Monthly during growing season.

Total Burden Hours: 2,820.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–06368 Filed 3–19–15; 8:45 am]

BILLING CODE 3410–29–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 17, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 20, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725–17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Endangered Species Regulations and Forfeiture Procedures.

OMB Control Number: 0579–0076.

Summary of Collection: The Endangered Species Act of 1973 (16 U.S.C. 1513 *et. seq.*) directs Federal departments to utilize their authorities under the Act to conserve endangered and threatened species. Section 3 of the Act specifies that the Secretary of Agriculture is authorized to promulgate such regulations as may be appropriate to enforce the Act. The regulations contained in 7 CFR part 355 are intended to carry out the provisions of the Endangered Species Act. The Plant Protection and Quarantine (PPQ) division of USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for implementing these regulations. Specifically, Section 9(d) of the Act authorizes 7 CFR 355.11, which requires a general permit to engage in the business of importing or exporting terrestrial plants listed in 50 CFR parts 17 and 23. APHIS will collect information using several PPQ forms.

Need and Use of the Information: APHIS will use the following information activities to conserve endangered and threatened species of terrestrial plants: Application for Protected Plant Permit (PPQ 621), Appeal of Denial of General Permit, Marketing and Notification Requirements, Notice of Arrival (PPQ 368), Notice of Exportation, Marking Requirements, Validation of Documents, Recordkeeping, Submitting Reports from Records Required to be kept, Waiver of Forfeiture Procedures by Owner of Seized Property (PPQ 623) Petition for Remission or Mitigation of Forfeiture (PPQ 626) and Request for Return of Property. The information provided by these information collection activities is critical to APHIS ability to carry out its responsibilities under the Endangered Species Act and the Lacey Act.

Description of Respondents: Business or other for-profit.

Number of Respondents: 16,578.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 7,554.

Animal and Plant Health Inspection Service

Title: Bovine Spongiform Encephalopathy; Importation of Animals and Animal Products.

OMB Control Number: 0579–0234.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. The AHPA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. The Animal and Plant Health Inspection Service (APHIS) regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases. The regulations in 9 CFR parts, 91, 93, 94, 95 and 96 govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of diseases, such as bovine spongiform encephalopathy (BSE), a chronic degenerative disease that affects the central nervous system of cattle.

Need and Use of the Information: APHIS will collect the information to prevent BSE incursion into the United States using the following: (1) Import Permit Application (VS Form 16–3); (2) Certificate for Inedible Processed Ovine/Caprine Origin Materials and Products from a Region Not Listed in 9 CFR 95.4; (3) Cooperative Service Agreement; (4) Certification Statement for Ovine/Caprine Products from Regions Listed in 9 CFR 95.4, and for Inedible Processed Animal Proteins Derived from Ovines/Caprines; (5) Seals; (6) Notification of Designation of Persons Authorized to Break Seals; (7) Agreements with Slaughter Facilities Concerning the Use of Seals on Conveyances Transporting Animals from Canada; (8) Notification Regarding Conditions of Sealed Shipments; (9) Animals Imported for Immediate Slaughter (VS Form 17–33); (10) Certification Statement for Ruminants; (11) Ruminants Imported to Designated/Approved Feedlots (VS Form 17–130); and (12) Permit for Movement of Restricted Animals (VS Form 1–27). Failure to collect this information would make it impossible for APHIS to effectively prevent BSE-contaminated animals and animal products from entering the United States.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 5,238.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 231,307.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–06479 Filed 3–19–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD825

Marine Mammals; File Nos. 17278 and 17557

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

ACTION: Notice; receipt of applications for permit amendments.

SUMMARY: Notice is hereby given that James Shine, Ph.D., Harvard University School of Public Health, 401 Park Drive, 404H West, Boston, Massachusetts 02215, and the NMFS Forensics Office, 219 Fort Johnson Road, Charleston, SC 29412, have applied for amendments to their respective permits, Scientific Research Permit Nos. 17278 and 17557.

DATES: Written, telefaxed, or email comments must be received on or before April 20, 2015.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 17278 or 17557 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on these applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore, Amy Sloan, or Malcolm Mohead; phone: (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendments to these permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 17278, issued on August 29, 2012 (77 FR 54902), authorizes Dr. Shine to import and receive parts from subsistence-collected long-finned pilot whales (*Globicephala melas*) archived at the Faroese Museum of Natural History, Foroe Islands. The permit holder is requesting the permit be amended to increase the number of samples imported from 15 to 100 animals annually, as well as authorization to conduct analyses of chlorinated and fluorinated organic chemicals using the same samples. No live takes from the wild would be authorized. The permit expires on August 28, 2017.

Permit No. 17557, issued on August 9, 2013 (78 FR 50395), authorizes the NMFS Forensics Office to receive, import, export, transfer, archive, and conduct analyses marine mammal and endangered species parts. Species include all those covered under the MMPA and ESA under NMFS jurisdiction. Samples are archived at the lab and used to support law enforcement actions, research studies (primarily genetics), and outreach education. The permit holder is requesting the permit be amended to include scalloped hammerhead sharks (S*phyrna lewini*a) recently listed under the ESA. No live takes from the wild would be authorized. The permit expires on August 9, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding a copy of the amendment submitted for Permit No. 17278 to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 16, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06391 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–877]

Welded Line Pipe From the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that *de minimis* countervailable subsidies are being provided to producers and exporters of welded line pipe from the Republic of Korea (Korea). The period of investigation is January 1, 2013, through December 31, 2013. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective* March 20, 2015.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Reza Karamloo, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4007 or (202) 482–4470, respectively.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day the Department initiated this CVD investigation, the Department also initiated a CVD investigation of welded line pipe from the Republic of Turkey (Turkey) and AD investigations of welded line pipe from Korea and Turkey.[1] The CVD and AD investigations cover the same merchandise. On February 27, 2015, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), the petitioners[2] requested alignment of the final CVD determination with the final AD determination of welded line pipe from Korea. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the

[1] *See Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 79 FR 67419 (November 13, 2014). *See also Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 79 FR 68213 (November 14, 2014).

[2] The petitioners in this investigation are American Cast Iron Pipe Company, Energex (a division of JMC Steel Group), Maverick Tube Corporation, Northwest Pipe Company, Stupp Corporation (a division of Stupp Bros., Inc.), Tex-Tube Company, TMK IPSCO, and Welspun Tubular LLC USA.

final CVD determination with the final AD determination. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than July 28, 2015, unless postponed.

Scope of the Investigation

The scope of the investigation covers welded line pipe, which is carbon and alloy steel pipe of a kind used for oil or gas pipelines, not more than 24 inches in nominal outside diameter. For a complete description of the scope of the investigation, see Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For discussion of those comments, see the Preliminary Decision Memorandum.[3]

Methodology

The Department is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually investigated producer/exporter of the subject merchandise. Consistent with section 703(b)(4)(A) of the Act, we have disregarded *de minimis* rates and preliminarily determine that countervailable subsides are not being provided with respect to the manufacture, production or exportation of the subject merchandise. Consistent with section 703(d) of the Act, we have not calculated an all-others rate because we have not reached an affirmative preliminarily determination. We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate
SeAH Steel Corporation.	0.52 percent (*de minimis*).
NEXTEEL Co., Ltd	0.47 percent (*de minimis*).

Because we preliminarily determine that the CVD rates in this investigation are *de minimis,* we will not direct U.S. Customs and Border Protection to suspend liquidation of entries of subject merchandise.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

International Trade Commission

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(3) of the Act, if our final determination is affirmative, the ITC will make its final determination within 75 days after we make our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[4] Interested parties may submit case briefs, rebuttal briefs, and hearing requests.[5] For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, see the Preliminary Decision Memorandum.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: March 16, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is circular welded carbon and alloy steel (other than stainless steel) pipe of a kind used for oil or gas pipelines (welded line pipe), not more than 24 inches in nominal outside diameter, regardless of wall thickness, length, surface finish, end finish, or stenciling. Welded line pipe is normally produced to the American Petroleum Institute (API) specification 5L, but can be produced to comparable foreign specifications, to proprietary grades, or can be non-graded material. All pipe meeting the physical description set forth above, including multiple-stenciled pipe with an API or comparable foreign specification line pipe stencil is covered by the scope of this investigation.

The welded line pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.5000, 7305.12.1030, 7305.12.5000, 7305.19.1030, 7305.19.5000, 7306.19.1010, 7306.19.1050, 7306.19.5110, and 7306.19.5150. The subject merchandise may also enter in HTSUS 7305.11.1060 and 7305.12.1060. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Use of Facts Otherwise Available
VII. Subsidies Valuation
VIII. Analysis of Programs
IX. ITC Notification
X. Disclosure and Public Comment
XI. Verification
XII. Conclusion

[FR Doc. 2015–06483 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding ''Countervailing Duty Investigation of Welded Line Pipe from the Republic of Korea: Decision Memorandum for the Negative Preliminary Determination,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[4] *See* 19 CFR 351.224(b).

[5] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed Collection; Comment Request; ''Fee Deficiency Submissions''

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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 19, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0070 Fee Deficiency Submissions'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email at *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Leahy-Smith America Invents Act (''Act'') was enacted into law on September 16, 2011. Public Law 112–29, 125 Stat. 283 (2011). Under section 10(b) of the Act, eligible small entities shall receive a 50 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents.

This information collection covers the submissions made by patent applicants and patentees to excuse small and micro entity fee payment errors. Specifically, 37 CFR 1.28(c) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the small entity amount. 37 CFR 1.29(k) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the micro entity amount.

This information collection is necessary so that patent applicants and patentees may pay the balance of fees due (*i.e.,* make a fee deficiency payment) when a fee was previously paid in error in a micro or small entity amount. The USPTO needs the information to be able to process and properly record a fee deficiency payment to avoid questions arising later either for the USPTO or for the applicant or patentee as to whether the proper fees have been paid in the application or patent.

II. Method of Collection

The items in this collection may be submitted online using EFS-Web, the USPTO's Web-based electronic filing system, or on paper by either mail or hand delivery.

III. Data

OMB Number: 0651–0070.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

IC No.	Information collection instrument	Form(s)
1	Submissions Under 37 CFR 1.28 (c)	• No form.
2	Submissions Under 37 CFR 1.29 (k)	• No form.

Type of Review: Regular.

Affected Public: Businesses or other for-profits; not-for-profit institutions; individuals or households.

Estimated Number of Respondents: 3,000 responses per year. Of this total, the USPTO expects that 2,910 responses will be submitted electronically through EFS-Web and 90 will be submitted on paper.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 2 hours to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or petition, and submit the completed request to the USPTO.

The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

Estimated Total Annual Hour Burden: 6,000 hours.

Estimated Total Annual Cost Burden (Hourly): $2,334,000. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for an attorney is $389. Using this hourly rate, the USPTO estimates $2,334,000 per year for the total hourly costs associated with respondents.

IC No.	Information collection instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Total cost ($) (c) × (d) = (e)
1	Submissions Under 37 CFR 1.28(c).	2	2,250	4,500	$389.00	$1,750,500.00
2	Submissions Under 37 CFR 1.29(k).	2	750	1,500	389.00	583,500.00

IC No.	Information collection instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Total cost ($) (c) × (d) = (e)
Total			3,000	6,000		2,334,000.00

Estimated Total Annual Cost Burden (Non-Hourly): $504.00. There are no capital startup, maintenance, or operating fees are associated with this collection. There are, however, postage costs associated with this collection. Specifically, customers may incur postage costs when submitting the information in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average first class postage cost for a mailed one-pound submission will be $5.60 and approximately 90 submissions will be submitted to the USPTO requiring postage.

No.	Information collection instrument	Responses (yr) (a)	Postage costs (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
1	Submissions Under 37 CFR 1.28(c)	45	$5.60	$252.00
2	Submissions Under 37 CFR 1.29(k)	45	5.60	252.00
Total		90		504.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs is $504.00 per year.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–06442 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Post Patent Provisions of the Leahy-Smith America Invents Act

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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)).

DATES: Written comments must be submitted on or before May 19, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0067 Post Patent Provisions of the Leahy-Smith America Invents Act'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email at *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 *et seq.* to examine an application for patent and, when appropriate, issue a patent. The provisions of 35 U.S.C. 301 and 37 CFR 1.501 govern the ability of a person to submit into the file of an issued patent (i) prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a patent and (ii) written statements of a patent owner filed in a proceeding before a Federal court or the USPTO in which the patent owner took a position on the scope of any claim of the patent.

The information in this collection can be submitted electronically through EFS-Web, the USPTO's web-based electronic filing system, as well as on paper. The USPTO therefore accounts for both electronic and paper submissions in this collection.

II. Method of Collection

Electronically if applicants submit the information using the TEAS forms. By mail or hand delivery if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0067.

IC Instruments: The individual instruments in this collection, as well as their associated forms, are listed in the table below.

IC No.	Information collection instrument	Form(s)
1	Information Disclosure Citation in a Patent (paper and electronic)	• PTO/SB/42.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Responses: The USPTO estimates that it will receive a total of 240 responses to this information collection annually, of which 60 will be filed by small entities. The USPTO estimates that 230 of the 240 responses will be filed electronically.

Estimated Time per Response: The USPTO estimates that it will take the public 10 hours to complete the collection of information. This includes time to gather the necessary information, create the document, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to gather the necessary information, create the document, and submit it to the USPTO, whether the applicant submits the information in paper form or electronically.

The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

Estimated Total Annual Hour Burden: 2,400 hours.

Estimated Total Annual Cost Burden (Hourly): $933,600. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for attorneys is $389. Using this hourly rate, the USPTO estimates $933,600 per year for the total hourly costs associated with respondents.

No.	Information collection instrument	Estimated time for response (minutes) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) x (b) = (c)
1	Electronic Information Disclosure Citation in a Patent	600	230	2,300
2	Information Disclosure Citation in a Patent	600	10	100
Total			240	2,400

Estimated Total Annual Cost Burden (Non-Hourly): $57.50. There are postage costs associated with information disclosure citations in a patent. Customers may incur postage costs when submitting the information in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the average postage cost for a mailed one-pound submission will be $5.75 and approximately 10 submissions will be submitted to the USPTO requiring postage. The estimated postage cost for this collection will be $57.50.

No.	Information collection instrument	Responses (yr) (a)	Postage fee ($) (b)	Total non-hour cost burden (yr) (a) x (b) = (c)
1	Information Disclosure Citation in a Patent	10	$5.75	$57.50
Total		10		57.50

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage is $57.50 per year.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–06459 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 150114039–5245–02]

RIN 0648–XD719

Higher Initial Maximum Uniform Allowance Rate; Uniform Allowances

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

ACTION: Final notice.

SUMMARY: The NMFS Office of Law Enforcement (OLE) publishes this notice to announce that it is establishing a higher initial maximum uniform allowance to procure and issue uniform items for its uniformed enforcement officers (EOs). Current OPM regulations allow an agency to establish one or more initial maximum uniform allowance rates greater than the government-wide maximum uniform allowance rate. OLE increases the current annual limit for NMFS EOs in order to maintain the uniform standards and professional image expected of its EOs under its new uniform standards.

DATES: The new uniform allowance is implemented as of April 1, 2015.

FOR FURTHER INFORMATION CONTACT: Everett Baxter, 301–427–8272.

SUPPLEMENTARY INFORMATION: NMFS is implementing a higher initial maximum uniform allowance to procure and furnish uniform items for its enforcement officers (EOs). The current $800.00 annual limit is inadequate to maintain the uniform standards and professional image expected of NMFS EOs under its new uniform standards. In addition, OLE now has a new uniform policy requiring five classes of uniforms. In the past, EOs only had two classes of uniforms. As a result of these two factors, OLE increases the initial maximum uniform allowance for EOs from $800 to $2,000.

OLE published a notice with a request for comments in the **Federal Register** on January 30, 2015 (80 FR 5091) inviting public comments on this planned action. The comment period ended on March 2, 2015. No comments were received. Therefore, NMFS is proceeding with establishing the higher initial maximum uniform allowance rate for its EOs. The effective date of this new uniform allowance is April 1, 2015.

Authority: 5 U.S.C. 5903; E.O. 12748, 56 FR 4521, 3 CFR 1991 Comp., p. 316.

Dated: March 17, 2015.

Logan Gregory,

Acting Director, Office of Law Enforcement, National Marine Fisheries Service.

[FR Doc. 2015–06433 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC021

Public Meetings and Request for Comments on a Draft Environmental Impact Statement Regarding the Makah Tribe's Request To Hunt Eastern North Pacific Gray Whales

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

ACTION: Notice; request for comments.

SUMMARY: We are issuing this notice to advise the public that NMFS has prepared a new Draft Environmental Impact Statement (DEIS) in response to the Makah Tribe's request that NMFS waive the take moratorium of the Marine Mammal Protection Act (MMPA) to allow for treaty right hunting of eastern North Pacific (ENP) gray whales in usual and accustomed grounds off the coast of Washington State. We are requesting written comments on the DEIS and announcing the dates and locations of two public meetings regarding the DEIS.

DATES: Two public meetings will be held as follows:

(1) April 27, 2015, Seattle, Washington; and

(2) April 29, 2015, Port Angeles, Washington.

Specific times and locations for each of these meetings are included in **SUPPLEMENTARY INFORMATION**.

Written or electronic comments on the DEIS from all interested parties are encouraged and must be received no later than 5 p.m. PDT on June 11, 2015. All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2012–0104, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*.

—OR—

Email: Submit electronic public comments via the following NMFS email site: *makah2015deis.wcr@noaa.gov*.

—OR—

Mail: Submit written comments to: Steve Stone, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Steve Stone, NMFS Northwest Region, (503) 231–2317 or Shannon Bettridge, NMFS Office of Protected Resources, (301) 427–8402.

SUPPLEMENTARY INFORMATION: The DEIS is available in electronic form on the Internet at the following address: *http://www.westcoast.fisheries.noaa.gov/protected_species/marine_mammals/cetaceans/whale_hunt.html*. The DEIS also may be viewed at various libraries identified at this Internet address or at the following NMFS offices:

(1) NMFS Protected Resources Division, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232. Contact Steve Stone at 503–231–2317; and

(2) NMFS, Protected Resources Division, 7600 Sand Point Way NE., Building 1, Seattle, WA 98115–6349. Contact Leah Mattox at 206–526– 6150.

In addition, copies of the DEIS are available on CD by contacting Steve Stone (see **FOR FURTHER INFORMATION CONTACT**).

Meeting Information

The public will have the opportunity to provide written and oral comments on the DEIS at two public meetings. Dates, times, and addresses for the public meetings are as follows:

(1) April 27, 2015, 6:30 p.m.–9:30 p.m., NOAA Western Regional Center, Building 9 (Kelly C. Sandy III Auditorium), 7600 Sand Point Way NE., Seattle, WA 98115; and

(2) April 29, 2015, 6:30 p.m.–9:30 p.m., Vern Burton Memorial Community Center, 308 East 4th Street, Port Angeles, WA.

Background

On March 13, 2015, the U.S. Environmental Protection Agency announced the availability of NMFS' DEIS concerning the Makah Indian Tribe's February 2005 request to resume limited hunting of ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing grounds, off the coast of Washington State, for ceremonial and subsistence purposes. Informed by information received during public scoping, this DEIS contains updates and a new set of alternatives compared to a previous DEIS released on May 9, 2008 (73 FR 26394) and later terminated on May 21, 2012 (77 FR 29967). The Tribe's proposed action stems from the 1855 Treaty of Neah Bay, which expressly secures the Makah Tribe's right to hunt whales. To exercise that right, the Tribe is seeking authorization from NMFS under the MMPA and the Whaling Convention Act. The release of this new DEIS is one of several steps NMFS will undertake to evaluate the Tribe's request.

The DEIS, prepared pursuant to the National Environmental Policy Act, considers various alternatives to the Tribe's proposed action. To develop the full range of action alternatives—five in total—we considered the principal components associated with a hunt, including: The time when whale hunting would occur; the area where whale hunting would occur; the annual and six-year limits on the number of whales harvested, struck, and struck and lost; cessation of whale hunting if a predetermined number of identified whales (*i.e.,* included in a photographic catalog of whales from the Pacific Coast Feeding Group area) were harvested; and the method of hunting. This DEIS addresses a number of resources identified for review during both internal and public scoping, including: Water quality, marine habitat and species, eastern and western North Pacific gray whales, other wildlife species, economics, environmental justice, social environment, cultural resources, ceremonial and subsistence resources, noise, aesthetics, transportation, public services, public safety, and human health.

The DEIS provides an important opportunity for the public to formally comment on the Tribe's proposal and the various alternatives. These comments, in conjunction with considerations described in the DEIS, will provide key information to assist NMFS with its final decision on the Tribe's request.

Access to Government Building

For access to the Federal government building in Seattle, Washington, the Department of Commerce Western Region Security Office has advised that all attendees must have valid government-issued identification (e.g., driver's license, tribal identification card, or passport). Prospective attendees for the public meeting in the NOAA Auditorium in Seattle, Washington should submit their first and last names and affiliation, if appropriate, via the NMFS email site (See **ADDRESSES**) by 4 p.m. PDT on April 26, 2015.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meetings should contact Steve Stone (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call at least 5 business days prior to the relevant meeting(s).

Dated: March 17, 2015.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06432 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1966]

Reorganization of Foreign-Trade Zone 186 Under Alternative Site Framework; Waterville, Maine

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the City of Waterville, grantee of Foreign-Trade Zone 186, submitted an application to the Board (FTZ Docket B–65–2014, docketed 09–11–2014) for authority to reorganize under the ASF with a service area of the Counties of Lincoln, Cumberland, Sagadahoc, Androscoggin, Kennebec, Waldo, Knox and Somerset (partial), Maine, within and adjacent to the Belfast Customs and Border Protection port of entry, and FTZ 186's existing Site 1 would be categorized as a magnet site;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 56057, 09–18–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 186 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this March 12, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–06462 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD830

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Seismic Surveys in Cook Inlet, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from SAExploration Inc. (SAE) for authorization to take marine mammals incidental to a proposed oil and gas exploration seismic survey program in Cook Inlet, Alaska between April 1, 2015 and December 31, 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to SAE to incidentally take marine mammals, by Level B harassment only, during the specified activity.

DATES: Comments and information must be received no later than April 20, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation

Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *itp.young@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *www.nmfs.noaa.gov/pr/permits/incidental.htm.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**). The following associated documents are also available at the same internet address: *Application Packet, Marine Mammal Mitigation and Monitoring Plan, draft Environmental Assessment.*

We are also preparing an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and will consider comments submitted in response to this notice as part of that process. The EA will be posted at the NOAA Fisheries Incidental Take internet site once it is finalized.

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On October 28, 2014, we received a request from SAE for authorization to take marine mammals incidental to seismic surveys in Cook Inlet, Alaska. After further correspondence and revisions by the applicant, we determined that the application was adequate and complete on January 12, 2015.

SAE proposes to conduct oil and gas exploration seismic surveys. The proposed activity would occur between April 1, 2015 and December 31, 2015, for a period of 160 days. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: Operation of seismic airguns in arrays of 440 in^3 and 1,760 in^3. Take, by Level B Harassment only, of individuals of beluga whale, harbor porpoise, killer whale, harbor seal, and Steller sea lion is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

SAE plans to conduct 3D seismic surveys over multiple years in the marine waters of both upper and lower Cook Inlet. This proposed authorization will cover activities occurring between April 1, 2015 and March 31, 2016. The ultimate survey area is divided into two units (upper and lower Cook Inlet). The total potential survey area is 3,934 square kilometers (1,519 square miles); however, only a portion (currently unspecified) of this area will ultimately be surveyed, and no more than 777 square kilometers (300 square miles) in a given year. The exact location of where the 2015 survey will be conducted is not known at this time, and probably will not be known until spring 2015 when SAE's clients have finalized their data acquisition needs.

The components of the project include laying recording sensors (nodes) on the ocean floor, operating seismic source vessels towing active air gun arrays, and retrieval of nodes. There will also be additional boat activity associated with crew transfer, recording support, and additional monitoring for marine mammals. The primary seismic source for offshore recording consists of a 2 x 880-cubic-inch tri-cluster array for a total of 1,760-cubic-inches (although a 440-cubic-inch array may be used in very shallow water locations as necessary). Each of the arrays will be deployed in a configuration outlined in Appendix A of the application. The arrays will be centered approximately 15 meters (50 feet) behind the source vessel stern, at a depth of 4 meters (12 feet), and towed along predetermined source lines at speeds between 7.4 and 9.3 kilometers per hour (4 and 5 knots). Two vessels with full arrays will be operating simultaneously in an alternating shot mode; one vessel shooting while the other is recharging. Shot intervals are expected to be about 16 seconds for each array resulting in an overall shot interval of 8 seconds considering the two alternating arrays. Operations are expected to occur 24 hours a day, with actual daily shooting to total about 12 hours. An acoustical positioning (or pinger) system will be used to position and interpolate the location of the nodes. A vessel-mounted transceiver calculates the position of the nodes by measuring the range and bearing from the transceiver to a small acoustic transponder fitted to every third node. The transceiver uses sonar to interrogate the transponders, which respond with short pulses that are used in measuring the range and bearing. Several offshore vessels will be required to support recording, shooting, and housing in the marine and transition zone environments. Exact vessels to be used have not been determined.

Dates and Duration

The request for incidental harassment authorization is for the 2015 Cook Inlet open water season (April 1 to December 31). All associated activities, including mobilization, survey activities, and demobilization of survey and support crews, would occur between the above dates. The plan is to conduct seismic surveys in the Upper Cook unit sometime between April 1 and December 31. The northern border of the seismic survey area depicted in Figure 1 takes into account the restriction that no activity occur between April 15 to October 15 in waters within 16 kilometers (10 miles) of the Susitna Delta (defined as the nearshore area between the mouths of the Beluga and the Little Susitna rivers). A small wedge of the upper Cook unit falls within 16 kilometers of the Beluga River mouth, but survey here would occur after October 15, taking into account any timing restrictions with nearshore beluga habitat. The seismic acquisition in lower Cook unit would initially begin in late August or mid-September, and run until December 15 taking into account any self-imposed location/timing restrictions to avoid encounters with sea otters or Steller's eiders. The exact survey dates in a given unit will depend on ice conditions, timing restrictions, and other factors. If the upper Cook Inlet seismic surveys are delayed by spring ice conditions, some survey may occur in lower Cook Inlet from March to May to maximize use of the seismic fleet. Actual data acquisition is expected to occur for only 2 to 3 hours at a time during each of the 3 to 4 daily slack tides. Thus, it is expected that the air guns would operate an average of about 8 to 10 total hours per day. It is estimated that it will take 160 days to complete both the upper and lower Cook units, and that no more than 777 square kilometers (300 square miles) of survey area will be shot in 2015.

Specified Geographic Region

The area of Cook Inlet that SAE plans to operate in has been divided into two subsections: Upper and Lower Cook Inlet. Upper Cook (2,126 square kilometers; 821 square miles) begins at the line delineating Cook Inlet beluga whale (*Delphinapterus leucas*) Critical Habitat Area 1 and 2, south to a line approximately 10 kilometers (6 miles) south of both the West Foreland and East Foreland (Figure 1 in SAE application).

Lower Cook (1,808 square kilometer; 698 square mile) begins east of Kalgin Island and running along the east side of lower Cook Inlet to Anchor Point (Figure 2 in SAE application).

Detailed Description of Activities

Survey Design

Marine seismic operations will be based on a ''recording patch'' or similar approach. Patches are groups of six receiver lines and 32 source lines (Figure 3 in SAE application). Each receiver line has submersible marine sensor nodes tethered (with non-kinking, non-floating line) equidistant (50 meters; 165 feet) from each other along the length of the line. Each node is a multicomponent system containing three velocity sensors and a hydrophone (Figure 4 in SAE application). Each receiver line is approximately 8 kilometers (5 miles) in length, and are spaced approximately 402 meters (1,320 feet) apart. Each receiver patch is 19.4 square kilometers (7.5 square miles) in area. The receiver patch is oriented such that the receiver lines run parallel to the shoreline.

The 32 source lines, 12 kilometers (7.5 miles) long and spaced 502 meters (1,650 feet) apart, run perpendicular to the receiver lines (and perpendicular to the coast) and, where possible, will extend approximately 5 kilometers (3 miles) beyond the outside receiver lines and approximately 4 kilometers (2.5 miles) beyond each of the ends of the receiver lines. The outside dimensions of the maximum shot area during a patch shoot will be 12 kilometers by 16 kilometers (7.5 miles by 10 miles), with an area of 192 square kilometers (754 square miles). All shot areas will be wholly contained within the survey boxes depicted in Figures 1 and 2 of SAE's application. Shot intervals along each source line will be 50 meters (165 feet).

It may take a period of three three to five days to deploy, shoot, and record a single receiver patch. On average, approximately 49 square kilometers (18.75 square miles) of patch will be shot daily. During recording of one patch, nodes from the previously surveyed patch will be retrieved, recharged, and data downloaded prior to redeployment of the nodes to the next patch. As patches are recorded, receiver lines are moved side to side or end to end to the next patch location so that receiver lines have continuous coverage of the recording area. Autonomous recording nodes lack cables but will be tethered together using a thin rope for ease of retrieval. This non-floating, non-kinking rope will lay on the seabed surface, as will the nodes, and will have no effect on marine traffic. Primary vessel positioning will be achieved using GPS with the antenna attached to the air gun array. Pingers deployed from the node vessels will be used for positioning of nodes. The geometry/patch could be modified as operations progress to improve sampling and operational efficiency.

Acoustic Sources

Air guns are the acoustic sources of primary concern and will be deployed from the seismic vessels. However, there are other noise sources to be considered. These include the pingers and transponders associated with locating receiver nodes, as well as propeller noise from the vessel fleet.

Seismic Source Array

The primary seismic source for offshore recording consists of a 2 x 880-cubic-inch tri-cluster array for a total of 1,760-cubic-inches (although a 440-cubic-inch array may be used in very shallow water locations as necessary). Each of the arrays will be deployed in a configuration outlined in Appendix A. The arrays will be centered approximately 15 meters (50 feet) behind the source vessel stern, at a depth of 4 meters (12 feet), and towed along predetermined source lines at speeds between 7.4 and 9.3 kilometers per hour (4 and 5 knots). Two vessels with full arrays will be operating simultaneously in an alternating shot mode; one vessel shooting while the other is recharging. Shot intervals are expected to be about 16 seconds for each array resulting in an overall shot interval of 8 seconds considering the two alternating arrays. Operations are expected to occur 24 hours a day, with actual daily shooting to total about 12 hours.

Based on the manufacturer's specifications, the 1,760-cubic-inch array has a peak-peak estimated sound source of 254.55 dB (decibels) re 1 micropascals (μPa) @ 1 m (53.5 bar-m; Far-field Signature, Appendix A), with a root mean square (rms) sound source of 236.55 dB re 1 μPa. The manufacturer-provided source directivity plots for the three possible air gun arrays are shown in Appendix A of the application. They clearly indicate that the acoustical broadband energy is concentrated along the vertical axis (focused downward), while there is little energy focused horizontally. The spacing between air guns results in offset arrival timing of the sound energy. These delays ''smear'' the sound signature as offset energy waves partially cancel each other, which reduces the amplitude in the horizontal direction. Thus, marine mammals near the surface and horizontal to the air gun

arrays would receive sound levels considerably less than a marine mammal situated directly beneath the array, and likely at levels less than predicted by the acoustical spreading model.

Air gun arrays typically produce most noise energy in the 10- to 120-hertz range, with some energy extending to 1 kilohertz (kHz) (Richardson *et al.* 1995). This sound energy is within the hearing range of all of the marine mammal species present in Cook Inlet, although based on available audiograms, pinniped and, especially, odontocete hearing is expected to be less sensitive in this range than mysticete hearing (Au and Hastings 2008; Southall *et al* 2007). Richardson *et al.* (1995) found little evidence of pinnipeds and odontocetes reacting to seismic pulses, suggesting pinnipeds are tolerant to these types of noise and odontocetes have difficulty hearing the low frequency energy. It is assumed, however, that SAE's air gun pulses will be audible to local pinnipeds and odontocetes given the high energy involved, but would more likely elicit reaction from baleen whales, such as minke and humpback whales, than the high frequency species.

Transceivers and Transponders

An acoustical positioning (or pinger) system will be used to position and interpolate the location of the nodes. A vessel-mounted transceiver calculates the position of the nodes by measuring the range and bearing from the transceiver to a small acoustic transponder fitted to every third node. The transceiver uses sonar to interrogate the transponders, which respond with short pulses that are used in measuring the range and bearing. The system provides a precise location of every node as needed for accurate interpretation of the seismic data. The transceiver to be used is the Sonardyne Scout USBL, while transponders will be the Sonardyne TZ/OBC Type 7815–000–06. Because the transceiver and transponder communicate via sonar, they produce underwater sound levels. The Scout USBL transceiver has a transmission source level of 197 dB re 1 μPa @ 1 m (rms) and operates at frequencies between 35 and 55 kHz. The transponder produces short pulses of 184 to 187 dB re 1 μPa (rms) @ 1 m at frequencies also between 35 and 55 kHz.

Both transceivers and transponders produce noise levels just above or within the most sensitive hearing range of seals (75 Hz to 100 kHz; (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth *et al.* 2013) and odontocetes (150 Hz to 180 kHz; Wartzok and Ketten 1999), and the functional hearing range of baleen whales (7 Hz to 30 kHz; Southall *et al* 2007). However, given the low acoustical output, the range where acoustic-based harassment to marine mammals (for the 197 dB transceiver) could occur extends about 100 meters (328 feet), or significantly less than the output from the air gun arrays, and is not loud enough to reach injury levels in marine mammals beyond 9 meters (30 feet). Marine mammals are likely to respond to pinger systems similar to air gun pulses, but only when very close (a few meters) to the sources.

Vessels

SAE will be using a variety of vessels to conduct the seismic survey and related activities. These include: Two source vessels, three node equipment deployment and retrieval vessels, one mitigation and housing vessel, one crew transport vessel, and two bow pickers.

Description of Marine Mammals in the Area of the Specified Activity

Marine mammals most likely to be found in the upper Cook activity area are the beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina*). However, these species are found there in low numbers, and generally only during the summer fish runs (Nemeth *et al.* 2007, Boveng *et al.* 2012). These species are also found in the Lower Cook survey area along with humpback whales (*Megaptera novaeangliae*), minke whales (*Balaenoptera acutorostra*), gray whales (*Eschrichtius robustus*), killer whales (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), and Steller sea lions (*Eumetopia jubatus*). Minke whales have been considered migratory in Alaska (Allen and Angliss, 2014) but have recently been observed off Cape Starichkof and Anchor Point year-round (Owl Ridge, 2014). Humpback and gray whales are seasonal in Lower Cook, while the remaining species could be encountered at any time of the year. During marine mammal monitoring conducted off Cape Starichkof between May and August 2013, observers recorded small numbers of humpback whales, minke whales, gray whales, killer whales, and Steller sea lions, and moderate numbers of harbor porpoises and harbor seals (Owl Ridge, 2014). This survey also recorded a single beluga observed 6 kilometers north of Cape Starichkof in August 2013. The stock sizes for marine mammals found in the proposed project area in Cook Inlet are shown in Table 1.

TABLE 1—MARINE MAMMALS INHABITING THE COOK INLET ACTION AREA

Species	Stock	ESA/MMPA status [1]; Strategic (Y/N)	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Relative occurrence in Cook Inlet; season of occurrence
Humpback whale	Central North Pacific	E/D;Y	7,469 (0.095;5,833;2000)	Occasionally seen in Lower Inlet, summer.
Minke whale	Alaska	—;N	1,233 (0.034;N/A;2003)	Infrequently occur but reported year-round.
Gray whale	Eastern North Pacific	—; N	19,126 (0.071; 18,017; 2007).	Rare migratory visitor; late winter.
Killer whale	Alaska Resident	—;N	2,347 (N/A; 2,084; 2009)	Occasionally sighted in Lower Cook Inlet.
	Alaska Transient	—:N	345 (N/A; 303; 2003).	
Beluga whale	Cook Inlet	E/D;Y	312 (0.10; 280; 2012)	Use upper Inlet in summer and lower in winter: annual.
Harbor porpoise	Gulf of Alaska	—;Y	31,046 (0.214; 25,987; 1998).	Widespread in the Inlet: annual (less in winter).
Dall's porpoise	Alaska			Infrequently found in Lower Inlet.
Steller sea lion	Western DPS	E/D;Y	79,300 (N/A; 45,659; 2012).	Primarily found in lower Inlet.

TABLE 1—MARINE MAMMALS INHABITING THE COOK INLET ACTION AREA—Continued

Species	Stock	ESA/MMPA status [1]; Strategic (Y/N)	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	Relative occurrence in Cook Inlet; season of occurrence
Harbor seal	Cook Inlet/Shelikof	—;N	22,900 (0.053; 21,896; 2006).	Frequently found in upper and lower inlet; annual (more in northern Inlet in summer).

Source: Allen and Angliss (20142, 2013), Carretta *et al.* (2013), Zerbini *et al.* (2006).

Humpback Whale (Megaptera novaeangliae)

Although there is considerable distributional overlap in the humpback whale stocks that use Alaska, the whales seasonally found in lower Cook Inlet are probably of the Central North Pacific stock. Listed as endangered under the Endangered Species Act (ESA), this stock has recently been estimated at 7,469, with the portion of the stock that feeds in the Gulf of Alaska estimated at 2,845 animals (Allen and Angliss 20143). The Central North Pacific stock winters in Hawaii and summers from British Columbia to the Aleutian Islands (Calambokidis *et al.* 1997), including Cook Inlet.

Humpback use of Cook Inlet is largely confined to lower Cook Inlet. They have been regularly seen near Kachemak Bay during the summer months (Rugh *et al.* 2005a), and there is a whale-watching venture in Homer capitalizing on this seasonal event. There are anecdotal observations of humpback whales as far north as Anchor Point, with recent summer observations extending to Cape Starichkof (Owl Ridge 2014). Humpbacks might be encountered in the vicinity of Anchor Point if seismic operations were to occur off the point during the summer. However, SAE plans, for the most part, to limit seismic activity along the Kenai Peninsula to during the spring and fall.

Minke Whale (Balaenoptera acutorostra)

Minke whales are the smallest of the rorqual group of baleen whales reaching lengths of up to 35 feet. They are also the most common of the baleen whales, although there are no population estimates for the North Pacific, although estimates have been made for some portions of Alaska. Zerbini *et al.* (2006) estimated the coastal population between Kenai Fjords and the Aleutian Islands at 1,233 animals.

During Cook Inlet-wide aerial surveys conducted from 1993 to 2004, minke whales were encountered only twice (1998, 1999), both times off Anchor Point 16 miles northwest of Homer. A minke whale was also reported off Cape Starichkof in 2011 (A. Holmes, pers. comm.) and 2013 (E. Fernandez and C. Hesselbach, pers. comm.), suggesting this location is regularly used by minke whales, including during the winter. Recently, several minke whales were recorded off Cape Starichkof in early summer 2013 during exploratory drilling conducted there (Owl Ridge 2014). There are no records north of Cape Starichkof, and this species is unlikely to be seen in upper Cook Inlet. There is a chance of encountering this whale during seismic operations along the Kenai Peninsula in lower Cook Inlet.

Gray Whale (Eschrichtius robustus)

Each spring, the Eastern North Pacific stock of gray whale migrates 8,000 kilometers (5,000 miles) northward from breeding lagoons in Baja California to feeding grounds in the Bering and Chukchi seas, reversing their travel again in the fall (Rice and Wolman 1971). Their migration route is for the most part coastal until they reach the feeding grounds. A small portion of whales do not annually complete the full circuit, as small numbers can be found in the summer feeding along the Oregon, Washington, British Columbia, and Alaskan coasts (Rice *et al.* 1984, Moore *et al.* 2007).

Human exploitation reduced this stock to an estimated ''few thousand'' animals (Jones and Schwartz 2002). However, by the late 1980s, the stock was appearing to reach carrying capacity and estimated to be at 26,600 animals (Jones and Schwartz 2002). By 2002, that stock had been reduced to about 16,000 animals, especially following unusually high mortality events in 1999 and 2000 (Allen and Angliss 2014). The stock has continued to grow since then and is currently estimated at 19,126 animals with a minimum estimate of 18,017 (Carretta *et al.* 2013).

Most gray whales migrate past the mouth of Cook Inlet to and from northern feeding grounds. However, small numbers of summering gray whales have been noted by fisherman near Kachemak Bay and north of Anchor Point. Further, summering gray whales were seen offshore of Cape Starichkof by marine mammal observers monitoring Buccaneer's Cosmopolitan drilling program in 2013 (Owl Ridge 2014). Regardless, gray whales are not expected to be encountered in upper Cook Inlet, where there are no records, but might be encountered during seismic operations along the Kenai Peninsula south of Ninilchik. However, seismic surveys are not planned in this region during the summer months when gray whales would be most expected.

Beluga Whale (Delphinapterus leucas)

The Cook Inlet beluga whale Distinct Population Segment (DPS) is a small geographically isolated population that is separated from other beluga populations by the Alaska Peninsula. The population is genetically (mtDNA) distinct from other Alaska populations suggesting the Peninsula is an effective barrier to genetic exchange (O'Corry-Crowe *et al.* 1997) and that these whales may have been separated from other stocks at least since the last ice age. Laidre *et al.* (2000) examined data from more than 20 marine mammal surveys conducted in the northern Gulf of Alaska and found that sightings of belugas outside Cook Inlet were exceedingly rare, and these were composed of a few stragglers from the Cook Inlet DPS observed at Kodiak Island, Prince William Sound, and Yakutat Bay. Several marine mammal surveys specific to Cook Inlet (Laidre *et al.* 2000, Speckman and Piatt 2000), including those that concentrated on beluga whales (Rugh *et al.* 2000, 2005a), clearly indicate that this stock largely confines itself to Cook Inlet. There is no indication that these whales make forays into the Bering Sea where they might intermix with other Alaskan stocks.

The Cook Inlet beluga DPS was originally estimated at 1,300 whales in 1979 (Calkins 1989) and has been the focus of management concerns since experiencing a dramatic decline in the 1990s. Between 1994 and 1998 the stock declined 47 percent which was attributed to overharvesting by subsistence hunting. Subsistence hunting was estimated to annually

remove 10 to 15 percent of the population during this period. Only five belugas have been harvested since 1999, yet the population has continued to decline, with the most recent estimate at only 312 animals (Allen and Angliss 2014). NMFS listed the population as ''depleted'' in 2000 as a consequence of the decline, and as ''endangered'' under the Endangered Species Act (ESA) in 2008 when the population failed to recover following a moratorium on subsistence harvest. In April 2011, NMFS designated critical habitat for the beluga under the ESA (Figure 3).

Prior to the decline, this DPS was believed to range throughout Cook Inlet and occasionally into Prince William Sound and Yakutat (Nemeth *et al.* 2007). However the range has contracted coincident with the population reduction (Speckman and Piatt 2000). During the summer and fall beluga whales are concentrated near the Susitna River mouth, Knik Arm, Turnagain Arm, and Chickaloon Bay (Nemeth *et al.* 2007) where they feed on migrating eulachon (*Thaleichthys pacificus*) and salmon (*Onchorhyncus spp.*) (Moore *et al.* 2000). Critical Habitat Area 1 reflects this summer distribution (Figure 3). During the winter, beluga whales concentrate in deeper waters in the mid-inlet to Kalgin Island, and in the shallow waters along the west shore of Cook Inlet to Kamishak Bay (Critical Habitat Area 2; Figure 1). Some whales may also winter in and near Kachemak Bay.

BILLING CODE 3510–22–P

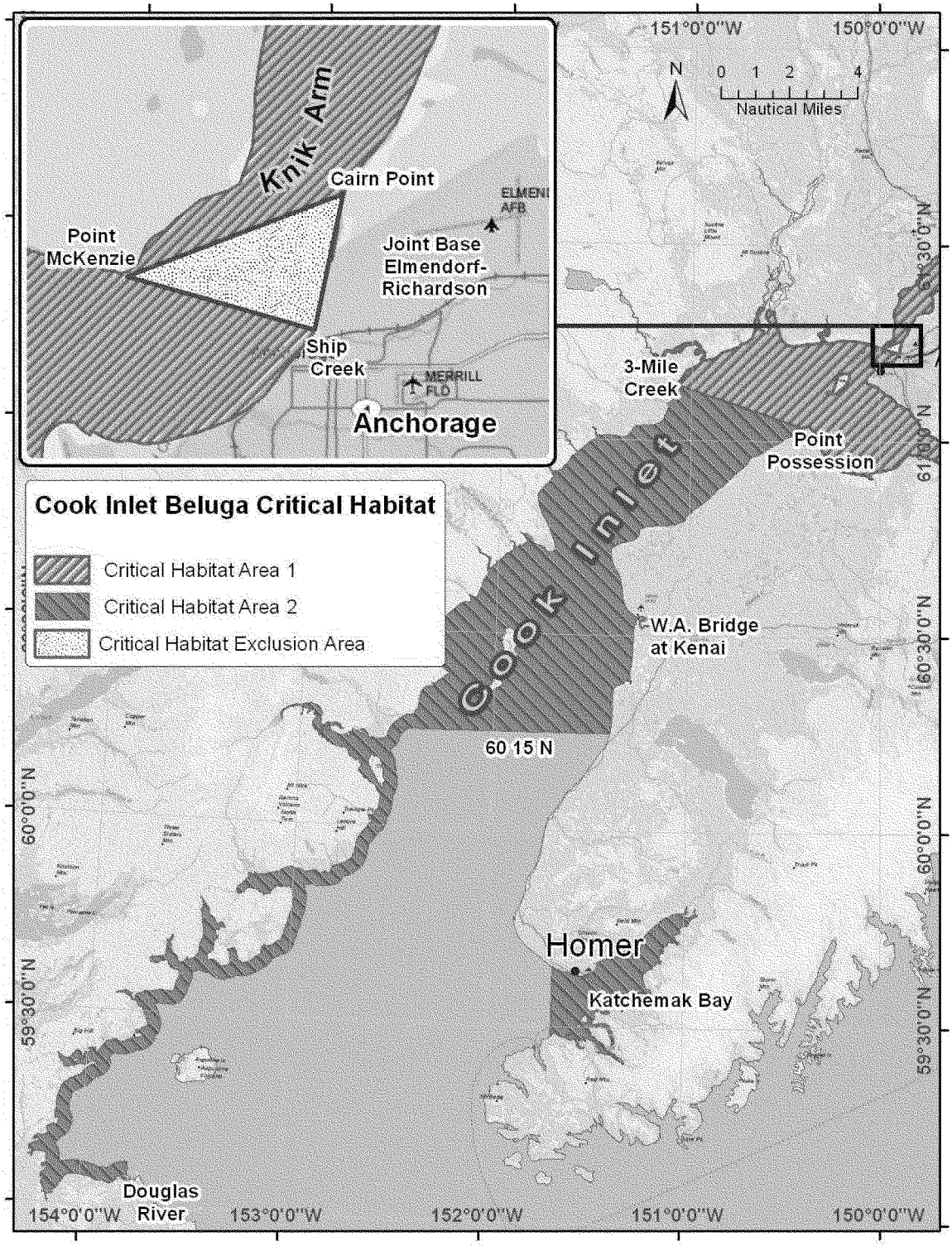

Figure 1. Cook Inlet Beluga Critical Habitat.

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Harbor Porpoise (Phocoena phocoena)

Harbor porpoise are small (1.5 meters length), relatively inconspicuous toothed whales. The Gulf of Alaska Stock is distributed from Cape Suckling to Unimak Pass and was most recently estimated at 31,046 animals (Allen and Angliss 2014). They are found primarily in coastal waters less than 100 meters (100 meters) deep (Hobbs and Waite 2010) where they feed on Pacific herring (*Clupea pallasii*), other schooling fishes, and cephalopods.

Although they have been frequently observed during aerial surveys in Cook Inlet, most sightings are of single animals, and are concentrated at Chinitna and Tuxedni bays on the west

side of lower Cook Inlet (Rugh *et al.* 2005a). Dahlheim *et al.* (2000) estimated the 1991 Cook Inlet-wide population at only 136 animals. However, they are one of the three marine mammals (besides belugas and harbor seals) regularly seen in upper Cook Inlet (Nemeth *et al.* 2007), especially during spring eulachon and summer salmon runs. Because harbor porpoise have been observed throughout Cook Inlet during the summer months, including mid-inlet waters, they could be encountered during seismic operations in upper Cook Inlet.

Dall's Porpoise (Phocoenoides dalli)

Dall's porpoise are widely distributed throughout the North Pacific Ocean including Alaska, although they are not found in upper Cook Inlet and the shallower waters of the Bering, Chukchi, and Beaufort Seas (Allen and Angliss 2014). Compared to harbor porpoise, Dall's porpoise prefer the deep offshore and shelf slope waters. The Alaskan population has been estimated at 83,400 animals (Allen and Angliss 2014), making it one of the more common cetaceans in the state. Dall's porpoise have been observed in lower Cook Inlet, including Kachemak Bay and near Anchor Point (Owl Ridge 2014), but sightings there are rare. There is a remote chance that Dall's porpoise might be encountered during seismic operations along the Kenai Peninsula.

Killer Whale (Orcinus orca)

Two different stocks of killer whales inhabit the Cook Inlet region of Alaska: the Alaska Resident Stock and the Gulf of Alaska, Aleutian Islands, Bering Sea Transient Stock (Allen and Angliss 2014). The resident stock is estimated at 2,347 animals and occurs from Southeast Alaska to the Bering Sea (Allen and Angliss 2014). Resident whales feed exclusively on fish and are genetically distinct from transient whales (Saulitis *et al.* 2000). The transient whales feed primarily on marine mammals (Saulitis *et al.* 2000). The transient population inhabiting the Gulf of Alaska shares mitochondrial DNA haplotypes with whales found along the Aleutian Islands and the Bering Sea suggesting a common stock, although there appears to be some subpopulation genetic structuring occurring to suggest the gene flow between groups is limited (see Allen and Angliss 2014). For the three regions combined, the transient population has been estimated at 587 animals (Allen and Angliss 2014).

Killer whales are occasionally observed in lower Cook Inlet, especially near Homer and Port Graham (Shelden *et al.* 2003, Rugh *et al.* 2005a). A concentration of sightings near Homer and inside Kachemak Bay may represent high use or may reflect high observer-effort, given most records are from a whale-watching venture based in Homer. The few whales that have been photographically identified in lower Cook Inlet belong to resident groups more commonly found in nearby Kenai Fjords and Prince William Sound (Shelden *et al.* 2003). Prior to the 1980s, killer whale sightings in upper Cook Inlet were very rare. During aerial surveys conducted between 1993 and 2004, killer whales were observed on only three flights, all in the Kachemak and English Bay area (Rugh *et al.* 2005a). However, anecdotal reports of killer whales feeding on belugas in upper Cook Inlet began increasing in the 1990s, possibly in response to declines in sea lion and harbor seal prey elsewhere (Shelden *et al.* 2003). These sporadic ventures of transient whales into beluga summering grounds have been implicated as a possible contributor to decline of Cook Inlet belugas in the 1990s, although the number of confirmed mortalities from killer whales is small (Shelden *et al.* 2003). If killer whales were to venture into upper Cook Inlet in 2015, they might be encountered during both seismic operations in both upper and lower Cook Inlet.

Steller Sea Lion (Eumetopia jubatus)

The Western Stock of the Steller sea lion is defined as all populations west of longitude 144°W to the western end of the Aleutian Islands. The most recent estimate for this stock is 45,649 animals (Allen and Angliss 2014), considerably less than that estimated 140,000 animals in the 1950s (Merrick *et al.* 1987). Because of this dramatic decline, the stock was listed as threatened under ESA in 1990, and was relisted as endangered in 1997. Critical habitat was designated in 1993, and is defined as a 20-nautical-mile radius around all major rookeries and haulout sites. The 20-nautical-mile buffer was established based on telemetry data that indicated these sea lions concentrated their summer foraging effort within this distance of rookeries and haul outs.

Steller sea lions inhabit lower Cook Inlet, especially in the vicinity of Shaw Island and Elizabeth Island (Nagahut Rocks) haulout sites (Rugh *et al.* 2005a), but are rarely seen in upper Cook Inlet (Nemeth *et al.* 2007). Of the 42 Steller sea lion groups recorded during Cook Inlet aerial surveys between 1993 and 2004, none were recorded north of Anchor Point and only one in the vicinity of Kachemak Bay (Rugh *et al.* 2005a). Marine mammal observers associated with Buccaneer's drilling project off Cape Starichkof did observe seven Steller sea lions during the summer of 2013 (Owl Ridge 2014).

The upper reaches of Cook Inlet may not provide adequate foraging conditions for sea lions for establishing a major haul out presence. Steller sea lions feed largely on walleye pollock (*Theragra chalcogramma*), salmon (*Onchorhyncus spp.*), and arrowtooth flounder (*Atheresthes stomias*) during the summer, and walleye pollock and Pacific cod (*Gadus macrocephalus*) during the winter (Sinclair and Zeppelin 2002), none which, except for salmon, are found in abundance in upper Cook Inlet (Nemeth *et al.* 2007). Steller sea lions are unlikely to be encountered during seismic operations in upper Cook Inlet, but they could possibly be encountered along the Kenai Peninsula, especially closer to Anchor Point.

Harbor Seal (Phoca vitulina)

With more than 150,000 animals state-wide (Allen and Angliss 2014), harbor seals are one of the more common marine mammal species in Alaskan waters. They are most commonly seen hauled out at tidal flats and rocky areas. Harbor seals feed largely on schooling fish such a walleye pollock, Pacific cod, salmon, Pacific herring, eulachon, and squid. Although harbor seals may make seasonal movements in response to prey, they are resident to Alaska and do not migrate.

The Cook Inlet/Shelikof Stock, ranging from approximately Anchorage down along the south side of the Alaska Peninsula to Unimak Pass, has been recently estimated at a stable 22,900 (Allen and Angliss 2014). Large numbers concentrate at the river mouths and embayments of lower Cook Inlet, including the Fox River mouth in Kachemak Bay (Rugh *et al.* 2005a). Montgomery *et al.* (2007) recorded over 200 haulout sites in lower Cook Inlet alone. However, only a few dozens to a couple hundred seals seasonally occur in upper Cook Inlet (Rugh *et al.* 2005a), mostly at the mouth of the Susitna River where their numbers vary in concert with the spring eulachon and summer salmon runs (Nemeth *et al.* 2007, Boveng *et al.* 2012). In 2012, up to 100 harbor seals were observed hauled out at the mouths of the Theodore and Lewis rivers during monitoring activity associated with SAE's (with Apache) 2012 Cook Inlet seismic program. Montgomery *et al.* (2007) also found seals elsewhere in Cook Inlet to move in response to local steelhead (Onchorhynchus mykiss) and salmon

runs. Harbor seals may be encountered during seismic operations in both upper and lower Cook Inlet.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that components (*e.g.,* seismic airgun operations, vessel movement) of the specified activity, including mitigation, may impact marine mammals. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

Operating active acoustic sources, such as airgun arrays, has the potential for adverse effects on marine mammals. The majority of anticipated impacts would be from the use of acoustic sources.

Acoustic Impacts

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data. Southall *et al.* (2007) designated ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (note that animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range) and have been modified slightly from Southall *et al.* 2007 to incorporate some newer information:

- Low frequency cetaceans (13 species of mysticetes): functional hearing is estimated to occur between approximately 7 Hz and 30 kHz; (Ketten and Mountain 2009; Tubelli *et al.* 2012)
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): functional hearing is estimated to occur between approximately 150 Hz and 160 kHz; (Southall *et al.* 2007)
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; (Southall *et al.* 2007)
- Phocid pinnipeds in Water: functional hearing is estimated to occur between approximately 75 Hz and 100 kHz; (Hemilä *et al.* 2006; Mulsow *et al.* 2011; Reichmuth *et al.* 2013) and
- Otariid pinnipeds in Water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz. (Reichmuth *et al.* 2013)

As mentioned previously in this document, nine marine mammal species (seven cetacean and two pinniped species) are likely to occur in the proposed seismic survey area. Of the seven cetacean species likely to occur in SAE's proposed project area, three classified as a low-frequency cetaceans (humpback, minke, gray whale), two are classified as mid-frequency cetaceans (beluga and killer whales), and two are classified as a high-frequency cetaceans (Dall's and harbor porpoise) (Southall *et al.,* 2007). Of the two pinniped species likely to occur in SAE's proposed project area, one is classified as a phocid (harbor seal), and one is classified as an otariid (Steller sea lion). A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

1. Potential Effects of Airgun Sounds on Marine Mammals

The effects of sounds from airgun pulses might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory effects (Richardson *et al.,* 1995). As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

Tolerance: Numerous studies have shown that pulsed sounds from air guns are often readily detectable in the water at distances of many kilometers. Numerous studies have also shown that marine mammals at distances more than a few kilometers from operating survey vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. In general, pinnipeds and small odontocetes (toothed whales) seem to be more tolerant of exposure to air gun pulses than baleen whales. Although various toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times, mammals of both types have shown no overt reactions. Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. Weir recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings/hr) for humpback and sperm whales according to the airgun array's operational status (*i.e.,* active versus silent).

Behavioral Disturbance: Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. These behavioral reactions are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict. The consequences of behavioral modification to individual fitness can range from none up to potential changes to growth, survival, or reproduction, depending on the context, duration, and degree of behavioral modification. Examples of behavioral modifications that could impact growth, survival or reproduction include: Drastic changes in diving/surfacing/swimming patterns that lead to stranding (such as those associated with beaked whale strandings related to exposure to military mid-frequency tactical sonar); longer-term abandonment of habitat that is specifically important for feeding, reproduction, or other critical needs, or significant disruption of feeding or social interaction resulting in substantive energetic costs, inhibited

breeding, or prolonged or permanent cow-calf separation.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Southall *et al.,* 2007).

Toothed whales. Few systematic data are available describing reactions of toothed whales to noise pulses. However, systematic work on sperm whales (Tyack *et al.,* 2003) has yielded an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005).

Seismic operators and marine mammal observers sometimes see dolphins and other small toothed whales near operating airgun arrays, but, in general, there seems to be a tendency for most delphinids to show some limited avoidance of seismic vessels operating large airgun systems. However, some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing. Nonetheless, there have been indications that small toothed whales sometimes move away or maintain a somewhat greater distance from the vessel when a large array of airguns is operating than when it is silent (*e.g.,* Gold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003). The beluga may be a species that (at least in certain geographic areas) shows long-distance avoidance of seismic vessels. Aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might have been avoiding the seismic operations at distances of 10–20 km (6.2–12.4 mi) (Miller *et al.,* 2005).

Captive bottlenose dolphins and (of more relevance in this project) beluga whales exhibit changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2002, 2005). However, the animals tolerated high received levels of sound (pk–pk level >200 dB re 1 μPa) before exhibiting aversive behaviors.

Observers stationed on seismic vessels operating off the United Kingdom from 1997—2000 have provided data on the occurrence and behavior of various toothed whales exposed to seismic pulses (Stone, 2003; Gordon *et al.,* 2004). Killer whales were found to be significantly farther from large airgun arrays during periods of shooting compared with periods of no shooting. The displacement of the median distance from the array was approximately 0.5 km (0.3 mi) or more. Killer whales also appear to be more tolerant of seismic shooting in deeper water.

Reactions of toothed whales to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for mysticetes. However, based on the limited existing evidence, belugas should not necessarily generally be grouped with delphinids in the ''less responsive'' category.

Pinnipeds. Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources proposed for use. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds and only slight (if any) changes in behavior. Monitoring work in the Alaskan Beaufort Sea during 1996–2001 provided considerable information regarding the behavior of Arctic ice seals exposed to seismic pulses (Harris *et al.,* 2001; Moulton and Lawson, 2002). These seismic projects usually involved arrays of 6 to 16 airguns with total volumes of 560 to 1,500 in^3. The combined results suggest that some seals avoid the immediate area around seismic vessels. In most survey years, ringed seal sightings tended to be farther away from the seismic vessel when the airguns were operating than when they were not (Moulton and Lawson, 2002). However, these avoidance movements were relatively small, on the order of 100 m (328 ft) to a few hundreds of meters, and many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by. Seal sighting rates at the water surface were lower during airgun array operations than during no-airgun periods in each survey year except 1997. Similarly, seals are often very tolerant of pulsed sounds from seal-scaring devices (Mate and Harvey, 1987; Jefferson and Curry, 1994; Richardson *et al.,* 1995a). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals, grey and harbor seals, to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (Thompson *et al.,* 1998). Even if reactions of the species occurring in the activity area are as strong as those evident in the telemetry study, reactions are expected to be confined to relatively small distances and durations, with no long-term effects on pinniped individuals or populations.

Masking: Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, avoiding predators, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than, and of a similar frequency to, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

Masking occurs when anthropogenic sounds and signals (that the animal utilizes) overlap at both spectral and temporal scales. For the airgun sound generated from the proposed seismic surveys, sound will consist of low frequency (under 500 Hz) pulses with extremely short durations (less than one second). Lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. There is little concern regarding masking near the sound source due to the brief duration of these pulses and relatively longer silence between air gun shots (approximately 12 seconds). However, at long distances (over tens of kilometers away), due to multipath propagation and reverberation, the durations of airgun pulses can be ''stretched'' to seconds with long decays (Madsen *et al.,* 2006), although the intensity of the sound is greatly reduced.

This could affect communication signals used by low frequency mysticetes when they occur near the noise band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009); however, no baleen whales are expected to occur within the proposed action area. Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior by shifting call frequencies,

and/or increasing call volume and vocalization rates. For example, blue whales were found to increase call rates when exposed to seismic survey noise in the St. Lawrence Estuary (Di Iorio and Clark, 2010). The North Atlantic right whales (*Eubalaena glacialis*) exposed to high shipping noise increase call frequency (Parks *et al.,* 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *et al.,* 2000). Additionally, beluga whales have been known to change their vocalizations in the presence of high background noise possibly to avoid masking calls (Au *et al.,* 1985; Lesage *et al.,* 1999; Scheifele *et al.,* 2005). Although some degree of masking is inevitable when high levels of manmade broadband sounds are introduced into the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Structured signals, such as the echolocation click sequences of small toothed whales, may be readily detected even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or manmade noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The sound localization abilities of marine mammals suggest that, if signal and noise come from different directions, masking would not be as severe as the usual types of masking studies might suggest (Richardson *et al.,* 1995). The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a ship or industrial site. Directional hearing may significantly reduce the masking effects of these sounds by improving the effective signal-to-noise ratio. In the cases of higher frequency hearing by the bottlenose dolphin, beluga whale, and killer whale, empirical evidence confirms that masking depends strongly on the relative directions of arrival of sound signals and the masking noise (Penner *et al.,* 1986; Dubrovskiy, 1990; Bain *et al.,* 1993; Bain and Dahlheim, 1994). Toothed whales and probably other marine mammals as well, have additional capabilities besides directional hearing that can facilitate detection of sounds in the presence of background noise. There is evidence that some toothed whales can shift the dominant frequencies of their echolocation signals from a frequency range with a lot of ambient noise toward frequencies with less noise (Au *et al.,* 1974, 1985; Moore and Pawloski, 1990; Thomas and Turl, 1990; Romanenko and Kitain, 1992; Lesage *et al.,* 1999). A few marine mammal species are known to increase the source levels or alter the frequency of their calls in the presence of elevated sound levels (Dahlheim, 1987; Au, 1993; Lesage *et al.,* 1993, 1999; Terhune, 1999; Foote *et al.,* 2004; Parks *et al.,* 2007, 2009; Di Iorio and Clark, 2009; Holt *et al.,* 2009).

These data demonstrating adaptations for reduced masking pertain mainly to the very high frequency echolocation signals of toothed whales. There is less information about the existence of corresponding mechanisms at moderate or low frequencies or in other types of marine mammals. For example, Zaitseva *et al.* (1980) found that, for the bottlenose dolphin, the angular separation between a sound source and a masking noise source had little effect on the degree of masking when the sound frequency was 18 kHz, in contrast to the pronounced effect at higher frequencies. Directional hearing has been demonstrated at frequencies as low as 0.5–2 kHz in several marine mammals, including killer whales (Richardson *et al.,* 1995a). This ability may be useful in reducing masking at these frequencies. In summary, high levels of sound generated by anthropogenic activities may act to mask the detection of weaker biologically important sounds by some marine mammals. This masking may be more prominent for lower frequencies. For higher frequencies, such as that used in echolocation by toothed whales, several mechanisms are available that may allow them to reduce the effects of such masking.

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

The following physiological mechanisms are thought to play a role in inducing auditory TS: effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS, along with the recovery time. For intermittent sounds, less TS could occur than compared to a continuous exposure with the same energy (some recovery could occur between intermittent exposures depending on the duty cycle between sounds) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, prolonged exposure to sounds strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). In the case of the seismic survey, animals are not expected to be exposed to levels high enough or durations long enough to result in PTS.

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound,

only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in nonhuman animals. For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002b, 2003, 2005a, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Similarly, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur during the proposed seismic surveys in Cook Inlet. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns, but their avoidance reactions are generally not as strong or consistent as those of cetaceans, and occasionally they seem to be attracted to operating seismic vessels (NMFS, 2010).

Non-auditory Physical Effects: Non-auditory physical effects might occur in marine mammals exposed to strong underwater pulsed sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (*i.e.,* beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds.

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: behavioral responses; autonomic nervous system responses; neuroendocrine responses; or immune responses.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response, which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effects on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic functions, which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (sensu Seyle, 1950) or ''allostatic loading'' (sensu McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response due to exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiment; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Although no information has been collected on the physiological responses of marine mammals to anthropogenic sound exposure, studies of other marine animals and terrestrial animals would lead us to expect some

marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to anthropogenic sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (*e.g.,* elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise-induced physiological transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and communicate with conspecifics. Although empirical information on the effects of sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, we assume that reducing a marine mammal's ability to gather information about its environment and communicate with other members of its species would induce stress, based on data that terrestrial animals exhibit those responses under similar conditions (NRC, 2003) and because marine mammals use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses. However, marine mammals also might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), NMFS also assumes that stress responses could persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS. Resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses. Additionally, no beaked whale species occur in the proposed seismic survey area.

In general, very little is known about the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns. In addition, marine mammals that show behavioral avoidance of seismic vessels, including belugas and some pinnipeds, are especially unlikely to incur non-auditory impairment or other physical effects. Therefore, it is unlikely that such effects would occur during SAE's proposed surveys given the brief duration of exposure and the planned monitoring and mitigation measures described later in this document.

Stranding and Mortality: Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.* 1993; Ketten 1995). Airgun pulses are less energetic and their peak amplitudes have slower rise times. To date, there is no evidence that serious injury, death, or stranding by marine mammals can occur from exposure to air gun pulses, even in the case of large air gun arrays.

However, in past IHA notices for seismic surveys, commenters have referenced two stranding events allegedly associated with seismic activities, one off Baja California and a second off Brazil. NMFS has addressed this concern several times, including in the **Federal Register** notice announcing the IHA for Apache Alaska's first seismic survey in 2012. Readers are encouraged to review NMFS's response to comments on this matter found in 69 FR 74905 (December 14, 2004), 71 FR 43112 (July 31, 2006), 71 FR 50027 (August 24, 2006), 71 FR 49418 (August 23, 2006), and 77 FR 27720 (May 11, 2012).

It should be noted that strandings related to sound exposure have not been recorded for marine mammal species in Cook Inlet. Beluga whale strandings in Cook Inlet are not uncommon; however, these events often coincide with extreme tidal fluctuations (''spring tides'') or killer whale sightings (Shelden *et al.,* 2003). For example, in August 2012, a group of Cook Inlet beluga whales stranded in the mud flats of Turnagain Arm during low tide and were able to swim free with the flood tide. No strandings or marine mammals in distress were observed during the 2D test survey conducted by Apache in March 2011, and none were reported by Cook Inlet inhabitants. As a result, NMFS does not expect any marine mammals will incur serious injury or mortality in Cook Inlet or strand as a result of the proposed seismic survey.

2. Potential Effects From Pingers on Marine Mammals

Active acoustic sources other than the airguns have been proposed for SAE's oil and gas exploration seismic survey program in Cook Inlet. The specifications for the pingers (source levels and frequency ranges) were provided earlier in this document. In general, pingers are known to cause behavioral disturbance and are commonly used to deter marine mammals from commercial fishing gear or fish farms. Due to the potential to change marine mammal behavior, shut downs described for airguns will also be applied to pinger use.

Vessel Impacts

Vessel activity and noise associated with vessel activity will temporarily increase in the action area during SAE's seismic survey as a result of the operation of nine vessels. To minimize the effects of vessels and noise associated with vessel activity, SAE will follow NMFS's Marine Mammal Viewing Guidelines and Regulations and will alter heading or speed if a marine mammal gets too close to a vessel. In addition, vessels will be operating at slow speed (4–5 knots) when conducting surveys and in a purposeful manner to and from work sites in as direct a route as possible. Marine mammal monitoring observers and passive acoustic devices will alert vessel captains as animals are detected to ensure safe and effective measures are applied to avoid coming into direct contact with marine mammals. Therefore, NMFS neither anticipates nor authorizes takes of marine mammals from ship strikes.

Odontocetes, such as beluga whales, killer whales, and harbor porpoises, often show tolerance to vessel activity; however, they may react at long distances if they are confined by ice, shallow water, or were previously harassed by vessels (Richardson *et al.,* 1995). Beluga whale response to vessel noise varies greatly from tolerance to extreme sensitivity depending on the activity of the whale and previous experience with vessels (Richardson *et al.,* 1995). Reactions to vessels depend on whale activities and experience, habitat, boat type, and boat behavior (Richardson *et al.,* 1995) and may include behavioral responses, such as altered headings or avoidance (Blane and Jaakson, 1994; Erbe and Farmer, 2000); fast swimming; changes in vocalizations (Lesage *et al.,* 1999; Scheifele *et al.,* 2005); and changes in dive, surfacing, and respiration patterns.

There are few data published on pinniped responses to vessel activity, and most of the information is anecdotal (Richardson *et al.,* 1995). Generally, sea lions in water show tolerance to close and frequently approaching vessels and sometimes show interest in fishing vessels. They are less tolerant when hauled out on land; however, they rarely react unless the vessel approaches within 100–200 m (330–660 ft; reviewed in Richardson *et al.,* 1995).

Entanglement

Although some of SAE's equipment contains cables or lines, the risk of entanglement is extremely remote. Additionally, mortality from entanglement is not anticipated. The material used by SAE and the amount of slack is not anticipated to allow for marine mammal entanglements.

Anticipated Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat and other marine species are associated with elevated sound levels produced by airguns and other active acoustic sources. However, other potential impacts to the surrounding habitat from physical disturbance are also possible. This section describes the potential impacts to marine mammal habitat from the specified activity. Because the marine mammals in the area feed on fish and/or invertebrates there is also information on the species typically preyed upon by the marine mammals in the area. As noted earlier, upper Cook Inlet is an important feeding and calving area for the Cook Inlet beluga whale and critical habitat has been designated for this species in the proposed seismic survey area.

Common Marine Mammal Prey in the Project Area

Fish are the primary prey species for marine mammals in upper Cook Inlet. Beluga whales feed on a variety of fish, shrimp, squid, and octopus (Burns and Seaman, 1986). Common prey species in Knik Arm include salmon, eulachon and cod. Harbor seals feed on fish such as pollock, cod, capelin, eulachon, Pacific herring, and salmon, as well as a variety of benthic species, including crabs, shrimp, and cephalopods. Harbor seals are also opportunistic feeders with their diet varying with season and location. The preferred diet of the harbor seal in the Gulf of Alaska consists of pollock, octopus, capelin, eulachon, and Pacific herring (Calkins, 1989). Other prey species include cod, flat fishes, shrimp, salmon, and squid (Hoover, 1988). Harbor porpoises feed primarily on Pacific herring, cod, whiting (hake), pollock, squid, and octopus (Leatherwood *et al.,* 1982). In the upper Cook Inlet area, harbor porpoise feed on squid and a variety of small schooling fish, which would likely include Pacific herring and eulachon (Bowen and Siniff, 1999; NMFS, unpublished data). Killer whales feed on either fish or other marine mammals depending on genetic type (resident versus transient respectively). Killer whales in Knik Arm are typically the transient type (Shelden *et al.,* 2003) and feed on beluga whales and other marine mammals, such as harbor seal and harbor porpoise. The Steller sea lion diet consists of a variety of fishes (capelin, cod, herring, mackerel, pollock, rockfish, salmon, sand lance, etc.), bivalves, squid, octopus, and gastropods.

Potential Impacts on Prey Species

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.,* 1981) and possibly avoid predators (Wilson and Dill, 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background sound level.

Fishes produce sounds that are associated with behaviors that include territoriality, mate search, courtship, and aggression. It has also been speculated that sound production may provide the means for long distance communication and communication under poor underwater visibility conditions (Zelick *et al.,* 1999), although the fact that fish communicate at low-frequency sound levels where the masking effects of ambient noise are naturally highest suggests that very long distance communication would rarely be possible. Fishes have evolved a diversity of sound generating organs and acoustic signals of various temporal and spectral contents. Fish sounds vary in structure, depending on the mechanism used to produce them (Hawkins, 1993). Generally, fish sounds are predominantly composed of low frequencies (less than 3 kHz).

Since objects in the water scatter sound, fish are able to detect these objects through monitoring the ambient noise. Therefore, fish are probably able to detect prey, predators, conspecifics, and physical features by listening to environmental sounds (Hawkins, 1981). There are two sensory systems that enable fish to monitor the vibration-based information of their surroundings. The two sensory systems, the inner ear and the lateral line, constitute the acoustico-lateralis system.

Although the hearing sensitivities of very few fish species have been studied to date, it is becoming obvious that the intra- and inter-specific variability is considerable (Coombs, 1981). Nedwell *et al.* (2004) compiled and published available fish audiogram information. A noninvasive electrophysiological recording method known as auditory brainstem response is now commonly used in the production of fish audiograms (Yan, 2004). Popper and Carlson (1998) and the Navy (2001) found that fish generally perceive underwater sounds in the frequency range of 50–2,000 Hz, with peak sensitivities below 800 Hz. Even though some fish are able to detect sounds in the ultrasonic frequency range, the thresholds at these higher frequencies tend to be considerably higher than those at the lower end of the auditory frequency range.

Fish are sensitive to underwater impulsive sounds due to swim bladder resonance. As the pressure wave passes through a fish, the swim bladder is rapidly squeezed as the high pressure wave, and then the under pressure component of the wave, passes through the fish. The swim bladder may repeatedly expand and contract at the high sound pressure levels, creating pressure on the internal organs surrounding the swim bladder.

Literature relating to the impacts of sound on marine fish species can be divided into the following categories: (1) Pathological effects; (2) physiological effects; and (3) behavioral effects. Pathological effects include lethal and

sub-lethal physical damage to fish; physiological effects include primary and secondary stress responses; and behavioral effects include changes in exhibited behaviors of fish. Behavioral changes might be a direct reaction to a detected sound or a result of the anthropogenic sound masking natural sounds that the fish normally detect and to which they respond. The three types of effects are often interrelated in complex ways. For example, some physiological and behavioral effects could potentially lead to the ultimate pathological effect of mortality. Hastings and Popper (2005) reviewed what is known about the effects of sound on fishes and identified studies needed to address areas of uncertainty relative to measurement of sound and the responses of fishes. Popper *et al.* (2003/2004) also published a paper that reviews the effects of anthropogenic sound on the behavior and physiology of fishes.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993). In general, fish react more strongly to pulses of sound rather than a continuous signal (Blaxter *et al.,* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

Investigations of fish behavior in relation to vessel noise (Olsen *et al.,* 1983; Ona, 1988; Ona and Godo, 1990) have shown that fish react when the sound from the engines and propeller exceeds a certain level. Avoidance reactions have been observed in fish such as cod and herring when vessels approached close enough that received sound levels are 110 dB to 130 dB (Nakken, 1992; Olsen, 1979; Ona and Godo, 1990; Ona and Toresen, 1988). However, other researchers have found that fish such as polar cod, herring, and capelin are often attracted to vessels (apparently by the noise) and swim toward the vessel (Rostad *et al.,* 2006). Typical sound source levels of vessel noise in the audible range for fish are 150 dB to 170 dB (Richardson *et al.,* 1995).

Carlson (1994), in a review of 40 years of studies concerning the use of underwater sound to deter salmonids from hazardous areas at hydroelectric dams and other facilities, concluded that salmonids were able to respond to low-frequency sound and to react to sound sources within a few feet of the source. He speculated that the reason that underwater sound had no effect on salmonids at distances greater than a few feet is because they react to water particle motion/acceleration, not sound pressures. Detectable particle motion is produced within very short distances of a sound source, although sound pressure waves travel farther.

Potential Impacts to the Benthic Environment

SAE's seismic survey requires the deployment of a submersible recording system in the inter-tidal and marine zones. An autonomous ''nodal'' (*i.e.,* no cables) system would be placed on the seafloor by specific vessels in lines parallel to each other with a node line spacing of 402 m (0.25 mi). Each nodal ''patch'' would have 32 node lines parallel to each other. The lines generally run perpendicular to the shoreline. An entire patch would be placed on the seafloor prior to airgun activity. As the patches are surveyed, the node lines would be moved either side to side or inline to the next location. Placement and retrieval of the nodes may cause temporary and localized increases in turbidity on the seafloor. The substrate of Cook Inlet consists of glacial silt, clay, cobbles, pebbles, and sand (Sharma and Burrell, 1970). Sediments like sand and cobble dissipate quickly when suspended, but finer materials like clay and silt can create thicker plumes that may harm fish; however, the turbidity created by placing and removing nodes on the seafloor would settle to background levels within minutes after the cessation of activity.

In addition, seismic noise will radiate throughout the water column from airguns and pingers until it dissipates to background levels. No studies have demonstrated that seismic noise affects the life stages, condition, or amount of food resources (fish, invertebrates, eggs) used by marine mammals, except when exposed to sound levels within a few meters of the seismic source or in few very isolated cases. Where fish or invertebrates did respond to seismic noise, the effects were temporary and of short duration. Consequently, disturbance to fish species due to the activities associated with the seismic survey (*i.e.,* placement and retrieval of nodes and noise from sound sources) would be short term and fish would be expected to return to their pre-disturbance behavior once seismic survey activities cease.

Based on the preceding discussion, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Mitigation Measures Proposed by SAE

For the proposed mitigation measures, SAE listed the following protocols to be implemented during its seismic survey program in Cook Inlet.

1. Operation of Mitigation Airgun at Night

SAE proposes to conduct both daytime and nighttime operations. Nighttime operations would be initiated only if a ''mitigation airgun'' (typically the 10 in^3) has been continuously operational from the time that PSO monitoring has ceased for the day. Seismic activity would not ramp up from an extended shut-down (*i.e.,* when the airgun has been down with no activity for at least 10 minutes) during nighttime operations, and survey activities would be suspended until the following day. At night, the vessel captain and crew would maintain lookout for marine mammals and would order the airgun(s) to be shut down if marine mammals are observed in or about to enter the established exclusion zones.

2. Exclusion and Disturbance Zones

SAE proposes to establish exclusion zones to avoid Level A harassment (''injury exclusion zone'') of all marine mammals and to avoid Level B harassment (''disturbance exclusion zone'') of any beluga whales or groups of five or more killer whales or harbor porpoises detected within the designated zones. The injury exclusion zone will correspond to the area around the source within which received levels equal or exceed 180 dB re 1 μPa [rms] for cetaceans and 190 dB re 1 μPa [rms] for pinnipeds and SAE will shut down or power down operations if any marine mammals are seen approaching or entering this zone (more detail below). The disturbance exclusion zone will correspond to the area around the

source within which received levels equal or exceed 160 dB re 1 μPa [rms] and SAE will implement power down and/or shutdown measures, as appropriate, if any beluga whales or group of five or more killer whales or harbor porpoises are seen entering or approaching the disturbance exclusion zone.

3. Power Down and Shutdown Procedures

A power down is the immediate reduction in the number of operating energy sources from a full array firing to a mitigation airgun. A shutdown is the immediate cessation of firing of all energy sources. The arrays will be immediately powered down whenever a marine mammal is sighted approaching close to or within the applicable exclusion zone of the full arrays but is outside the applicable exclusion zone of the single source. If a marine mammal is sighted within the applicable exclusion zone of the single energy source, the entire array will be shutdown (*i.e.,* no sources firing). Following a power down or a shutdown, airgun activity will not resume until the marine mammal has clearly left the applicable injury or disturbance exclusion zone. The animal will be considered to have cleared the zone if it: (1) Is visually observed to have left the zone; (2) has not been seen within the zone for 15 minutes in the case of pinnipeds and small odontocetes; or (3) has not been seen within the zone for 30 minutes in the case of large odontocetes, including killer whales and belugas.

4. Ramp-up Procedures

A ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of air guns firing until the full volume is achieved. The purpose of a ramp-up (or ''soft start'') is to ''warn'' cetaceans and pinnipeds in the vicinity of the airguns and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities.

During the proposed seismic survey, the seismic operator will ramp up the airgun array slowly. NMFS proposes that the rate of ramp-up to be no more than 6 dB per 5-minute period. Ramp-up is used at the start of airgun operations, after a power- or shut-down, and after any period of greater than 10 minutes in duration without airgun operations (*i.e.,* extended shutdown).

A full ramp-up after a shutdown will not begin until there has been a minimum of 30 minutes of observation of the applicable exclusion zone by PSOs to assure that no marine mammals are present. The entire exclusion zone must be visible during the 30-minute lead-in to a full ramp up. If the entire exclusion zone is not visible, then ramp-up from a cold start cannot begin. If a marine mammal(s) is sighted within the injury exclusion zone during the 30-minute watch prior to ramp-up, ramp-up will be delayed until the marine mammal(s) is sighted outside of the zone or the animal(s) is not sighted for at least 15–30 minutes: 15 minutes for small odontocetes and pinnipeds (*e.g.* harbor porpoises, harbor seals, and Steller sea lions), or 30 minutes for large odontocetes (*e.g.,* killer whales and beluga whales).

5. Speed or Course Alteration

If a marine mammal is detected outside the Level A injury exclusion zone and, based on its position and the relative motion, is likely to enter that zone, the vessel's speed and/or direct course may, when practical and safe, be changed to also minimize the effect on the seismic program. This can be used in coordination with a power down procedure. The marine mammal activities and movements relative to the seismic and support vessels will be closely monitored to ensure that the marine mammal does not approach within the applicable exclusion radius. If the mammal appears likely to enter the exclusion radius, further mitigative actions will be taken, *i.e.,* either further course alterations, power down, or shut down of the airgun(s).

6. Measures for Beluga Whales and Groups of Killer Whales and Harbor Porpoises

The following additional protective measures for beluga whales and groups of five or more killer whales and harbor porpoises are proposed. Specifically, a 160-dB vessel monitoring zone would be established and monitored in Cook Inlet during all seismic surveys. If a beluga whale or groups of five or more killer whales and/or harbor porpoises are visually sighted approaching or within the 160-dB disturbance zone, survey activity would not commence until the animals are no longer present within the 160-dB disturbance zone. Whenever beluga whales or groups of five or more killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, the airguns may be powered down before the animal is within the 160-dB disturbance zone, as an alternative to a complete shutdown. If a power down is not sufficient, the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone.

Additional Mitigation Measures Proposed by NMFS

In addition to the mitigation measures above, NMFS proposes implementation of the following mitigation measures.

SAE will not operate airguns within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15. The purpose of this mitigation measure is to protect beluga whales in the designated critical habitat in this area that is important for beluga whale feeding and calving during the spring and fall months. The range of the setback required by NMFS was designated to protect this important habitat area and also to create an effective buffer where sound does not encroach on this habitat. This seasonal exclusion is proposed to be in effect from April 15-October 15. Activities can occur within this area from October 16-April 14.

The mitigation airgun will be operated at approximately one shot per minute, only during daylight and when there is good visibility, and will not be operated for longer than 3 hours in duration. In cases when the next start-up after the turn is expected to be during lowlight or low visibility, use of the mitigation airgun may be initiated 30 minutes before darkness or low visibility conditions occur and may be operated until the start of the next seismic acquisition line. The mitigation gun must still be operated at approximately one shot per minute.

NMFS proposes that SAE must suspend seismic operations if a live marine mammal stranding is reported in Cook Inlet coincident to, or within 72 hours of, seismic survey activities involving the use of airguns (regardless of any suspected cause of the stranding). The shutdown must occur if the animal is within a distance two times that of the 160 dB isopleth of the largest airgun array configuration in use. This distance was chosen to create an additional buffer beyond the distance at which animals would typically be considered harassed, as animals involved in a live stranding event are likely compromised, with potentially increased susceptibility to stressors, and the goal is to decrease the likelihood that they are further disturbed or impacted by the seismic survey, regardless of what the original cause of the stranding event was. Shutdown procedures will remain in effect until NMFS determines and advises SAE that all live animals involved in the stranding have left the

area (either of their own volition or following herding by responders).

Finally, NMFS proposes that if any marine mammal species are encountered, during seismic activities for which take is not authorized, that are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms), then SAE must alter speed or course, power down or shut-down the sound source to avoid take of those species.

Mitigation Conclusions

NMFS has carefully evaluated SAE's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measures are expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of seismic airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of seismic airguns or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of seismic airguns or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. SAE submitted information regarding marine mammal monitoring to be conducted during seismic operations as part of the proposed IHA application. That information can be found in Sections 11 and 13 of the application. The monitoring measures may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures proposed by the applicant or prescribed by NMFS should contribute to or accomplish one or more of the following top-level goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action, *i.e.,* presence, abundance, distribution, and/or density of species.
2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (*e.g.* sound or visual stimuli), through better understanding of one or more of the following: the action itself and its environment (*e.g.* sound source characterization, propagation, and ambient noise levels); the affected species (*e.g.* life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (*e.g.* age class of exposed animals or known pupping, calving or feeding areas).
3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level).
4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: the long-term fitness and survival of an individual; or the population, species, or stock (*e.g.,* through effects on annual rates of recruitment or survival).
5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (*e.g.,* through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals).
6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region.
7. An increase in our understanding of the effectiveness of mitigation and monitoring measures.
8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

Proposed Monitoring Measures

1. Visual Vessel-Based Monitoring

Vessel-based monitoring for marine mammals would be done by experienced PSOs throughout the period of marine survey activities. PSOs

would monitor the occurrence and behavior of marine mammals near the survey vessel during all daylight periods (nautical dawn to nautical dusk) during operation and during most daylight periods when airgun operations are not occurring. PSO duties would include watching for and identifying marine mammals, recording their numbers, distances, and reactions to the survey operations, and documenting observed ''take by harassment'' as defined by NMFS.

A minimum number of six PSOs (two per source vessel and two per support vessel) would be required onboard the survey vessel to meet the following criteria: (1) 100 Percent monitoring coverage during all periods of survey operations in daylight (nautical twilight-dawn to nautical twilight-dusk; (2) maximum of 4 consecutive hours on watch per PSO; and (3) maximum of 12 hours of watch time per day per PSO.

PSO teams would consist of NMFS-approved field biologists. An experienced field crew leader would supervise the PSO team onboard the survey vessel. SAE currently plans to have PSOs aboard three vessels: The two source vessels and one support vessel (*M/V Dreamcatcher*). Two PSOs would be on the source vessels, and two PSOs would be on the support vessel to observe and implement the exclusion, power down, and shut down areas. When marine mammals are about to enter or are sighted within designated harassment and exclusion zones, airgun or pinger operations would be powered down (when applicable) or shut down immediately. The vessel-based observers would watch for marine mammals during all periods when sound sources are in operation and for a minimum of 30 minutes prior to the start of airgun or pinger operations after an extended shut down.

The observer(s) would watch for marine mammals from the best available vantage point on the source and support vessels, typically the flying bridge. The observer(s) would scan systematically with the unaided eye and 7 x 50 reticle binoculars, assisted by 40 x 80 long-range binoculars.

All observations would be recorded in a standardized format. When a mammal sighting is made, the following information about the sighting would be recorded:

- Species, group size, age/size/sex categories (if determinable), sighting cue, behavior when first sighted and after initial sighting, time of sighting, heading (if consistent), bearing and distance from the PSO, direction and speed relative to vessel, apparent reaction to activities (*e.g.,* none, avoidance, approach, paralleling, etc.), closest point of approach, and behavioral pace;
- Time, location, speed, activity of the vessel (*e.g.,* seismic airguns off, pingers on, etc.), sea state, ice cover, visibility, and sun glare; and
- The positions of other vessel(s) in the vicinity of the PSO location.

The ship's position, speed of support vessels, and water temperature, water depth, sea state, ice cover, visibility, and sun glare would also be recorded at the start and end of each observation watch, every 30 minutes during a watch, and whenever there is a change in any of those variables.

2. Visual Shore-Based Monitoring

In addition to the vessel-based PSOs, SAE proposes to utilize shore-based monitoring daily in the event of summer seismic activity occurring nearshore to Cook Inlet beluga Critical Habitat Area 1, to visually monitor for marine mammals. The shore-based PSOs would scan the area prior to, during, and after the airgun operations and would be in contact with the vessel-based PSOs via radio to communicate sightings of marine mammals approaching or within the project area. This communication will allow the vessel-based observers to go on a ''heightened'' state of alert regarding occurrence of marine mammals in the area and aid in timely implementation of mitigation measures.

Reporting Measures

Immediate reports will be submitted to NMFS if 25 belugas are detected in the Level B disturbance exclusion zone to evaluate and make necessary adjustments to monitoring and mitigation. If the number of detected takes for any marine mammal species is met or exceeded, SAE will immediately cease survey operations involving the use of active sound sources (*e.g.,* airguns and pingers) and notify NMFS.

1. Weekly Reports

SAE would submit a weekly field report to NMFS Headquarters as well as the Alaska Regional Office, no later than close of business each Thursday during the weeks when in-water seismic survey activities take place. The weekly field reports would summarize species detected (number, location, distance from seismic vessel, behavior), in-water activity occurring at the time of the sighting (discharge volume of array at time of sighting, seismic activity at time of sighting, visual plots of sightings, and number of power downs and shutdowns), behavioral reactions to in-water activities, and the number of marine mammals exposed.

2. Monthly Reports

Monthly reports will be submitted to NMFS for all months during which in-water seismic activities take place. The monthly report will contain and summarize the following information:

- Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all seismic operations and marine mammal sightings.
- Species, number, location, distance from the vessel, and behavior of any sighted marine mammals, as well as associated seismic activity (number of power-downs and shutdowns), observed throughout all monitoring activities.
- An estimate of the number (by species) of: (i) Pinnipeds that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (ii) cetaceans that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.
- A description of the implementation and effectiveness of the: (i) Terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (ii) mitigation measures of the IHA. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness for minimizing the adverse effects of the action on ESA-listed marine mammals.

3. Annual Reports

SAE would submit an annual report to NMFS's Permits and Conservation Division within 90 days after the end of operations on the water or at least 90 days prior to requiring a subsequent authorization, whichever comes first. The annual report would include:

- Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals).
- Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare).
- Species composition, occurrence, and distribution of marine mammal

sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover.

• Analyses of the effects of survey operations.

• Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as: (i) Initial sighting distances versus survey activity state; (ii) closest point of approach versus survey activity state; (iii) observed behaviors and types of movements versus survey activity state; (iv) numbers of sightings/individuals seen versus survey activity state; (v) distribution around the source vessels versus survey activity state; and (vi) numbers of animals detected in the 160 dB harassment (disturbance exclusion) zone.

NMFS would review the draft annual report. SAE must then submit a final annual report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft annual report. If NMFS decides that the draft annual report needs no comments, the draft report shall be considered to be the final report.

4. Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), SAE shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the Alaska Regional Stranding Coordinators. The report must include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Name and type of vessel involved;

• Vessel's speed during and leading up to the incident;

• Description of the incident;

• Status of all sound source use in the 24 hours preceding the incident;

• Water depth;

• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

• Description of all marine mammal observations in the 24 hours preceding the incident;

• Species identification or description of the animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SAE to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SAE may not resume their activities until notified by NMFS via letter or email, or telephone.

In the event that SAE discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), SAE would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the NMFS Alaska Stranding Hotline. The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with SAE to determine whether modifications in the activities are appropriate.

In the event that SAE discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SAE shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, the NMFS Alaska Stranding Hotline, and the Alaska Regional Stranding Coordinators within 24 hours of the discovery. SAE shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Monitoring Results From Previously Authorized Activities

While SAE has previously applied for Authorizations for work in Cook Inlet, Alaska, work was not conducted upon receiving the Authorization. SAE has previously conducted work under Incidental Harassment Authorizations in the Beaufort Sea.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. Only take by Level B behavioral harassment is anticipated as a result of the proposed seismic survey program with proposed mitigation. Anticipated impacts to marine mammals are associated with noise propagation from the sound sources (*e.g.,* airguns and pingers) used in the seismic survey; no take is expected to result from vessel strikes because of the slow speed of the vessels (4–5 knots).

SAE requests authorization to take nine marine mammal species by Level B harassment. These nine marine mammal species are: Cook Inlet beluga whale; humpback whale; minke whale; killer whale; harbor porpoise; Dall's porpoise; gray whale; harbor seal; and Steller sea lion.

For impulse sounds, such as those produced by airgun(s) used in the seismic survey, NMFS uses the 160 dB re 1μPa (rms) isopleth to indicate the onset of Level B harassment. The current Level A (injury) harassment threshold is 180 dB (rms) for cetaceans and 190 dB (rms) for pinnipeds. The NMFS annual aerial survey data from 2002–2012 was used to derive density estimates for each species (number of individuals/km^2).

Applicable Zones for Estimating ''Take by Harassment''

To estimate potential takes by Level B harassment for this proposed authorization, as well as for mitigation radii to be implemented by PSOs, ranges to the 160 dB (rms), 180 dB, and 190 dB isopleths were estimated at three different water depths (5 m, 25 m, and 45 m) . The distances to this threshold for the nearshore survey locations are provided in Table 4 in SAE's application. The distances to the thresholds provided in Table 4 in SAE's application correspond to the broadside and endfire directions.

Compared to the airguns, the relevant isopleths for the positioning pinger are quite small. The distances to the 190, 180, and 160 dB (rms) isopleths are 1 m,

3 m, and 25 m (3.3, 10, and 82 ft), respectively.

Estimates of Marine Mammal Density

SAE used one method to estimate densities for Cook Inlet beluga whales and another method for the other marine mammals in the area expected to be taken by harassment. Both methods are described in this document.

1. Beluga Whale Density Estimates

In similar fashion to a previous IHA issued to Apache, SAE used a habitat-based model developed by Goetz *et al.* (2012a). Information from that model has once again been used to estimate densities of beluga whales in Cook Inlet and we consider it to be the best available information on beluga density. A summary of the model is provided here, and additional detail can be found in Goetz *et al.* (2012a). To develop NMML's estimated densities of belugas, Goetz *et al.* (2012a) developed a model based on aerial survey data, depth soundings, coastal substrate type, environmental sensitivity index, anthropogenic disturbance, and anadromous fish streams to predict beluga densities throughout Cook Inlet. The result of this work is a beluga density map of Cook Inlet, which easily sums the belugas predicted within a given geographic area. NMML developed its predictive habitat model from the distribution and group size of beluga whales observed between 1994 and 2008. A 2-part ''hurdle'' model (a hurdle model in which there are two processes, one generating the zeroes and one generating the positive values) was applied to describe the physical and anthropogenic factors that influence (1) beluga presence (mixed model logistic regression) and (2) beluga count data (mixed model Poisson regression). Beluga presence was negatively associated with sources of anthropogenic disturbance and positively associated with fish availability and access to tidal flats and sandy substrates. Beluga group size was positively associated with tidal flats and proxies for seasonally available fish. Using this analysis, Goetz *et al.* (2012) produced habitat maps for beluga presence, group size, and the expected number of belugas in each 1 km^2 cell of Cook Inlet. The habitat-based model developed by NMML uses a Geographic Information System (GIS). A GIS is a computer system capable of capturing, storing, analyzing, and displaying geographically referenced information; that is, data identified according to location. However, the Goetz *et al.* (2012) model does not incorporate seasonality into the density estimates. Rather, SAE factors in seasonal considerations of beluga density into the design of the survey tracklines and locations (as discussion in more detail later in this document) in addition to other factors such as weather, ice conditions, and seismic needs.

2. Non-Beluga Whale Species Density Estimates

Densities of other marine mammals in the proposed project area were estimated from the annual aerial surveys conducted by NMFS for Cook Inlet beluga whale between 2000 and 2012 in June (Rugh *et al.,* 2000, 2001, 2002, 2003, 2004b, 2005b, 2006, 2007; Shelden *et al.,* 2008, 2009, 2010, 2012; Hobbs *et al.,* 2011). These surveys were flown in June to collect abundance data of beluga whales, but sightings of other marine mammals were also reported. Although these data were only collected in one month each year, these surveys provide the best available relatively long term data set for sighting information in the proposed project area. The general trend in marine mammal sighting is that beluga whales and harbor seals are seen most frequently in upper Cook Inlet, with higher concentrations of harbor seals near haul out sites on Kalgin Island and of beluga whales near river mouths, particularly the Susitna River. The other marine mammals of interest for this authorization (humpback whales, gray whales, minke whales, killer whales, harbor porpoises, Dall's porpoises, Steller sea lions) are observed infrequently in upper Cook Inlet and more commonly in lower Cook Inlet. In addition, these densities are calculated based on a relatively large area that was surveyed, much larger than the proposed area for a given year of seismic data acquisition. Furthermore, these annual aerial surveys are conducted only in June (numbers from August surveys were not used because the area surveyed was not provided), so it does not account for seasonal variations in distribution or habitat use of each species.

Table 5 in SAE's application provides a summary of the results of NMFS aerial survey data collected in June from 2000 to 2012. To estimate density of marine mammals, total number of individuals (other species) observed for the entire survey area by year (surveys usually last several days) was divided by the approximate total area surveyed for each year (density = individuals/km^2). As noted previously, the total number of animals observed for the entire survey includes both lower and upper Cook Inlet, so the total number reported and used to calculate density is higher than the number of marine mammals anticipated to be observed in the project area. In particular, the total number of harbor seals observed on several surveys is very high due to several large haul outs in lower and middle Cook Inlet. The table below (Table 2) provides average density estimates for gray whales, harbor seals, harbor porpoises, killer whales, and Steller sea lions over the 2000–2012 period.

TABLE 2—ANIMAL DENSITIES IN COOK INLET

Species	Average density (animals/km^2)
Humpback whale	0.0024
Gray whale	9.45E–05
Minke whale	1.14E–05
Killer whale	0.0008
Dall's porpoise	0.0002
Harbor porpoise	0.0033
Harbor seal	0.28
Steller sea lion	0.008

Calculation of Takes by Harassment

1. Beluga Whales

As a result of discussions with NMFS, SAE has used the NMML model (Goetz *et al.,* 2012a) for the estimate of takes in this proposed authorization. SAE has established two zones (Zone 1 and Zone 2) and proposes to conduct seismic surveys within all, or part of these zones; to be determined as weather, ice, and priorities dictate, which can be found in the attached figure which will be posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/oilgas.htm.*

Based on information using Goetz *et al.* model(2012a), SAE derived one density estimate for beluga whales in Upper Cook Inlet (*i.e.,* north of the Forelands) and another density estimate for beluga whales in Lower Cook Inlet (*i.e.,* south of the Forelands). The density estimate for Upper Cook Inlet is 0.0212 and is 0.0056 for Lower Cook Inlet. SAE's seismic operational area would be determined as weather, ice, and priorities dictate. SAE has requested a maximum allowed take for Cook Inlet beluga whales of 30 individuals. SAE would operate in a portion of the total seismic operation area of 3,934 km^2 (1,519 mi^2), such that when one multiplies the anticipated beluga whale density based on the seismic survey operational area times the area to be ensonified to the 160-dB isopleth of 9.5 km (5.9 mi) and takes the number of days into consideration, estimated takes will not exceed 30 beluga whales.

In order to estimate when that level is reached, SAE is using a formula based on the total potential area of each seismic survey project zone (including

the 160 dB buffer) and the average density of beluga whales for each zone. Daily take is calculated as the product of a daily ensonified area times the density in that area. Then daily take is summed across all the days of the survey until the survey approaches 30 takes.

TABLE 3—EXPECTED BELUGA WHALE TAKES, TOTAL AREA OF ZONE, AND AVERAGE BELUGA WHALE DENSITY ESTIMATES

	Expected Beluga takes from NMML model (including the 160 dB buffer)	Total area of zone (km²) (including the 160 dB buffer)	Average take density (dx)
Zone 1—Upper Inlet	28	2,126	$d_1 = 0.0212$
Zone 2—Lower Inlet	29	1,808	$d_2 = 0.0056$

SAE will limit surveying in the proposed seismic survey area (Zones 1 and 2 presented in Figures 1 and 2 of SAE's application) to ensure a maximum of 30 beluga takes during the open water season. In order to ensure that SAE does not exceed 30 beluga whale takes, the following equation is being used:

$$\text{Equation 1: } d_1A_1 + d_2A_{2\ldots\ldots} \leq 30 \text{ Beluga Takes}$$

$$* \ d_x = \frac{\text{Expected Beluga Density from the NMML model in Zone X}}{\text{Total Area of Zone X including 160 dB buffer}}$$

$$* \ A_x = \text{Actual Area Surveyed (km}^2\text{) including 160 dB buffer in Zone X}$$

This formula also allows SAE to have flexibility to prioritize survey locations in response to local weather, ice, and operational constraints. SAE may choose to survey portions of a zone or a zone in its entirety, and the analysis in this proposed authorization takes this into account. Using this formula, if SAE surveys the entire area of Zone 1 (1,319 km²), then essentially none of Zone 2 will be surveyed because the input in the calculation denoted by d_2A_2 would essentially need to be zero to ensure that the total allotted proposed take of beluga whales is not exceeded. The use of this formula will ensure that SAE's proposed seismic survey will not exceed 30 calculated beluga takes.

Operations are required to cease once SAE has conducted seismic data acquisition in an area where multiplying the applicable density by the total ensonified area out to the 160-dB isopleth equaled 30 beluga whales, using the equation provided above.

2. Other Marine Mammal Species

The estimated takes of other Cook Inlet marine mammals that may be potentially harassed during the seismic surveys was calculated by multiplying the following:

- Average density estimates (derived from NMFS aerial surveys from 2000–2012 and presented in Table 3 in this document)
- the area ensonified by levels ≥160 dB re μPa rms in one day (calculated using the total ensonified area per day of 414.92 km², which is derived by applying the buffer distance to the 160 dB isopleth to the area of 6 survey tracklines),
- the number of potential survey days (160).

This equation provides the number of instances of take that will occur in the duration of the survey, but overestimates the number of individual animals taken because not every exposure on every successive day is expected to be a new individual. Especially with resident species, re-exposures of individuals are expected across the months of the survey.

SAE anticipates that a crew will collect seismic data for 8–10 hours per day over approximately 160 days over the course of 8 to 9 months each year. It is assumed that over the course of these 160 days, no more than 777 km² will be surveyed in total, but areas can be surveyed more than once. It is important to note that environmental conditions (such as ice, wind, fog) will play a significant role in the actual operating days; therefore, these estimates are conservative in order to provide a basis for probability of encountering these marine mammal species in the project area.

As noted above, using the above method results in an accurate estimate of the instances of take, but likely significantly overestimates the number of individual animals expected to be taken. With most species, even this overestimated number is still very small, and additional analysis is not really necessary to ensure minor impacts. However, because of the number and density of harbor seals in the area, a more accurate understanding of the number of individuals likely taken is necessary to fully analyze the impacts and ensure that the total number of harbor seals taken is small. Montgomery *et al.* (2007) surveyed harbor seals in Cook Inlet from spring to fall and found Cook Inlet harbor seals show preference for haulouts away from anthropogenic disturbance and near abundant prey and deep water. In order to estimate the number of individual harbor seals likely taken, we multiplied the total ensonified area of the entire project (1,732 km²) times the average harbor seal density from NMML surveys (2002–2012) to yield a snapshot abundance for the project area, which would represent the number of individuals taken in the project area if one assumed that no new individuals would enter the area during the duration of the project. Since, however, we do believe that some new individual harbor seals will enter the project area during the course of the surveys, this snapshot abundance was adjusted using the concept of turnover factors, from Wood *et al.* 2012, to account for new animals entering the survey area. Wood derived turnover factors in an open ocean setting, using 1.0 (no turnover) for resident populations, using a very specifically derived 2.5 factor for migratory species, and establishing a 1.25 factor for all other species. We did not use the turnover factor of 1 for harbor seals suggested by Wood, but rather considered a more conservative 2.5 to accommodate for the difference

between an ocean environment and the enclosed environment of the Inlet.

Summary of Proposed Level B Harassment Takes

Table 4 here outlines the density estimates used to estimate Level B harassment takes, the requested Level B harassment take levels, the abundance of each species in Cook Inlet, the percentage of each species or stock estimated to be taken, and current population trends.

TABLE 4—DENSITY ESTIMATES, PROPOSED LEVEL B HARASSMENT TAKE LEVELS, SPECIES OR STOCK ABUNDANCE, PERCENTAGE OF POPULATION PROPOSED TO BE TAKEN, AND SPECIES TREND STATUS

Species	Average density (#individuals/km^2)	Proposed Level B take	Abundance	Percentage of population	Trend
Beluga whale	Upper=0.0212 Lower=0.0056	30	312	9.6	Decreasing.
Humpback whale	0.0024	158	7,469	2.1	Southeast Alaska increasing.
Minke whale	1.14E–05	1	1,233	0.06	No reliable information.
Gray whale	5.33E–05	7	19,126	0.033	Stable/increasing.
Killer whale	0.00082	55	2,347 (resident) 345 (transient)	2.34 15.9	Resident stock possibly increasing Transient stock stable.
Harbor porpoise	0.0033	219	31,046	0.70	No reliable information.
Dall's porpoise	0.0002	14	83,400	0.016	No reliable information.
Harbor seal	0.28	1,223	22,900	5.34	Stable.
Steller sea lion	0.0082	542	45,649	1.19	Decreasing but with regional variability (some stable or increasing).

Analyses and Preliminary Determinations

Negligible Impact Analysis

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, feeding, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

Given the proposed mitigation and related monitoring, no injuries or mortalities are anticipated to occur as a result of SAE's proposed seismic survey in Cook Inlet, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (*i.e.,* TTS or PTS) or non-auditory physiological effects. The number of takes that are anticipated and proposed to be authorized are expected to be limited to short-term Level B behavioral harassment. The seismic airguns do not operate continuously over a 24-hour period. Rather airguns are operational for a few hours at a time totaling about 10 hours a day.

Cook Inlet beluga whales, the western DPS of Steller sea lions, and Central North Pacific humpback whales are listed as endangered under the ESA. These stocks are also considered depleted under the MMPA. The estimated annual rate of decline for Cook Inlet beluga whales was 0.6 percent between 2002 and 2012. Steller sea lion trends for the western stock are variable throughout the region with some decreasing and others remaining stable or even indicating slight increases. The Central North Pacific population of humpbacks is known to be increasing, with different techniques predicting abundance increases between 4.9 to 7 percent annually. The other seven species that may be taken by harassment during SAE's proposed seismic survey program are not listed as threatened or endangered under the ESA nor as depleted under the MMPA.

Odontocete (including Cook Inlet beluga whales, killer whales, and harbor porpoises) reactions to seismic energy pulses are usually assumed to be limited to shorter distances from the airgun(s) than are those of mysticetes, in part because odontocete low-frequency hearing is assumed to be less sensitive than that of mysticetes. Belugas in the Canadian Beaufort Sea in summer appear to be fairly responsive to seismic energy, with few being sighted within 10–20 km (6–12 mi) of seismic vessels during aerial surveys (Miller *et al.,* 2005). However, as noted above, Cook Inlet belugas are more accustomed to anthropogenic sound than beluga whales in the Beaufort Sea. Therefore, the results from the Beaufort Sea surveys do not directly translate to potential reactions of Cook Inlet beluga whales. Also, due to the dispersed distribution of beluga whales in Cook Inlet during winter and the concentration of beluga whales in upper Cook Inlet from late April through early fall, belugas would likely occur in small numbers in the majority of SAE's proposed survey area during the majority of SAE's annual operational timeframe of April through December. For the same reason, as well as mitigation measures, it is unlikely that animals would be exposed to received levels capable of causing injury.

The addition of nine vessels, and noise due to vessel operations associated with the seismic survey, would not be outside the present experience of marine mammals in Cook Inlet, although levels may increase locally. Given the large number of vessels in Cook Inlet and the apparent habituation to vessels by Cook Inlet beluga whales and the other marine mammals that may occur in the area, vessel activity and noise is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations. Potential impacts to marine mammal habitat were discussed

previously in this document (see the ''Anticipated Effects on Habitat'' section). Although some disturbance is possible to food sources of marine mammals, the impacts are anticipated to be minor enough as to not affect annual rates of recruitment or survival of marine mammals in the area. Based on the size of Cook Inlet where feeding by marine mammals occurs versus the localized area of the marine survey activities, any missed feeding opportunities in the direct project area would be minor based on the fact that other feeding areas exist elsewhere. Taking into account the mitigation measures that are planned, effects on cetaceans are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment''. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a small portion of marine mammal habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions. In addition, NMFS proposes to seasonally restrict seismic survey operations in the area known to be important for beluga whale feeding, calving, or nursing. The primary location for these biological life functions occurs in the Susitna Delta region of upper Cook Inlet. NMFS proposes to implement a 16 km (10 mi) seasonal exclusion from seismic survey operations in this region from April 15–October 15. The highest concentrations of belugas are typically found in this area from early May through September each year. NMFS has incorporated a 2-week buffer on each end of this seasonal use timeframe to account for any anomalies in distribution and marine mammal usage.

Mitigation measures such as controlled vessel speed, dedicated marine mammal observers, speed and course alterations, and shutdowns or power downs when marine mammals are seen within defined ranges designed both to avoid injury and disturbance will further reduce short-term reactions and minimize any effects on hearing sensitivity. In all cases, the effects of the seismic survey are expected to be short-term, with no lasting biological consequence. Therefore, the exposure of cetaceans to SAE's proposed seismic survey activity, operation is not anticipated to have an effect on annual rates of recruitment or survival of the affected species or stocks, and therefore will have a negligible impact on them.

Some individual pinnipeds may be exposed to sound from the proposed seismic surveys more than once during the timeframe of the project. Taking into account the mitigation measures that are planned, effects on pinnipeds are generally expected to be restricted to avoidance of a limited area around the survey operation and short-term changes in behavior, falling within the MMPA definition of ''Level B harassment''. Animals are not expected to permanently abandon any area that is surveyed, and any behaviors that are interrupted during the activity are expected to resume once the activity ceases. Only a small portion of pinniped habitat will be affected at any time, and other areas within Cook Inlet will be available for necessary biological functions. In addition, the area where the survey will take place is not known to be an important location where pinnipeds haul out. The closest known haul-out site is located on Kalgin Island, which is about 22 km from the McArther River. More recently, some large congregations of harbor seals have been observed hauling out in upper Cook Inlet. However, mitigation measures, such as vessel speed, course alteration, and visual monitoring, and restrictions will be implemented to help reduce impacts to the animals. Therefore, the exposure of pinnipeds to sounds produced by this phase of SAE's proposed seismic survey is not anticipated to have an effect on annual rates of recruitment or survival on those species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total annual marine mammal take from SAE's proposed seismic survey will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The requested takes proposed to be authorized annually represent 9.6 percent of the Cook Inlet beluga whale population of approximately 312 animals (Allen and Angliss, 2014), 2.34 percent of the Alaska resident stock and 15.9 percent of the Gulf of Alaska, Aleutian Island and Bering Sea stock of killer whales (1,123 residents and 345 transients), 0.70 percent of the Gulf of Alaska stock of approximately 31,046 harbor porpoises, 2.1 percent of the 7,469 Central North Pacific humpback whales, 0.06 percent of the 1,233 Alaska minke whales, 0.016 percent of the 83,400 Gulf of Alaska Dall's porpoise, and 0.033 percent of the eastern North Pacific stock of approximately 19,126 gray whales. The take requests presented for harbor seals represent 5.34 percent of the Cook Inlet/Shelikof stock of approximately 22,900 animals. The requested takes proposed for Steller sea lions represent 1.19 percent of the U.S. portion of the western stock of approximately 45,649 animals. These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment.

NMFS finds that any incidental take reasonably likely to result from the effects of the proposed activity, as proposed to be mitigated through this IHA, will be limited to small numbers relative to the affected species or stocks. In addition to the quantitative methods used to estimate take, NMFS also considered qualitative factors that further support the ''small numbers'' determination, including: (1) The seasonal distribution and habitat use patterns of Cook Inlet beluga whales, which suggest that for much of the time only a small portion of the population would be accessible to impacts from SAE's activity, as most animals are found in the Susitna Delta region of Upper Cook Inlet from early May through September; (2) other cetacean species and Steller sea lions are not common in the seismic survey area; (3) the proposed mitigation requirements, which provide spatio-temporal limitations that avoid impacts to large numbers of belugas feeding and calving in the Susitna Delta and limit exposures to sound levels associated with Level B harassment; (4) the proposed monitoring requirements and mitigation measures described earlier in this document for all marine mammal species that will further reduce the amount of takes; and (5) monitoring results from previous activities that indicated low numbers of beluga whale sightings within the Level B disturbance exclusion zone and low levels of Level B harassment takes of other marine mammals. Therefore, NMFS determined that the numbers of animals likely to be taken are small.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Relevant Subsistence Uses

The subsistence harvest of marine mammals transcends the nutritional and economic values attributed to the animal and is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with

materials for cultural handicrafts, and the hunting itself perpetuates Native traditions by transmitting traditional skills and knowledge to younger generations (NOAA, 2007).

The Cook Inlet beluga whale has traditionally been hunted by Alaska Natives for subsistence purposes. For several decades prior to the 1980s, the Native Village of Tyonek residents were the primary subsistence hunters of Cook Inlet beluga whales. During the 1980s and 1990s, Alaska Natives from villages in the western, northwestern, and North Slope regions of Alaska either moved to or visited the south central region and participated in the yearly subsistence harvest (Stanek, 1994). From 1994 to 1998, NMFS estimated 65 whales per year (range 21–123) were taken in this harvest, including those successfully taken for food and those struck and lost. NMFS concluded that this number was high enough to account for the estimated 14 percent annual decline in the population during this time (Hobbs *et al.,* 2008). Actual mortality may have been higher, given the difficulty of estimating the number of whales struck and lost during the hunts. In 1999, a moratorium was enacted (Pub. L. 106–31) prohibiting the subsistence take of Cook Inlet beluga whales except through a cooperative agreement between NMFS and the affected Alaska Native organizations. Since the Cook Inlet beluga whale harvest was regulated in 1999 requiring cooperative agreements, five beluga whales have been struck and harvested. Those beluga whales were harvested in 2001 (one animal), 2002 (one animal), 2003 (one animal), and 2005 (two animals). The Native Village of Tyonek agreed not to hunt or request a hunt in 2007, when no co-management agreement was to be signed (NMFS, 2008a).

On October 15, 2008, NMFS published a final rule that established long-term harvest limits on Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year interval period if the average stock abundance of Cook Inlet beluga whales over the prior five-year interval is below 350 whales. Harvest levels for the current 5-year planning interval (2013–2017) are zero because the average stock abundance for the previous five-year period (2008–2012) was below 350 whales. Based on the average abundance over the 2002–2007 period, no hunt occurred between 2008 and 2012 (NMFS, 2008a). The Cook Inlet Marine Mammal Council, which managed the Alaska Native Subsistence fishery with NMFS, was disbanded by a unanimous vote of the Tribes' representatives on June 20, 2012. At this time, no harvest is expected in 2015 or, likely, in 2016.

Data on the harvest of other marine mammals in Cook Inlet are lacking. Some data are available on the subsistence harvest of harbor seals, harbor porpoises, and killer whales in Alaska in the marine mammal stock assessments. However, these numbers are for the Gulf of Alaska including Cook Inlet, and they are not indicative of the harvest in Cook Inlet.

There is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna River. Some data are available on the subsistence harvest of harbor seals, harbor porpoises, and killer whales in Alaska in the marine mammal stock assessments. However, these numbers are for the Gulf of Alaska including Cook Inlet, and they are not indicative of the harvest in Cook Inlet. Some detailed information on the subsistence harvest of harbor seals is available from past studies conducted by the Alaska Department of Fish & Game (Wolfe *et al.,* 2009). In 2008, 33 harbor seals were taken for harvest in the Upper Kenai-Cook Inlet area. In the same study, reports from hunters stated that harbor seal populations in the area were increasing (28.6%) or remaining stable (71.4%). The specific hunting regions identified were Anchorage, Homer, Kenai, and Tyonek, and hunting generally peaks in March, September, and November (Wolfe *et al.,* 2009).

Potential Impacts on Availability for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The primary concern is the disturbance of marine mammals through the introduction of anthropogenic sound into the marine environment during the proposed seismic survey. Marine mammals could be behaviorally harassed and either become more difficult to hunt or temporarily abandon traditional hunting grounds. However, the proposed seismic survey will not have any impacts to beluga harvests as none currently occur in Cook Inlet. Additionally, subsistence harvests of other marine mammal species are limited in Cook Inlet.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a Plan of Cooperation or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. The entire upper Cook unit and a portion of the lower Cook unit falls north of 60° N, or within the region NMFS has designated as an Arctic subsistence use area. There are several villages in SAE's proposed project area that have traditionally hunted marine mammals, primarily harbor seals. Tyonek is the only tribal village in upper Cook Inlet with a tradition of hunting marine mammals, in this case harbor seals and beluga whales. However, for either species the annual recorded harvest since the 1980s has averaged about one or fewer of either species (Fall *et al.* 1984, Wolfe *et al.* 2009, SRBA and HC 2011), and there is currently a moratorium on subsistence harvest of belugas. Further, many of the seals that are harvested are done incidentally to salmon fishing or moose hunting (Fall *et al.* 1984, Merrill and Orpheim 2013), often near the mouths of the Susitna Delta rivers (Fall *et al.* 1984) north of SAE's proposed seismic survey area.

Villages in lower Cook Inlet adjacent to SAE's proposed seismic area (Kenai, Salamatof, and Ninilchik) have either not traditionally hunted beluga whales, or at least not in recent years, and rarely do they harvest sea lions. Between 1992 and 2008, the only reported sea lion harvests from this area were two Steller sea lions taken by hunters from Kenai (Wolfe *et al.* 2009). These villages more commonly harvest harbor seals, with Kenai reporting an average of about 13 per year between 1992 and 2008 (Wolfe *et al.* 2008). According to Fall *et al.* (1984), many of the seals harvested by hunters from these villages were taken on the west side of the inlet during hunting excursions for moose and black

bears (or outside SAE's lower Cook unit).

Although marine mammals remain an important subsistence resource in Cook Inlet, the number of animals annually harvested are low, and are primarily harbor seals. Much of the harbor seal harvest occurs incidental to other fishing and hunting activities, and at areas outside of the SAE's proposed seismic areas such as the Susitna Delta or the west side of lower Cook Inlet. Also, SAE is unlikely to conduct seismic activity in the vicinity of any of the river mouths where large numbers of seals haul out.

SAE has identified the following features that are intended to reduce impacts to subsistence users:

- In-water seismic activities will follow mitigation procedures to minimize effects on the behavior of marine mammals and, therefore, opportunities for harvest by Alaska Native communities.

SAE and NMFS recognize the importance of ensuring that ANOs and federally recognized tribes are informed, engaged, and involved during the permitting process and will continue to work with the ANOs and tribes to discuss operations and activities.

Prior to offshore activities SAE will consult with nearby communities such as Nikiski, Tyonek, Ninilchik, Anchor point. SAE plans to attend and present the program description to the different groups listed in Section 3 prior to operations within those areas. During these meetings discussions will include our project description, maps of project area and resolutions of potential conflicts. These meetings will allow SAE to understand community concerns, and requests for communication or mitigation. Additional communications will continue throughout the project. Meetings will also be held with Native Corporation leaders to establish subsistence activities and timelines. Ongoing discussions and meeting with federal and state agencies during the permit process.

A specific meeting schedule has not been finalized, but meetings with the entities identified in Section 3 will occur between December 2014 and March 2015.

SAE will document results of all meetings and incorporate to mitigate concerns into the Plan of Cooperation (POC). There shall be a review of permit stipulations and a permit matrix developed for the crews. The means of communications and contacts list will be developed and implemented into the project. The use of PSOs/MMO's on board the vessels will ensure that appropriate precautions are taken to avoid harassment of marine mammals.

If a conflict does occur with project activities involving subsistence or fishing, the project manager will immediately contact the affected party to resolve the conflict. If avoidance is not possible, the project manager will initiate communication with the Operations Supervisor to resolve the issue and plan an alternative course of action. The communications will involve the Permits Manager and the Anchorage Office of SAE.

Unmitigable Adverse Impact Analysis and Preliminary Determination

The project will not have any effect on beluga whale harvests because no beluga harvest will take place in 2015. Additionally, the proposed seismic survey area is not an important native subsistence site for other subsistence species of marine mammals, and Cook Inlet contains a relatively small proportion of marine mammals utilizing Cook Inlet; thus, the number harvested is expected to be extremely low. The timing and location of subsistence harvest of Cook Inlet harbor seals may coincide with SAE's project, but because this subsistence hunt is conducted opportunistically and at such a low level (NMFS, 2013c), SAE's program is not expected to have an impact on the subsistence use of harbor seals. Moreover, the proposed survey would result in only temporary disturbances. Accordingly, the specified activity would not impact the availability of these other marine mammal species for subsistence uses.

NMFS anticipates that any effects from SAE's proposed seismic survey on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks will reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from SAE's proposed activities.

Endangered Species Act (ESA)

There are three marine mammal species listed as endangered under the ESA with confirmed or possible occurrence in the proposed project area: the Cook Inlet beluga whale, the western DPS of Steller sea lion, and the Central North Pacific humpback whale. In addition, the proposed action could occur within 10 miles of designated critical habitat for the Cook Inlet beluga whale. NMFS's Permits and Conservation Division has initiated consultation with NMFS' Alaska Region Protected Resources Division under section 7 of the ESA. This consultation will be concluded prior to issuing any final authorization.

National Environmental Policy Act (NEPA)

NMFS has prepared a Draft Environmental Assessment (EA) for the issuance of an IHA to SAE for the proposed oil and gas exploration seismic survey program in Cook Inlet. The Draft EA has been made available for public comment concurrently with this proposed authorization (see **ADDRESSES**). NMFS will finalize the EA and either conclude with a finding of no significant impact (FONSI) or prepare an Environmental Impact Statement prior to issuance of the final authorization (if issued).

Proposed Authorization

As a result of these preliminary determinations, we propose to issue an IHA to SAExploration Inc. for taking marine mammals incidental to a seismic survey in Cook Inlet, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Request for Public Comments

We request comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for SAExploration Inc. Please include with your comments any supporting data or literature citations to help inform our final decision on SAE's request for an MMPA authorization.

Incidental Harassment Authorization

SAExploration Inc. (SAE), 8240 Sandlewood Place, Anchorage, Alaska 99507, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to specified activities associated with a marine geophysical (seismic) survey in Cook Inlet, Alaska, contingent upon the following conditions:

1. This Authorization is valid from April 1, 2015, through December 31, 2015.

2. This Authorization is valid only for SAE's activities associated with seismic survey operations that shall occur within the areas denoted as Zone 1 and Zone 2 as depicted in the attached Figures 1 and 2 of SAE's January 2015 application to the National Marine Fisheries Service.

3. *Species Authorized and Level of Take*

(a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of Cook Inlet:

(i) Odontocetes: See Table 1 (attached) for authorized species and take numbers.

(ii) Pinnipeds: See Table 1 (attached) for authorized species and take numbers.

(iii) If any marine mammal species are encountered during seismic activities that are not listed in Table 1 (attached) for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms), then the Holder of this Authorization must alter speed or course, power down or shut-down the sound source to avoid take.

(b) The taking by injury (Level A harassment) serious injury, or death of any of the species listed in Table 1 or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

(c) If the number of detected takes of any marine mammal species listed in Table 1 is met or exceeded, SAE shall immediately cease survey operations involving the use of active sound sources (*e.g.,* airguns and pingers) and notify NMFS.

4. The authorization for taking by harassment is limited to the following acoustic sources (or sources with comparable frequency and intensity) absent an amendment to this Authorization:

(a) Two airgun arrays, each with a capacity of 880 in^3;

(b) A 440 in^3 airgun array;

(c) A 10 in^3 airgun;

(d) A Scott Ultra-Short Baseline (USBL) transceiver; and

(e) A Sonardyne TZ/OBC transponder.

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS or her designee at (301) 427–8401.

6. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, or her designee at least 48 hours prior to the start of seismic survey activities (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible) at 301–427–8484 or to *Sara.Young@noaa.gov.*

7. *Mitigation and Monitoring Requirements:* The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

(a) Utilize a sufficient number of NMFS-qualified, vessel-based Protected Species Visual Observers (PSVOs) (except during meal times and restroom breaks, when at least one PSVO shall be on watch) to visually watch for and monitor marine mammals near the seismic source vessels during daytime operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during start-ups of sound sources day or night. Two PSVOs will be on each source vessel, and two PSVOs will be on the support vessel to observe the exclusion and disturbance zones. PSVOs shall have access to reticle binoculars (7x50) and long-range binoculars (40x80). PSVO shifts shall last no longer than 4 hours at a time. PSVOs shall also make observations during daytime periods when the sound sources are not operating for comparison of animal abundance and behavior, when feasible. When practicable, as an additional means of visual observation, SAE's vessel crew may also assist in detecting marine mammals.

(b) In addition to the vessel-based PSVOs, utilize a shore-based station to visually monitor for marine mammals. The shore-based station will follow all safety procedures, including bear safety. The location of the shore-based station will need to be sufficiently high to observe marine mammals; the PSOs would be equipped with reticle binoculars (7x50) and long-range binoculars (40x80). The shore-based PSOs would scan the area prior to, during, and after the survey operations involving the use of sound sources, and would be in contact with the vessel-based PSOs via radio to communicate sightings of marine mammals approaching or within the project area.

(c) Record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace;

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or power-down), Beaufort sea state and wind force, visibility, and sun glare; and

(iii) The data listed under Condition 7(d)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

(d) Establish a 180 dB re 1 μPa (rms) and 190 dB re 1 μPa (rms) ''exclusion zone'' (EZ) for cetaceans and pinnipeds respectively before the full array (2400 in^3) is in operation; and a 180 dB re 1 μPa (rms) and 190 dB re 1 μPa (rms) EZ before a single airgun (10 in^3) is in operation, respectively.

(e) Visually observe the entire extent of the EZ (180 dB re 1 μPa [rms] for cetaceans and 190 dB re 1 μPa [rms] for pinnipeds) using NMFS-qualified PSVOs, for at least 30 minutes (min) prior to starting the airgun array (day or night). If the PSVO finds a marine mammal within the EZ, SAE must delay the seismic survey until the marine mammal(s) has left the area. If the PSVO sees a marine mammal that surfaces, then dives below the surface, the PSVO shall wait 30 min. If the PSVO sees no marine mammals during that time, they should assume that the animal has moved beyond the EZ. If for any reason the entire radius cannot be seen for the entire 30 min (*i.e.,* rough seas, fog, darkness), or if marine mammals are near, approaching, or in the EZ, the airguns may not be ramped-up.

(f) Implement a ''ramp-up'' procedure when starting up at the beginning of seismic operations or any time after the entire array has been shut down for more than 10 min, which means start the smallest sound source first and add sound sources in a sequence such that the source level of the array shall increase in steps not exceeding

approximately 6 dB per 5-min period. During ramp-up, the PSVOs shall monitor the EZ, and if marine mammals are sighted, a power-down, or shutdown shall be implemented as though the full array were operational. Therefore, initiation of ramp-up procedures from shutdown requires that the PSVOs be able to visually observe the full EZ as described in Condition 7(e) (above).

(g) Alter speed or course during seismic operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant EZ. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the EZ, further mitigation measures, such as a power-down or shutdown, shall be taken.

(h) Power-down or shutdown the sound source(s) if a marine mammal is detected within, approaches, or enters the relevant EZ. A shutdown means all operating sound sources are shut down (*i.e.,* turned off). A power-down means reducing the number of operating sound sources to a single operating 10 in^3 airgun, which reduces the EZ to the degree that the animal(s) is no longer in or about to enter it.

(i) Following a power-down, if the marine mammal approaches the smaller designated EZ, the sound sources must then be completely shut down. Seismic survey activity shall not resume until the PSVO has visually observed the marine mammal(s) exiting the EZ and is not likely to return, or has not been seen within the EZ for 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (large odontocetes, including killer whales and beluga whales).

(j) Following a power-down or shutdown and subsequent animal departure, survey operations may resume following ramp-up procedures described in Condition 7(g).

(k) Marine geophysical surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant EZs can be effectively monitored visually (*i.e.,* PSVO(s) must be able to see the extent of the entire relevant EZ).

(l) No initiation of survey operations involving the use of sound sources is permitted from a shutdown position at night or during low-light hours (such as in dense fog or heavy rain).

(m) If a beluga whale is visually sighted approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut down until the animals are no longer present within the 160-dB zone.

(n) Whenever aggregations or groups of killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, survey activity will not commence or the sound source(s) shall be shut-down until the animals are no longer present within the 160-dB zone. An aggregation or group of whales/porpoises shall consist of five or more individuals of any age/sex class.

(o) SAE must not operate airguns within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15 (to avoid any effects to belugas in an important feeding and breeding area).

(p) Seismic survey operations involving the use of airguns and pingers must cease if takes of any marine mammal are met or exceeded.

(q) The mitigation airgun will be operated at approximately one shot per minute and will not be operated for longer than three hours in duration during daylight hours and good visibility. In cases when the next start-up after the turn is expected to be during lowlight or low visibility, use of the mitigation airgun may be initiated 30 minutes before darkness or low visibility conditions occur and may be operated until the start of the next seismic acquisition line.

8. *Reporting Requirements:* The Holder of this Authorization is required to:

(a) Submit a weekly field report, no later than close of business (Alaska time) each Thursday during the weeks when in-water seismic survey activities take place. The field reports will summarize species detected, in-water activity occurring at the time of the sighting, behavioral reactions to in-water activities, and the number of marine mammals taken.

(b) Submit a monthly report, no later than the 15th of each month, to NMFS' Permits and Conservation Division for all months during which in-water seismic survey activities occur. These reports must contain and summarize the following information:

(i) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all seismic operations and marine mammal sightings;

(ii) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated seismic activity (number of power-downs and shutdowns), observed throughout all monitoring activities;

(iii) An estimate of the number (by species) of: (A) Pinnipeds that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 190 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited; and (B) cetaceans that have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) with a discussion of any specific behaviors those individuals exhibited.

(iv) A description of the implementation and effectiveness of the: (A) Terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of this Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

(c) Submit a draft Technical Report on all activities and monitoring results to NMFS' Permits and Conservation Division within 90 days of the completion of the seismic survey. The Technical Report will include the following information:

(i) Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

(ii) Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare);

(iii) Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;

(iv) Analyses of the effects of survey operations; and

(v) Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as: (A) Initial sighting distances versus survey activity state; (B) closest point of approach versus survey activity state; (C) observed behaviors and types of movements versus survey activity state; (D) numbers of sightings/individuals seen versus survey activity state; (E) distribution around the source vessels versus survey activity state; and (F) estimates of take by Level B harassment based on presence in the 160 dB harassment zone.

(d) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

(e) SAE must immediately report to NMFS if 25 belugas are detected within the 160 dB re 1 μPa (rms) disturbance zone during seismic survey operations to allow NMFS to consider making necessary adjustments to monitoring and mitigation.

9. (a) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), SAE shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, or her designees by phone or email (telephone: 301–427–8401 or *Sara.Young@noaa.gov*), the Alaska Regional Office (telephone: 907–271–1332 or *Barbara.Mahoney@noaa.gov*), and the Alaska Regional Stranding Coordinators (telephone: 907–586–7248 or *Aleria.Jensen@noaa.gov* or *Barbara.Mahoney@noaa.gov).* The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) The name and type of vessel involved;

(iii) The vessel's speed during and leading up to the incident;

(iv) Description of the incident;

(v) Status of all sound source use in the 24 hours preceding the incident;

(vi) Water depth;

(vii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(viii) Description of marine mammal observations in the 24 hours preceding the incident;

(ix) Species identification or description of the animal(s) involved;

(x) The fate of the animal(s); and

(xi) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SAE to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SAE may not resume their activities until notified by NMFS via letter or email, or telephone.

(b) In the event that SAE discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), SAE will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the NMFS Alaska Stranding Hotline (see contact information in Condition 9(a)). The report must include the same information identified in the Condition 9(a) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SAE to determine whether modifications in the activities are appropriate.

(c) In the event that SAE discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SAE shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, the NMFS Alaska Stranding Hotline (1–877–925–7773), and the Alaska Regional Stranding Coordinators within 24 hours of the discovery (see contact information in Condition 9(a)). SAE shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

10. SAE is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the ITS corresponding to NMFS' Biological Opinion issued to both U.S. Army Corps of Engineers and NMFS' Office of Protected Resources.

11. A copy of this Authorization and the ITS must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

12. Penalties and Permit Sanctions: Any person who violates any provision of this Incidental Harassment Authorization is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA.

13. This Authorization may be modified, suspended or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

Donna S. Wieting, *Director, Office of Protected Resources National Marine Fisheries Service*

Date

TABLE 1—AUTHORIZED TAKE NUMBERS FOR EACH MARINE MAMMAL SPECIES IN COOK INLET

Species	Authorized take in the Cook Inlet action area
Mysticetes	
Humpback whale (*Megaptera novaeangliae*)	158
Gray whale (*Eschrichtius robustus*)	7
Minke whale (*Balaenoptera acutorostra*)	1
Odontocetes	
Dall's porpoise (*Phocoenoides dalli*)	14
Beluga whale (*Delphinapterus leucas*)	30
Killer whale (*Orcinus orca*)	55
Harbor porpoise (*Phocoena phocoena*)	219
Pinnipeds	
Steller sea lion (*Eumetopias jubatus*)	542
Harbor seal (*Phoca vitulina richardsi*)	1,223

Dated: March 16, 2015.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06386 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1965]

Reorganization of Foreign-Trade Zone 104 (Expansion of Service Area) Under Alternative Site Framework; Savannah, Georgia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the World Trade Center Savannah, LLC, grantee of FTZ 104, submitted an application to the Board (FTZ Docket B–9–2014, docketed 02–04–2014) for authority to expand the service area of the zone to include the Counties of Burke, Candler, Emanuel, Jefferson, Jenkins, Johnson, Laurens, Montgomery, Tattnall, Telfair, Toombs, Treutlen, Washington and Wheeler, as described in the application, adjacent to the Savannah Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 7642–7643, 02–10–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report (including addendum), and finds that the requirements of the FTZ Act and the Board's regulations are satisfied with regard to expanding the service area of FTZ 104 to include Candler, Emanuel, Jenkins, Tattnall, Toombs, and Treutlen Counties, Georgia.

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 104 to expand the service area under the ASF is approved with regard to the inclusion of Candler, Emanuel, Jenkins, Tattnall, Toombs, and Treutlen Counties, Georgia, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this day of March 12, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–06470 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Patent Reexaminations

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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)).

DATES: Written comments must be submitted on or before May 19, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0064 Patent Reexaminations'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 and 151 to examine applications and, when appropriate, allow applications and issue them as patents. Chapter 30 of Title 35 U.S.C. provides that any person at any time may file a request for reexamination by the USPTO of any claim of a patent on the basis of prior art patents or printed publications. Once initiated, the reexamination proceedings under Chapter 30 are substantially *ex parte* and do not permit input from third parties. The rules outlining *ex parte* reexaminations are found at 37 CFR 1.510–1.570.

35 U.S.C. 257 permits a patent owner to request supplemental examination of a patent by the USPTO to consider, reconsider, or correct information believed to be relevant to the patent. The rules outlining supplemental examination are found at 37 CFR 1.601–1.625.

The Leahy-Smith America Invents Act terminated *inter partes* reexamination effective September 16, 2012. However, *inter partes* reexamination proceedings based on *inter partes* reexamination requests filed before September 16, 2012, continue to be prosecuted. Therefore, this collection continues to include items related to the prosecution of *inter partes* reexamination proceedings. The rules outlining *inter partes* reexaminations are found at 37 CFR 1.903–1.931.

Thus, the items included in this collection cover (i) requests for *ex parte* reexamination, (ii) requests for supplemental examination, and (iii) information that may be submitted by patent owners and third party requesters in relation to the prosecution of an *ex parte* or *inter partes* reexamination proceeding. It should be noted that the Requests for *Ex Parte* Reexamination and Supplemental Examination are distinct collections from the Request for *Ex Parte* Reexamination and Supplemental Examination Transmittal Forms, respectively. Whereas the transmittal forms are used by a requester (patent owner or third party) as a checklist to ensure compliance with the requirements of the statutes and rules for *ex parte* reexaminations and supplemental examinations, the requests themselves represent the substantive analysis undertaken by requesters of *ex parte* reexamination and supplemental examination.

The public uses this information collection to request *ex parte* reexamination and supplemental examination, to prosecute reexamination proceedings, and to ensure that the associated documentation is submitted to the USPTO.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0064.

Form Number(s): PTO/SB/57 and PTO/SB/59.

Type of Review: Renewal of an existing collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 4,170 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from 0.30 hours (18 minutes) to 55 hours to gather the necessary information, prepare the appropriate

form or other documents, and submit the information to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

Estimated Total Annual Hour Burden: 95,290 hours.

Estimated Total Annual Cost Burden (Hourly): $37,067,810 per year. The USPTO expects that the information in this collection will be prepared by attorneys. Using the professional rate of $389 per hour for attorneys in private firms, the USPTO estimates that the respondent cost burden for this collection will be approximately $37,067,810 per year.

IC No.	Information collection instrument	Estimated time for response (a)	Estimated annual responses (b)	Estimated annual burden hours	Rate ($/hr) (a) × (b) = (c)	Total cost (c) × (d) = (e)
1	Request for Supplemental Examination Transmittal Form (PTO/SB/59).	18 minutes	50	15	$389.00	$5,835
2	Request for Supplemental Examination.	25 hours	50	1,250	389.00	486,250
3	Request for *Ex Parte* Reexamination Transmittal Form (PTO/SB/57).	18 minutes	450	135	389.00	52,515
4	Request for *Ex Parte* Reexamination.	55 hours	450	24,750	389.00	9,627,750
5	Petition in a Reexamination Proceeding (except for those specifically enumerated in 37 CFR 1.550(i) and 1.937(d)).	23 hours	1,250	28,750	389.00	11,183,750
6	Patent Owner's 37 CFR 1.530 Statement.	8 hours	160	1,280	389.00	497,920
7	Third Party Requester's 37 CFR 1.535 Reply.	8 hours	50	400	389.00	155,600
8	Amendment in *Ex Parte* or *Inter Partes* Reexamination.	33 hours	700	23,100	389.00	8,985,900
9	Third Party Requester's 37 CFR 1.947 Comments in *Inter Partes* Reexamination.	41 hours	10	410	389.00	159,490
10	Response to Final Rejection in *Ex Parte* Reexamination.	17 hours	400	6,800	389.00	2,645,200
11	Patent Owner's 37 CFR 1.951 Response in *Inter Partes* Reexamination.	41 hours	100	4,100	389.00	1,594,900
12	Third Party Requester's 37 CFR 1.951 Comments in *Inter Partes* Reexamination.	41 hours	100	4,100	389.00	1,594,900
13	Petition to Request Extension of Time in *Ex Parte* or *Inter Partes* Reexamination.	30 minutes	400	200	389.00	77,800
Total			4,170	95,290		37,067,810

Estimated Total Annual Cost Burden (Non-Hourly): $929.80 per year. There are no capital start-up, recordkeeping, or maintenance costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of postage costs.

Postage

The USPTO expects that approximately 95 percent of the responses in this collection will be submitted electronically. Of the remaining 5 percent, the vast majority—98 percent—will be submitted by mail, for a total of 204 mailed submissions. The documentation for requests for supplemental examination and requests for *ex parte* reexamination will typically be mailed to the USPTO with the appropriate transmittal form, reducing the number of unique mailings to 180. The USPTO estimates that the average postage cost for a mailed submission will be $0.49 cents for Petitions to Request Extension of Time and $5.75 for all other mailed submissions. Therefore, the USPTO estimates a total postage cost of approximately $929.80 per year.

The total non-hour respondent cost burden for this collection in the form of postage costs is approximately $929.80 per year.

Filing Fees

The fees in 0651–0064 were moved into collection 0651–0072 (America Invents Act Section 10 Patent Fee Adjustments). As a result, this collection no longer includes any filing or processing fees.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–06461 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–823]

Welded Line Pipe From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of welded line pipe from the Republic of Turkey (Turkey). The period of investigation is January 1, 2013, through December 31, 2013. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective* March 20, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Dennis McClure, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–5973, respectively.

Alignment of Final Countervailing Duty (CVD) Determination With Final Antidumping Duty (AD) Determination

On the same day the Department initiated this CVD investigation, the Department also initiated a CVD investigation of welded line pipe from the Republic of Korea (Korea) and AD investigations of welded line pipe from Korea and Turkey.[1] The CVD and AD investigations cover the same merchandise. On February 27, 2015, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (Act), the petitioners [2] requested alignment of the final CVD determination with the final AD determination of welded line pipe from Turkey. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final AD determination. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than July 28, 2015, unless postponed.

Scope of the Investigation

The scope of the investigation covers welded line pipe, which is carbon and alloy steel pipe of a kind used for oil or gas pipelines, not more than 24 inches in nominal outside diameter. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For discussion of those comments, *see* the Preliminary Decision Memorandum.[3]

Methodology

The Department is conducting this CVD investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy (*i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient) and that the subsidy is specific.[4] For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[5] ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated a CVD rate for each individually-investigated producer/exporter of the subject merchandise. For companies not individually investigated, we have calculated an ''all others'' rate as described below. We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S	8.85
Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Demir Celik Sanayi A.S., Tosyali Dis Ticaret A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., and Tosyali Holding A.S.[6]	3.76

[1] *See Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Initiation of Countervailing Duty Investigations,* 79 FR 67419 (November 13, 2014) (*Initiation Notice*). *See also Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations,* 79 FR 68213 (November 14, 2014).

[2] The petitioners in this investigation are American Cast Iron Pipe Company, Energex (a division of JMC Steel Group), Maverick Tube Corporation, Northwest Pipe Company, Stupp Corporation (a division of Stupp Bros., Inc.), Tex-Tube Company, TMK IPSCO, and Welspun Tubular LLC USA.

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding ''Decision Memorandum for the Affirmative Preliminary Determination in the Countervailing Duty Investigation of Welded Line Pipe from the Republic of Turkey,'' dated concurrently with this notice (Preliminary Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).''

Company	Subsidy rate (percent)
All Others	4.36

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of welded line pipe from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an ''all others'' rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents by those companies' exports of the subject merchandise to the United States.[7] The ''all-others'' rate does not include zero and *de minimis* rates or any rates based solely on the facts available.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

U.S. International Trade Commission

In accordance with section 703(f) of the Act, we will notify the U.S. International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[8] Interested parties may submit case briefs, rebuttal briefs, and hearing requests.[9] For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, see the Preliminary Decision Memorandum.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: March 16, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is circular welded carbon and alloy steel (other than stainless steel) pipe of a kind used for oil or gas pipelines (welded line pipe), not more than 24 inches in nominal outside diameter, regardless of wall thickness, length, surface finish, end finish, or stenciling. Welded line pipe is normally produced to the American Petroleum Institute (API) specification 5L, but can be produced to comparable foreign specifications, to proprietary grades, or can be non-graded material. All pipe meeting the physical description set forth above, including multiple-stenciled pipe with an API or comparable foreign specification line pipe stencil is covered by the scope of this investigation.

The welded line pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.5000, 7305.12.1030, 7305.12.5000, 7305.19.1030, 7305.19.5000, 7306.19.1010, 7306.19.1050, 7306.19.5110, and 7306.19.5150. The subject merchandise may also enter in HTSUS 7305.11.1060 and 7305.12.1060. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Subsidies Valuation
VII. Analysis of Programs
VIII. ITC Notification
IX. Disclosure and Public Comment
X. Verification
XI. Conclusion

[FR Doc. 2015–06485 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–DS–P

[6] In its December 15, 2014, response, Toscelik stated that Toscelik Profil ve Sac Endustrisi A.S. merged with its cross-owned affiliate, Tosyali Metal Ambalaj Sanayi A.S. (Tosyali Metal). Because Tosyali Metal no longer exists as a separate entity, we have not included it in the list of companies above.

[7] *See* Memorandum from Elizabeth Eastwood to the File, ''Calculation of the ''All Others'' Rate in the Preliminary Determination of the Countervailing Duty Investigation of Welded Line Pipe from the Republic of Turkey,'' dated March 16, 2015, for the details of this calculation. We calculated a weighted average of the rates of Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S (collectively, Borusan) and Toscelik Profil ve Sac Endustrisi A.S., Tosyali Demir Celik Sanayi A.S., Tosyali Dis Ticaret A.S,, Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., and Tosyali Holding A.S. (collectively, Toscelik) using publicly-ranged data so as not to disclose the respondents' business proprietary information.

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 150224177–5177–01]

RIN 0648–XD798

Availability of Draft NOAA Education Strategic Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) publishes this notice to solicit comments on the draft NOAA Education Strategic Plan (Plan). NOAA received broad legislative authority from Congress through the America COMPETES Act (2007, 2010) to conduct, develop, support, promote, and coordinate formal and informal education activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and other coastal stakeholders, including underrepresented groups in ocean and atmospheric science and policy careers. The revision of the Plan establishes the goals for NOAA education programs for the next twenty years with revisions to the Plan every five years. NOAA is seeking broad public review of the NOAA Education Strategic Plan, and

encourages all stakeholders and users to review the Plan and provide comments. All comments received will be reviewed and considered in the final drafting of the NOAA Education Strategic Plan.

DATES: Public comments on this document must be received on or before April 10, 2015.

ADDRESSES: The draft Plan will be available on the following Web site: *http://www.oesd.noaa.gov/leadership/edcouncil/education_plan.html.*

You may submit comments on this document, following the format guidance below, by any of the following methods:

• *Electronic Submissions:* Comments may be submitted via email to *Education.Plan@noaa.gov.* Include the identifier, ''Education Plan Public Comment'' in the subject line.

• *Mail:* Marissa Jones, NOAA Office of Education, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. Include the identifier, ''Education Plan Public Comment,'' on the envelope.

FOR FURTHER INFORMATION CONTACT: Marissa Jones, Education Specialist, NOAA Office of Education, (202) 482–4592*Marissa.Jones@noaa.gov.*

SUPPLEMENTARY INFORMATION: NOAA's Education Council is soliciting general comments on the NOAA Education Strategic Plan, which describes how NOAA will execute programs and activities to achieve cohesive and strategic education outcomes. The Plan focuses on conducting, developing, supporting, promoting, and coordinating education activities to enhance awareness and understanding of mission-related sciences.

For over 200 years, NOAA has imparted scientific knowledge of the Earth's natural systems to benefit society and support the agency's mission. During this time, education was guided by the vision of leadership, the findings of researchers, the mandates of legislation for programs within NOAA, and to respond to the needs of society.

In 2007, Congress officially recognized the role of education in NOAA with the passage of the *America COMPETES Act* (Pub. L. 110–69). This legislation states:

''The Administrator, appropriate National Oceanic and Atmospheric Administration programs, ocean atmospheric science and education experts, and interested members of the public shall develop a science education plan setting forth education goals and strategies for the Administration, as well as programmatic actions to carry out such goals and priorities over the next 20 years, and evaluate and update such plan every 5 years.''

NOAA is revising its Education Strategic Plan as specified in the America COMPETES Act. Based on NOAA's mission, strengths, and the future needs of our society, the draft plan includes five education goals:

Goal 1—Science-Informed Society: An informed society has access to, interest in, and understanding of NOAA-related sciences and their implications for current and future events.

Goal 2—Conservation & Stewardship: Individuals and communities are actively involved in stewardship behaviors and decisions that conserve, restore, and protect natural and cultural resources related to NOAA's mission.

Goal 3—Safety and Preparedness: Individuals and communities are informed and actively involved in decisions and actions that improve preparedness, response, and resilience to challenges and impacts of hazardous weather, changes in climate, and other environmental threats monitored by NOAA.

Goal 4—Future Workforce: A diverse and highly-skilled future workforce pursues careers in disciplines that support NOAA's mission.

Goal 5—Organizational Excellence: NOAA functions in a unified manner to support, plan, and deliver effective educational programs and partnerships that advance NOAA's mission.

NOAA welcomes all comments on the draft Plan, any inconsistencies perceived within the Plan, and any omissions of important topics or issues. This draft Plan is being issued for comment only and is not intended for interim use. For any shortcoming noted within the draft Plan, please propose specific remedies. Suggested changes will be incorporated where appropriate, and a final Plan will be posted on the NOAA Education Council Web site.

Please follow this format guidance for preparing and submitting comments. Using the format guidance will facilitate the processing of comments and assure that all comments are appropriately considered. Overview comments should be provided first and should be numbered. Comments that are specific to particular pages, paragraphs, or lines of the section should identify the page and line numbers to which they apply. Please number each page of your comments.

Dated: March 17, 2015.

Louisa Koch,

NOAA Director of Education.

[FR Doc. 2015–06419 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD808

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Cruise Ship Terminal Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Huna Totem Corporation (HTC) for authorization to take marine mammals incidental to construction activities as part of the re-development of the Icy Strait Point Cruise Ship Terminal in Hoonah, Alaska. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to HTC to incidentally take marine mammals, by Level B Harassment only, during the specified activity.

DATES: Comments and information must be received no later than April 20, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Pauline@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of HTC's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

National Environmental Policy Act (NEPA)

We are preparing an Environmental Assessment (EA) in accordance with NEPA and the regulations published by the Council on Environmental Quality and will consider comments submitted in response to this notice as part of that process. The EA will be posted at the foregoing Web site once it is finalized.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On June 23, 2014 NMFS received an application from HTC for the taking of marine mammals incidental to pile driving and removal associated with the re-development of the Icy Strait Point Cruise Ship Terminal in Hoonah, Alaska. HTC submitted a revised application on September 9, 2014. On February 26, 2015 the applicant submitted an addendum to the application describing modifications to the specified activity. NMFS determined that the application was adequate and complete on February 27, 2015. HTC proposes to conduct in-water work that may incidentally harass marine mammals (*i.e.,* pile driving and removal). In addition, the project would include associated upland improvements, which are not anticipated to have the potential to result in incidental take of marine mammals. This IHA would be valid from June 1 through October 31, 2015. However, all pile driving is expected to be completed by the end of September. October has been included only to cover any contingencies that may arise.

The use of vibratory and impact pile driving is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during the project timeframe include the humpback whale (*Megaptera novaeangliae),* Steller sea lion (*Eumatopius jubatus*), harbor seal (*Phoca vitulina*), Dall's porpoise (*Phocoenoides dalli*), gray whale (*Eschrichtius robustus*), harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), minke whale (*Balaenoptera acutorostrata*), and Pacific white-sided dolphin (*Lagenorhynchus obliquidens*).

Description of the Specified Activity

Overview

The project would construct a new cruise ship berth terminal and associated upland improvements at the existing facility. The existing facility is served by an approximately 100-foot by 25-foot excursion dock, with an approximately 140-foot walkway connecting to shoreline. There is also an existing 40-foot by 80-foot fishing pier which is connected to the shore by an approximately 120-foot walkway. The new terminal would consist of a floating pontoon, which would be connected to the shore via a new trestle and transfer span. The new terminal would also include two new mooring dolphins, two new breasting dolphins, and three or more new reaction dolphins. Each of these would be interconnected via pile-supported catwalks. The proposed project would require the installation of 25 24-inch piles, 21 30-inch piles, 53 42-inch piles, and 5 60-inch piles.

Dates and Duration

In-water work, which is work occurring below the mean higher high water (MHHW) will be limited to pile installation and falsework pile extraction. These activities will be limited to the period between June 1 and October 31, 2015 to avoid the period (15 April to 31 May) when spawning herring are most likely to be present within the project area. However, all pile driving is expected to be completed by the end of September. October has been included only to cover any contingencies that may arise.

The project will require the installation of 104 steel pipe piles of varying diameters below the MHHW. Total impact hammer time would not exceed 5 minutes per pile for 104 piles resulting in less than 10 hours of driving time. Total vibratory hammer time would not exceed 5 hours per day for a maximum of 20 days resulting in a total of 100 hours.

The overall project, including work not anticipated to result in incidental take, was initiated in September 2014 and will run through May 2016.

Specified Geographic Region

The existing Icy Strait Point site is located in Hoonah, Alaska. The project site is located at the junction of Icy Strait and Port Frederick, in the Baranof-Chichagof Islands watershed (HUC #19010203). Please see Sheet 1 of Appendix A in the HTC application for details.

Detailed Description of Activities

The proposed action would involve construction of a new cruise ship berth terminal and associated upland improvements at the existing facility. The existing facility is served by an approximately 100-foot by 25-foot excursion dock, with an approximately 140-foot walkway connecting to shoreline. There is also an existing 40-foot by 80-foot fishing pier which is connected to the shore by an approximately 120-foot walkway. The new terminal would consist of a floating pontoon, which would be connected to the shore via a new trestle and transfer

span. The new terminal would also include two new mooring dolphins, two new breasting dolphins, and three or more new reaction dolphins. Each of these would be interconnected via pile-supported catwalks.

In-water work (work below the MHHW) will be limited to pile installation. Over-water work will include construction and installation of the steel trestle and transfer span, construction of the over-water portions of the mooring, breasting, and reaction dolphins, and construction of the catwalk spans. The floating pontoon will be fabricated in a dry dock and floated into position.

In-water and over-water components of the project would be constructed in areas with water depths ranging between MHHW and approximately −60 feet mean lower low water (MLLW). The majority of the in-water and over-water work including construction of the mooring, breasting, and reaction dolphins; catwalks, a portion of the transfer span and floating pontoon will be completed between approximately −25 feet and −60 feet MLLW.

A detailed description of in-water and over-water project components may be found in Table 1 of the HTC Application.

In-water and over-water work will primarily be completed using equipment mounted on barges and/or barge-mounted derricks. It is anticipated that a maximum of 3 barges, including material barges, will be anchored (four anchors per barge) at the site during offshore construction. The barges may be anchored with spud anchors in shallow water and line anchors in deeper water. Small vessels will be used for crew access and miscellaneous construction activities. Limited upland equipment will be used to support in-water construction.

Pile Installation—The over-water structures, except for the floating pontoon, will likely be founded on steel pipe piling. Piling will be set using a vibratory hammer. Rock excavation will be conducted using a down the hole drilling system with an under reaming bit. Seating will be achieved with either vibratory or impact hammer depending on local geotechnical conditions. The project will require the installation of a total of approximately 104 steel pipe piles of varying diameters below the MHHW. Piles that will be used include 24-inch, 30-inch, 42-inch, and 60-inch steel pipe piles. Piles will be set by vibratory hammer that will cease operation as soon as bedrock is encountered. Vibratory hammer time should be between 10 and 30 minutes per pile. It is estimated that each pile will need to be driven approximately 50 feet to hit bedrock. Piles will then be drilled into bedrock using a down the hole drilling system with an under reaming bit for approximately 15 feet. This process will take an estimated 3 hours. This is a low energy air-powered system that releases decreased acoustic energy compared to impact driving. Proofing or seating of the pile into the drilled socket would occur with either a vibratory or impact hammer depending on the rock encountered and will be selected in the field based on actual sub surface conditions. If a vibratory hammer is used it will take 3–5 minutes of vibrating. Should an impact hammer be required it is expected to take 50 blows and 3–5 minutes of impacting. As described previously total vibratory hammer time would not exceed a total of 100 hours and total impact hammer time would result in less than 10 hours of driving time. This would occur over approximately 16–20 days of driving during the 4 month Authorization period.

TABLE 1—SUMMARY OF PILINGS TO BE INSTALLED—DIAMETER AND NUMBER

Pile size (diameter in inches)	Number of Piles
24	25
30	21
42	53
60	5
Total	104

Trestle and Transfer Span—A new steel trestle (482 feet by 18 feet) and transfer span (173 feet by 18 feet) with associated steel foundations, measuring approximately 1,090 square feet, will be constructed to allow vehicle and pedestrian access between the pontoon and upland areas. These spans will be supported by approximately fifteen 24-inch and twenty-one 30-inch-diameter steel pipe piling that will be installed per the pile installation methods described above.

Pontoon—A new floating steel pontoon (21,500 square feet) with associated steel components will be constructed to provide a landing surface for cruise ship gangways.

Mooring Dolphins—Two new mooring dolphins, measuring 1,150 square feet (each approximately 575 square feet), will be constructed to provide mooring points for lines from the cruise ship vessels. The dolphins will be supported by 42-inch-diameter steel pipe piles (seven and eight piles, respectively).

Breasting Dolphins—Two new breasting dolphins, measuring 1,150 square feet (total), will be constructed to provide mooring points for the lines and breasting points for the hulls of cruise ship vessels. Each dolphin will be supported by ten 42-inch-diameter steel pipe piles.

Reaction Dolphins—Approximately three new reaction dolphins, measuring 1,750 square feet (total), will be constructed to maintain the horizontal position of the floating pontoon. The reaction dolphins will be supported by eighteen 42-inch diameter and five 60-inch-diameter steel pipe piles (total piles used for the three dolphins).

Catwalks—Eight new catwalk spans, measuring 4,150 square feet total (5 feet wide by 820 feet plus foundations), will be constructed to provide walking access between the pontoon and the mooring and breasting dolphins. The catwalks will be supported by ten 24-inch-diameter steel pipe piles.

Upland Project Components—The upland portions of the project include numerous improvements to the tourist and retail facilities to support the increased cruise passenger traffic that will result from the new cruise ship berth. Construction associated with these improvements will have no impact on marine mammals. A detailed list of these structures may be found in the HTC Application.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses.

For the proposed project, HTC worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, and to monitor marine mammals within designated zones of influence corresponding to NMFS' current Level A and B harassment thresholds which are depicted in Table 4 found later in the Estimated Take by Incidental Harassment section.

Monitoring Protocols—Monitoring would be conducted before, during, and after pile driving and removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from

activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment would be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities would be halted. Monitoring will take place from twenty minutes prior to initiation through thirty minutes post-completion of pile driving activities. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes. Please see the Marine Mammal Monitoring Plan (available at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm*), developed by HTC with our approval, for full details of the monitoring protocols.

The following additional measures apply to visual monitoring:

(1) Monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained biologists, with the following minimum qualifications:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Advanced education in biological science or related field (undergraduate degree or higher required);

(c) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

(d) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(e) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

(f) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

(g) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

(2) Prior to the start of pile driving activity, the shutdown zone will be monitored for twenty minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.). In addition, if such conditions should arise during impact pile driving that is already underway, the activity would be halted.

If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal. Monitoring will be conducted throughout the time required to drive a pile.

Soft Start—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in ''bouncing'' of the hammer as it strikes the pile, resulting in multiple ''strikes.'' The project will utilize soft start techniques for both impact and vibratory pile driving. We require HTC to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a thirty-second waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of 20 minutes or longer (specific to either vibratory or impact driving).

In addition to the measures described later in this section, HTC would employ the following standard mitigation measures:

(a) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and HTC staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

(b) For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile).

Monitoring and Shutdown for Pile Driving

The following measures would apply to HTC's mitigation through shutdown and disturbance zones:

Shutdown Zone—For all pile driving activities, HTC will establish a shutdown zone. Shutdown zones are intended to contain the area in which SPLs equal or exceed the 180/190 dB rms acoustic injury criteria, with the purpose being to define an area within which shutdown of activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals. For vibratory driving, HTC's activities are not expected to produce sound at or above the 180 dB rms injury criterion (see ''Estimated Take by Incidental Harassment''). As described above, HTC would, however, implement a minimum shutdown zone of 10 m radius for all marine mammals around all vibratory pile driving and removal activity and 100 m radius around impact pile driving activity. These precautionary measures are intended to further reduce the unlikely possibility of injury from direct physical interaction with construction operations.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 120 dB rms (for continuous

sound) for pile driving installation and removal. Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment; disturbance zone monitoring is discussed in greater detail later (see ''Proposed Monitoring and Reporting''). Nominal radial distances for disturbance zones are shown in Table 5. Given the size of the disturbance zone for vibratory pile driving, it is impossible to guarantee that all animals would be observed or to make comprehensive observations of fine-scale behavioral reactions to sound. We discuss monitoring objectives and protocols in greater depth in ''Proposed Monitoring and Reporting.''

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile and the estimated ZOIs for relevant activities (*i.e.,* pile installation and removal). This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Time Restrictions—Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between June 1 and October 31, 2015. However, all pile driving is expected to be completed by the end of September. October has only been included to cover any contingencies that may arise.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of affecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals.
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned.
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

The potential use of bubble curtains was discussed with HTC. However, impact driving would only occur for brief, irregular periods. Additionally, the project is being conducted in relatively deep water where it is difficult to deploy bubble curtains and their efficacy would be uncertain. Therefore, NMFS does not propose to require the use of bubble curtains.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Description of Marine Mammals in the Area of the Specified Activity

TABLE 2—LIST OF MARINE MAMMAL SPECIES UNDER NMFS JURISDICTION THAT OCCUR IN THE VICINITY OF THE HTC CRUISE SHIP TERMINAL RE-DEVELOPMENT PROJECT

Common name	Stock	Scientific name	ESA Status; Strategic Y/N	Stock abundance (CV, N_{min}, most recent abundance survey) *	Relative occurrence
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)					
Family Eschrichtiidae:					
Gray whale	Eastern North Pacific Stock.	*Eschrichtius robustus*	Not listed/N	19,126 (0.071; 18,017; 2007).	Uncommon.
Family Balaenopteridae (rorquals):					
Humpback whale	Entire Central North Pacific Stock.	*Megaptera novaeangliae*	Endangered/Y	10,103 (0.03; 7,890; 2006).	Common.

TABLE 2—LIST OF MARINE MAMMAL SPECIES UNDER NMFS JURISDICTION THAT OCCUR IN THE VICINITY OF THE HTC CRUISE SHIP TERMINAL RE-DEVELOPMENT PROJECT—Continued

Common name	Stock	Scientific name	ESA Status; Strategic Y/N	Stock abundance (CV, N_{min}, most recent abundance survey) *	Relative occurrence
Minke whale	Gulf of Alaska and Western Aleutians.	*Balaenoptera acutorostrata).*	Not listed/N	Unknown	Uncommon.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Delphinidae:					
Pacific white-sided dolphin.	entire North Pacific Stock.	*Lagenorhynchus obliquidens.*	Not listed/N	26,880 (N/A; N/A; 1990)	Uncommon.
Killer whale	AK Resident Stock	*Orcinus orca*	Not listed/N	2,347 (N/A; 2,3477; 2012).	Common.
	GOA, Bering Sea, Aleutian Transient Stock.			587 (N/A; 587; 2012)	Uncommon.
	West Coat Transient Stock.			354 (N/A; 243; 2009)	Uncommon.
Family Phocoenidae (porpoises):					
Harbor porpoise	Southeast Alaskan Stock	*Phocoena phocoena*	Not listed/S	11,146 (0.242; 9,116; 1997).	Common.
Dall's porpoise	Alaska	*Phocoenoides dalli*	Not listed/NS	83,000 (0.097; N/A; 1993).	Common
Order Carnivora—Superfamily Pinnipedia					
Family Otariidae (eared seals and sea lions):					
Steller Sea Lion	Eastern DPS	*Eumatopius jubatus*	Not Listed/S	60,131–74,448 (36,551; 2013).	Common.
	Western DPS		Endangered/S	55,422 (48,676; 2013)	Common.
Family Phocidae (earless seals):					
Harbor seal	Glacier Bay/Icy Strait Stock.	*Phoca vitulina*	Not listed/NS	5,042 (4,735; 2007)	Common.

* Estimated abundance numbers come primarily from NMFS 2014 Draft Alaska Marine Mammal Stock Assessment Report (Allen and Angliss 2014), with the exception of the abundance data for gray whale, which comes from the Draft 2013 Pacific Region Marine Mammal Stock Assessment Report (Carretta et al. 2013).

Nine marine mammal species have known distribution ranges that include the portion of Icy Strait/Port Frederick in which construction activities will occur. These are humpback whale, Steller sea lion, harbor seal, Dall's porpoise, gray whale, harbor porpoise, killer whale, minke whale, and Pacific white-sided dolphin. There are specific stocks of individual species that may occur in the vicinity of the Project area. These include the Eastern North Pacific stock of gray whale; the North Central Pacific Stock of humpback whale; Gulf of Alaska and Western Aleutians stock of minke whale; North Pacific Stock of Pacific white-sided dolphin; Alaska Resident stock of killer whale; Golf of Alaska, Bering Sea, Aleutian transient stock of Killer whale; West coast transient stock of killer whale; Southeast Alaska stock of harbor porpoise; Alaska stock of Dall's porpoise; eastern depleted population stock (DPS) of Steller's sea lion; western DPS of Steller's sea lion; and Glacier Bay/Icy Strait stock of harbor seal.

This IHA application assesses the potential impacts of the proposed project on these 12 stocks.

We have reviewed HTC's detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Section 3 of HTC's application instead of reprinting the information here. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals*) for generalized species accounts. Table 2 lists the 12 marine mammal stocks that could occur in the vicinity of Icy Strait during the project timeframe and summarizes key information regarding stock status and abundance. Please see NMFS' Stock Assessment Reports (SAR), available at *www.nmfs.noaa.gov/pr/sars,* for more detailed accounts of these stocks' status and abundance.

In the species accounts provided here, we offer a brief introduction to the species and relevant stock as well as available information regarding population trends and threats, and describe any information regarding local occurrence.

Cetaceans

Humpback Whale

Humpback whales range from California to the Chukchi Sea, Hawaii, and the Mariana Islands (NMFS 1991). During summer and fall, humpback whales in the North Pacific forage over the continental shelf and along the coasts of the Pacific Rim, from Point Conception, California, north to the Gulf of Alaska, Prince William Sound, and Kodiak Island. Within this feeding area there are three relatively separate populations that migrate from these colder, highly productive higher-latitude waters to winter/spring calving and mating areas in warmer, lower-latitude coastal waters. Humpback whales in the waters of southeast Alaska belong to the Central North Pacific stock. This stock forages seasonally in the waters of British Columbia and Alaska and then, during winter, migrates to the Hawaiian Islands for mating and calving; however, a portion

of the population remains in southeast Alaska waters year-round. Humpback whales are primarily observed foraging in southeast Alaska from May through December with numbers peaking in late August and September.

While the estimated population of the North Pacific stock remains much lower than the population size before whaling, humpback whales are increasing in abundance throughout much of their range. While the species currently remains listed as endangered throughout its range, the State of Alaska, in 2014, filed a petition with NMFS to designate the Central North Pacific Stock of humpback whale as a DPS and to delist this DPS under the ESA (ADF&G 2014).

In the North Pacific, humpback abundance was estimated at fewer than 1,400 whales in 1966, after heavy commercial exploitation. The current abundance estimate for the Central North Pacific stock is approximately 10,103 whales (Allen and Angliss 2013). The population across Southeast Alaska experienced a 10.6% annual population increase over the 1991–2007 study period (Dahlheim *et al.,* 2008). Humpback whales have been observed within the waters of the action area during all months of the year, with annual concentrations of humpback whales occurring consistently in the waters in and adjacent to Icy Strait in the spring (April/May) (Dahlheim *et al.,* 2008). This is probably when whales are preying on heavily schooled fishes (NMFS 1991). Overall numbers of humpback whales tend to increase during the summer (June/July) and fall (August/September) but are more evenly distributed with fewer identifiable population concentrations (Dahlheim *et al.* 2008). However, Port Frederick has been identified as being of relatively higher importance during the later summer months, when whales are preying more heavily on swarming euphasiids (NMFS 1991).

Dall's Porpoise

Dall's porpoise are only found in the North Pacific and adjacent seas. Based primarily on the population response data and preliminary genetics analyses (Winans and Jones 1988), a delineation between Bering Sea and western North Pacific stocks has been recognized. However, similar data are not available for the eastern North Pacific, thus one stock of Dall's porpoise is recognized in Alaskan waters. Dall's porpoise along the west coast of the continental U. S. from California to Washington comprise a separate stock (Allen and Angliss 2013).

Dall's porpoise occur throughout Alaska, and in general, are considered to be common throughout their range (Buckland *et al.* 1993a). This porpoise was also one of the most frequently sighted species during summer seismic surveys in the central and eastern Gulf of Alaska and southeast Alaska (MacLean and Koski 2005; Hauser and Holst 2009). In one study from 1991–2007, Dall's porpoise were encountered throughout Southeast Alaska with concentrations of animals consistently found in Icy Strait (Dahlheim *et al.,* 2008). Dall's porpoise also have strong seasonal patterns in Southeast Alaska, with the highest numbers observed in the spring and numbers lowest in the fall (Dahlheim *et al.,* 2008).

The current best population estimate for the Alaskan stock of Dall's porpoise is 83,400 (Allen and Angliss 2013). However, surveys for this stock are greater than 12 years old and, consequently, NMFS considers the minimum population estimate to be ''unknown'', and has also not calculated a Potential Biological Removal (PBR) level for Dall's porpoise (Allen and Angliss 2013). In the Southeast Alaska region, Dall's porpoise populations increased annually by 2.5% between 1991 and 2007(Dahlheim *et al.,* 2008). Dall's porpoise are not designated as ''depleted'' under the MMPA or listed as ''threatened'' or ''endangered'' under the Endangered Species Act. The level of human-caused mortality and serious injury is not known to exceed the PBR, which is undetermined as the most recent abundance estimate is more than 8 years old. The Alaska stock of Dall's porpoise is not classified as a strategic stock (Allen and Angliss 2013).

Gray Whale

Gray whales are common along the Gulf of Alaska coast, but rare in the inside waters of southeastern Alaska (Braham 1984). During a four-year opportunistic marine mammal survey in Glacier Bay and Icy Strait, only a single gray whale was documented (Gabriele and Lewis, 2000).

Gray whales are found primarily in shallow water and usually remain closer to shore than any other large cetacean. Two stocks of gray whales are recognized in the Pacific: the Eastern North Pacific stock and the Western North Pacific stock (Carretta *et al.* 2013). The eastern gray whale population ranges from the Chukchi and Beaufort seas to the Gulf of California (Rice 1998). Most of the eastern Pacific population makes a round-trip annual migration of more than 18,000 km. From late May to early October, the majority of the population concentrates in the northern and western Bering Sea and in the Chukchi Sea. However, some individuals spend the summer months scattered along the coasts of southeast Alaska, B.C., Washington, Oregon, and northern California.

The current best population estimate for the Eastern North Pacific stock is 19,126 (Carretta *et. al.* 2013). In 1994, the Eastern North Pacific stock of gray whales was removed from the Endangered Species List as it was no longer considered endangered or threatened under the ESA. NMFS has not designated gray whales as ''depleted'' under the MMPA. Based on currently available data, the level of human- caused mortality and serious injury is not known to exceed the potential biological removal (PBR) level for Eastern North Pacific gray whales, which is calculated at 558 whales per year (Carretta *et. al.* 2013). Therefore, Eastern North Pacific gray whales are not classified as a strategic stock.

Harbor Porpoise

The harbor porpoise inhabits temporal, subarctic, and arctic waters. In the eastern North Pacific, harbor porpoises range from Point Barrow, Alaska, to Point Conception, California. Harbor porpoise primarily frequent coastal waters and in the Gulf of Alaska and Southeast Alaska, they occur most frequently in waters less than 100 m deep (Hobbs and Waite 2010).

Within the inland waters of Southeast Alaska harbor porpoise distribution is clumped in several areas with high densities observed in the Glacier Bay/Icy Strait region (Dahlheim et al. 2009, Allen and Angliss, 2013). Data collected between 2010 and 2012 indicated that there are an estimated 322 harbor porpoise that reside in the Icy Strait area, including Excursion Inlet and Port Frederick (Dahlheim 2015). Another study found no evidence of seasonality for harbor porpoise across spring, summer or fall (Dahlheim et al., 2008).

In Alaska, there are three separate stocks of harbor porpoise: Southeast Alaska, Gulf of Alaska, and Bering Sea. The Southeast Alaska Stock occurs from northern B.C. to Cape Suckling, and the Gulf of Alaska Stock ranges from Cape Suckling to Unimak Pass. The population estimates for the Southeast Alaska stock is 11,146 (Allen and Angliss 2013). However, this abundance estimate is based on surveys conducted between 1993 and 1997(Dahlheim et. al 2000). NMFS has not established a PBR for Southeast Alaska stock harbor porpoise, due to the fact that the available abundance estimates are greater than 8 years old. Similarly, due to the age of the abundance estimates,

and due to the fact that the frequency of incidental mortality in commercial fisheries is not known, the Southeast Alaska stock of harbor porpoise is classified as a strategic stock. Preliminary analysis of harbor porpoise trend in Southeast Alaska, as reported in NMFS 2012 marine mammal stock reports, indicated the population declined between 1991 and 2010. However, a new estimate shows that abundance in 2011 was comparable to those from the early 1990s, suggesting the decline was not as steep as previously thought (Allen and Angliss, 2014). Dahlheim et al. (2008) noted a slight annual increase (0.2%) was found for harbor porpoise populations between 1991 and 2007.

Killer Whale

Although resident in some parts of its range, the killer whale can also be transient. Killer whale movements generally appear to follow the distribution of their prey, which includes marine mammals, fish, and squid. Of eight killer whale stocks currently recognized in the Pacific U.S., four occur in Southeast Alaskan waters: (1) Alaska Residents, from southeast Alaska to the Aleutians and Bering Sea, (2) Northern Residents, from B.C. through parts of southeast Alaska, (3) Gulf of Alaska, Aleutians, and Bering Sea Transients, from Prince William Sound through to the Aleutians and Bering Sea, and (4) West Coast Transients, from California through southeast Alaska (Allen and Angliss 2013). However, Northern resident killer whales have not been observed in the Icy Strait area over the course of two decades of research and have been eliminated from any additional consideration (Dahlheim, 2015).

Resident killer whales have been found in all major waterways of Southeast Alaska as well as in protected bays and inlets and observed in all seasons. Two specific resident pods were frequently encountered throughout Icy Strait. These would be the AG pod numbering a minimum of 42 whales and the AF pod with a minimum count of 79 whales. Whales have been seen there every month of the year and the Icy Strait corridor is a major route for them both entering and exiting inland waters. The AG pod has been observed inside Port Frederick, passing directly off the shore of Hoonah (Dahlheim, 2015).

The current best abundance estimate for the North Pacific Alaska Resident stock of killer whales is 2,347 (Allen and Angliss 2013). This stock of killer whales is not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. Based on currently available data, the level of human- caused mortality and serious injury is not known to exceed the potential biological removal (PBR) level for this stock, which is calculated at 23.4 individuals (Allen and Angliss 2013). Therefore, the North Pacific Alaska Resident stock of killer whales is not classified as a strategic stock.

The current best abundance estimate for the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock of killer whales is 587 individuals. These whales occur mainly from Prince William Sound through the Aleutian Islands and Bering Sea though their range includes all of the U.S. EEZ in Alaska (Allen and Angliss, 2013). In recent years, a small number of the 'Gulf of Alaska' transients (identified by genetics and association) have been seen in southeastern Alaska where previously only West coast transients had been seen.

This stock of killer whales is not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. Based on currently available data, the level of human-caused mortality and serious injury is not known to exceed the potential biological removal (PBR) level for this stock, which is calculated at 5.9 individuals (Allen and Angliss 2013). Therefore, the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock of killer whales is not classified as a strategic stock.

The West Coast transient stock ranges from Southeast Alaska to California. Allen and Angliss (2012) provide an abundance estimate of 354 for the West Coast transient stock. Although this estimate is more than eight years old, NMFS is not aware of a more recent estimate for the entire stock. A more recent estimate of 243 whales is available, however this estimate excludes whales of this stock from California. Therefore, 354 describes the number of whales believed to occur throughout the entire stock's range, including whales from California. A notable percentage of whales from the West Coast transient stock have never been observed in Southeast Alaska. Only 155 West Coast transient killer whales have been identified as occurring in Southeast Alaska according to Dahlheim and White (2010). The same study identified three pods of transients, equivalent to 19 animals, that remained almost exclusively in the southern part of Southeast Alaska (*i.e.* Clarence Strait and Sumner Strait).

This stock of killer whales is not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. Based on currently available data, the level of human- caused mortality and serious injury is not known to exceed the potential biological removal (PBR) level for this stock, which is calculated at 2.4 individuals (Allen and Angliss 2013). Therefore, the West Coast transient stock of killer whales is not classified as a strategic stock.

Minke Whale

In the Northern Hemisphere, minke whales are usually seen in coastal areas, but can also be seen in pelagic waters during northward migrations in spring and summer, and southward migration in autumn. In the North Pacific, the summer range of the minke whale extends to the Chukchi Sea; in the winter, the whales move farther south close within 2° of the equator (Perrin and Brownell 2002).

The International Whaling Commission (IWC) recognizes three stocks of minke whales in the North Pacific: the Sea of Japan/East China Sea, the rest of the western Pacific west of 180°N, and the remainder of the Pacific (Donovan 1991). For management purposes in Pacific U.S. waters, three stocks of minke whales are recognized—the Alaska, Hawaii, and California/Oregon/Washington stocks (Allen and Angliss 2013). Minke whales that could potentially occur within the action area are members of the Alaska stock.

Minke whales are relatively common in the Bering and Chukchi seas and in the inshore waters of the Gulf of Alaska. They are not considered abundant in any other part of the eastern Pacific, but they are seen occasionally around Glacier Bay in southeast Alaska and in central Icy Strait. Gabriele and Lewis (2000) documented a total of 29 minke whales during a four-year period conducting opportunistic marine mammal surveys in Glacier Bay and Icy Strait. Another study found Minke whales scattered throughout inland waters from Glacier Bay and Icy Strait to Clarence Strait with concentrations near the entrance of Glacier Bay. Although sightings of minke whales were infrequent over the 17-year study period, minke whales were encountered during all seasons, with a few animals recorded each year. (Dahlheim et al. 2008)

The current best abundance estimate for the Alaska stock of minke whales is unknown. (Allen and Angliss 2013). This stock of minke whales is not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. The greatest uncertainty regarding the status of the Alaska minke whale stock has to do with the uncertainty

pertaining to the stock structure of this species in the eastern North Pacific (Allen and Angliss 2013). Because minke whales are considered common in the waters off Alaska and because the number of human-related removals is currently thought to be minimal, this stock is currently presumed to not be a strategic stock (Allen and Angliss 2013). Reliable estimates of the minimum population size, population trends, PBR, and status of the stock relative to optimum sustainable population size are currently not available.

Pacific White-Sided Dolphin

The Pacific white-sided dolphin is found throughout the temperate North Pacific Ocean, north of the coasts of Japan and Baja California, Mexico. In the eastern North Pacific the species occurs from the southern Gulf of California, north to the Gulf of Alaska, west to Amchitka in the Aleutian Islands, and is rarely encountered in the southern Bering Sea. The species is common both on the high seas and along the continental margins, and animals are known to enter the inshore passes of Alaska, British Columbia, and Washington (Ferrero and Walker 1996). Two management stocks of Pacific white-sided dolphin are currently recognized: (1) The California/Oregon/Washington stock, and (2) the North Pacific stock. Pacific white-sided dolphins that could potentially be present within the action area would be members of the North Pacific stock. Pacific white-sided dolphin were not documented in the waters of Icy Strait. It also appears that when Pacific white-sided dolphins are present in Southeast Alaska they tend to occur in highest concentrations during the spring (Dahlheim *et al.,* 2008).

The current best abundance estimate for the North Pacific stock of Pacific white-sided dolphin is 26,880 individuals (Allen and Angliss 2013). However, this estimate is based on survey data that is greater than 8 years old. As a result, NMFS reports the minimum population estimate as currently unknown (Allen and Angliss 2013). This stock of Pacific white-sided dolphin is not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. The level of human-caused mortality and serious injury is not known to exceed the PBR, which is undetermined as the most recent abundance estimate is more than 8 years old. Because the PBR is undetermined, the level of annual U.S. commercial fishery-related mortality that can be considered insignificant and approaching zero mortality and serious injury rate is unknown. The Alaska stock of Pacific white-sided dolphins is not classified as a strategic stock, but reliable estimates of the minimum population size, population trends, PBR, and status of the stock relative to optimum sustainable population size are currently not available (Allen and Angliss 2013).

Pinnipeds

Harbor Seal

Harbor seals range from Baja California, north along the western coasts of the U.S., B.C., and southeast Alaska, west through the GOA, PWS, and the Aleutian Islands, and north in the Bering Sea to Cape Newenham and the Pribilof Islands.

In 2010, the National Marine Fisheries Service and their co-management partners, the Alaska Native Harbor Seal Commission, defined 12 separate stocks of seals harbor based largely on the genetic structure. Given the genetic samples were not obtained continuously throughout the range, a total evidence approach was used to consider additional factors such as population trends, observed harbor seal movements and traditional Alaska Native use areas in the final designation of stock boundaries. This represents a significant increase in the number of harbor seal stocks from the three stocks (Bering Sea, Gulf of Alaska, Southeast Alaska) previously recognized. Harbor seals that occur within the proposed project area are part of the Glacier Bay/Icy Strait Stock (Allen and Angliss 2013).

Harbor seals are commonly present throughout the waters of Icy Strait and Port Frederick and are found in all water depths, but tend to congregate in the near- shore waters of both Glacier Bay and Icy Strait. Harbor seals typically inhabit estuarine and coastal waters, hauling out on rocks, reefs, beaches, and glacial ice flows. They are generally non-migratory, but move locally with the tides, weather, season, food availability, and reproduction. Female harbor seals give birth to a single pup while hauled out on shore or on glacial ice flows. Pups are born from May to mid-July. The mother and pup remain together until weaning occurs at 3–6 weeks (Bishop 1967; Bigg 1969). Little is known about breeding behavior in harbor seals. When molting, which occurs primarily in late August, seals spend the majority of the time hauled out on shore, glacial ice, or other substrates. Harbor seals have also historically been an important subsistence resource for Alaska Natives in SE Alaska (Wolfe *et al.* 2012). The current best population estimate for the Glacier Bay/Icy Strait stock is 5,042 individuals (Allen and Angliss 2013).

Harbor seals have not been observed hauling out, molting, or pupping at Icy Strait Point. However, they likely do haulout at least occasionally within the action area.

According to the most recent stock assessment NMFS (Allen and Angliss 2013), harbor seals are not designated as ''depleted'' under the MMPA nor are they listed as ''threatened'' or ''endangered'' under the ESA. Based on currently available data, the level of human-caused mortality and serious injury is not known to exceed the potential biological removal (PBR) level for harbor seals comprise the Glacier Bay/Icy Strait stock, which is calculated at 142 harbor seals per year (Allen and Angliss 2013). Therefore, the Glacier Bay/Icy Strait stock of harbor seals is not classified as a strategic stock. However, a noticeable decline in harbor seal population has been documented in Glacier Bay National Park (Womble et al., 2010).

Steller Sea Lion

The Steller sea lion is a pinniped and the largest of the eared seals. Steller sea lion populations that primarily occur east of 144° W (Cape Suckling, Alaska) comprise the Eastern Distinct Population Segment (DPS), which was de-listed and removed from the list of Endangered Species List on November 4, 2013 (78 FR 66140). The population west of 144° W longitude comprise the Western DPS, which is listed as endangered, based largely on over-fishing of the seal's food supply.

The range of the Steller sea lion includes the North Pacific Ocean rim from California to northern Japan. Steller sea lions forage in nearshore and pelagic waters where they are opportunistic predators. They feed primarily on a wide variety of fishes and cephalopods. Steller sea lions use terrestrial haulout sites to rest and take refuge. They also gather on well-defined, traditionally used rookeries to pup and breed. These habitats are typically gravel, rocky, or sand beaches; ledges; or rocky reefs (Allen and Angliss, 2013).

In southeast Alaska, designated critical habitat for Steller sea lions includes major rookery and haulout sites (*i.e.,* used by more than 200 animals) and associated terrestrial, air, and aquatic zones within 3,000 feet, as well as three large offshore foraging areas (one in the Gulf of Alaska and two in the Bering Sea/Aleutian Islands area). There is no designated critical habitat in the proposed project area. The nearest designated critical habitat is located

over 40 miles west of the action area, at Graves Rocks, near the mouth of Cross Sound.

The western stock of Steller sea lions in Alaska was listed as endangered in 1997. Declines in Steller sea lion populations are probably attributable to declines in fish populations due to increasing commercial fisheries in the Gulf of Alaska. Drowning, entanglement in nets, and shooting by fishermen are listed as possible reasons for the Steller sea lion decline.

The action area is located at approximately 135° W longitude, which is over 150 miles east of the 144° W longitude line. It is likely that most Steller sea lions travelling within the waters of Icy Strait and Port Frederick are likely to be members of the Eastern DPS. However, the action area is known to be an area that is used by both Western and Eastern DPS Steller sea lions. In fact, regular movement of Western DPS across the144° W longitude has been documented and they are described as commonly occurring north of Sumner Strait (NMFS, 2013). For this reason, Western DPS Steller sea lions could potentially be present within the action area. Since no known breeding rookeries are present within the action area, Steller sea lion are considered less likely to be present during the summer months when they return to rookeries to give birth. The current best population estimate for the Eastern DPS is 57,966, while the population estimate for the Western DPS is 52,200 (Allen and Angliss 2013). Additionally, it recently been documented that the population of Stellar sea lions in the Glacier Bay/Icy Strait/Cross Sound region has increased by 8.2% per year from 1970 to 2009, though the proportional increase associated with each DPS is not clear (Matthews *et al.,* 2011).

Further information on the biology and local distribution of these species can be found in HTC's application available online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* and the NMFS Marine Mammal Stock Assessment Reports, which may be found at: *http://www.nmfs.noaa.gov/pr/species/.*

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that stressors, (*e.g.* pile driving,) and potential mitigation activities, associated with the redevelopment of the Icy Strait Cruise Ship Terminal may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks. In the following discussion, we provide general background information on sound and marine mammal hearing before considering potential effects to marine mammals from sound produced by vibratory pile driving.

Description of Sound Sources

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- Wind and waves*:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and

possibly down to 100 Hz during quiet times.

• Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.

• Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

TABLE 3—REPRESENTATIVE SOUND LEVELS OF ANTHROPOGENIC SOURCES

Sound source	Frequency range (Hz)	Underwater sound level	References
Small vessels	250–1,000	151 dB rms at 1 m	Richardson *et al.,* 1995.
Tug docking gravel barge	200, 1,000	149 dB rms at 100 m	Blackwell and Greene, 2002.
Vibratory driving of 72-in steel pipe pile	10–1,500	180 dB rms at 10 m	Reyff, 2007.
Impact driving of 36-in steel pipe pile	10–1,500	195 dB rms at 10 m	Laughlin, 2007.
Impact driving of 66-in cast-in-steel-shell (CISS) pile	10–1,500	195 dB at rms 10 m	Reviewed in Hastings and Popper, 2005.

In-water construction activities associated with the project would include vibratory pile driving, impact pile driving, and down the hole drilling. There are two general categories of sound types: Impulse and non-pulse (defined in the following). Vibratory pile driving and down the hole drilling are considered to be continuous or non-pulsed while impact pile driving is considered to be an impulse or pulsed sound type. The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.,* (2007) for an in-depth discussion of these concepts.

Pulsed sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003; ANSI, 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems (such as those used by the U.S. Navy). The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

The likely or possible impacts of the proposed pile driving program in the Icy Strait area on marine mammals could involve both non-acoustic and acoustic stressors. Potential non-acoustic stressors could result from the physical presence of the equipment and personnel. Any impacts to marine mammals, however, are expected to primarily be acoustic in nature.

Marine Mammal Hearing

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

• Low frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;

• Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;

• High frequency cetaceans (eight species of true porpoises, six species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz;

• Phocid pinnipeds in Water: Functional hearing is estimated to occur

between approximately 75 Hz and 100 kHz; and

• Otariid pinnipeds in Water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, nine marine mammal species (seven cetacean and two pinniped) may occur in the Icy Strait project area. Of the five cetacean species likely to occur in the proposed project area and for which take is requested, two are classified as low-frequency cetaceans (*i.e.,* minke and gray whales), one is classified as a mid-frequency cetacean (*i.e.,* killer whale), and two are classified as high-frequency cetaceans (*i.e.,* harbor and Dall's porpoises) (Southall *et al.,* 2007). Additionally, harbor seals are classified as members of the phocid pinnipeds in water functional hearing group while Stellar sea lions are grouped under the Otariid pinnipeds in water functional hearing group. A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic Impacts

Potential Effects of Pile Driving Sound—The effects of sounds from pile driving might result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the received level and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. Shallow environments are typically more structurally complex, which leads to rapid sound attenuation. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock) which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species would be expected to result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of impulse sounds on marine mammals. Potential effects from impulse sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973).

Hearing Impairment and Other Physical Effects—Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Marine mammals depend on acoustic cues for vital biological functions, (*e.g.,* orientation, communication, finding prey, avoiding predators); thus, TTS may result in reduced fitness in survival and reproduction. However, this depends on the frequency and duration of TTS, as well as the biological context in which it occurs. TTS of limited duration, occurring in a frequency range that does not coincide with that used for recognition of important acoustic cues, would have little to no effect on an animal's fitness. Repeated sound exposure that leads to TTS could cause PTS. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). The following subsections discuss in somewhat more detail the possibilities of TTS, PTS, and non-auditory physical effects.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be stronger in order to be heard. In terrestrial mammals, TTS can last from minutes or hours to days (in cases of strong TTS). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007).

Given the available data, the received level of a single pulse (with no frequency weighting) might need to be approximately 186 dB re 1 μPa^2-s (*i.e.,* 186 dB sound exposure level [SEL] or approximately 221–226 dB p-p [peak]) in order to produce brief, mild TTS. Exposure to several strong pulses that each have received levels near 190 dB rms (175–180 dB SEL) might result in cumulative exposure of approximately 186 dB SEL and thus slight TTS in a small odontocete, assuming the TTS threshold is (to a first approximation) a function of the total received pulse energy.

The above TTS information for odontocetes is derived from studies on the bottlenose dolphin (*Tursiops truncatus*) and beluga whale (*Delphinapterus leucas*). There is no published TTS information for other species of cetaceans. However, preliminary evidence from a harbor porpoise exposed to pulsed sound suggests that its TTS threshold may have been lower (Lucke *et al.,* 2009). As summarized above, data that are now available imply that TTS is unlikely to occur unless odontocetes are exposed to pile driving pulses stronger than 180 dB re 1 μPa rms.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, while in other cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of sound can cause PTS in any marine mammal. However, given the possibility that mammals close to a sound source can incur TTS, it is possible that some individuals might incur PTS. Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals, based on anatomical similarities. PTS might occur at a received sound level at least

several decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as pile driving pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis and probably greater than 6 dB (Southall *et al.,* 2007). On an SEL basis, Southall *et al.* (2007) estimated that received levels would need to exceed the TTS threshold by at least 15 dB for there to be risk of PTS. Thus, for cetaceans, Southall *et al.* (2007) estimate that the PTS threshold might be an M-weighted SEL (for the sequence of received pulses) of approximately 198 dB re 1 μPa^2-s (15 dB higher than the TTS threshold for an impulse). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Measured source levels from impact pile driving can be as high as 214 dB rms. Although no marine mammals have been shown to experience TTS or PTS as a result of being exposed to pile driving activities, captive bottlenose dolphins and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds (Finneran *et al.,* 2000, 2002, 2005). The animals tolerated high received levels of sound before exhibiting aversive behaviors. Experiments on a beluga whale showed that exposure to a single watergun impulse at a received level of 207 kPa (30 psi) p-p, which is equivalent to 228 dB p-p, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within four minutes of the exposure (Finneran *et al.,* 2002). Although the source level of pile driving from one hammer strike is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more sound exposure in terms of SEL than from the single watergun impulse (estimated at 188 dB re 1 μPa^2-s) in the aforementioned experiment (Finneran *et al.,* 2002). However, in order for marine mammals to experience TTS or PTS, the animals have to be close enough to be exposed to high intensity sound levels for a prolonged period of time. Based on the best scientific information available, these SPLs are far below the thresholds that could cause TTS or the onset of PTS.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

Controlled experiments with captive marine mammals showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices, but also including pile driving) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007). Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to pulsed sounds.

With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.,* 1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haul-outs or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff, 2006).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking—Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds.

Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher levels. Chronic exposure to excessive, though not high-intensity, sound could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions. Masking can interfere with detection of acoustic signals such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. If the coincident (masking) sound were anthropogenic, it could be potentially harassing if it disrupted hearing-related behavior. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs only during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

Masking occurs at the frequency band which the animals utilize so the frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water vibratory pile driving is mostly concentrated at low frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. However, lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey sound. It may also affect communication signals when they occur near the sound band and thus reduce the communication space of animals (*e.g.,* Clark *et al.,* 2009) and cause increased stress levels (*e.g.,* Foote *et al.,* 2004; Holt *et al.,* 2009).

Masking has the potential to impact species at the population or community levels as well as at individual levels. Masking affects both senders and receivers of the signals and can potentially have long-term chronic effects on marine mammal species and populations. Recent research suggests that low frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, and that most of these increases are from distant shipping (Hildebrand, 2009). All anthropogenic sound sources, such as those from vessel traffic, pile driving, and dredging activities, contribute to the elevated ambient sound levels, thus intensifying masking.

Vibratory pile driving is relatively short-term, with rapid oscillations occurring for 10 to 30 minutes per installed pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory pile driving, and which have already been taken into account in the exposure analysis.

Acoustic Effects, Airborne—Marine mammals that occur in the project area could be exposed to airborne sounds associated with pile driving that have the potential to cause harassment, depending on their distance from pile driving activities. Airborne pile driving sound would have less impact on cetaceans than pinnipeds because sound from atmospheric sources does not transmit well underwater (Richardson *et al.,* 1995); thus, airborne sound would only be an issue for pinnipeds either hauled-out or looking with heads above water in the project area. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Studies by Blackwell *et al.* (2004) and Moulton *et al.* (2005) indicate a tolerance or lack of response to unweighted airborne sounds as high as 112 dB peak and 96 dB rms.

Vessel Interaction

Besides being susceptible to vessel strikes, cetacean and pinniped responses to vessels may result in behavioral changes, including greater variability in the dive, surfacing, and respiration patterns; changes in vocalizations; and changes in swimming speed or direction (NRC 2003). There will be a temporary and localized increase in vessel traffic during construction. A maximum of three work barges will be present at any time during the in-water and over water work. The barges will be located near each other where construction is occurring. Additionally, the floating pier will be tugged into position prior to installation.

Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal, down the hole drilling and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

Potential Pile Driving Effects on Prey—Construction activities would produce continuous (*i.e.,* vibratory pile driving, drilling) sounds and, potentially, pulsed (*e.g.* if impact driving is required) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Sound pulses at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality. The most likely impact to fish from pile driving activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe for the project.

Effects to Foraging Habitat—Pile installation may temporarily increase turbidity resulting from suspended sediments. Any increases would be temporary, localized, and minimal. HTC must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area. In general, turbidity associated with pile installation is localized to about a 25-foot radius around the pile (Everitt et al. 1980). Cetaceans are not expected to be close enough to the HTC project pile driving areas to experience effects of turbidity, and any pinnipeds will be

transiting the terminal area and could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals. Furthermore, pile driving and removal at the project site will not obstruct movements or migration of marine mammals.

Natural tidal currents and flow patterns in the waters of Icy Strait and Port Frederick routinely disturbing sediments. High volume tidal events can result in hydraulic forces that re-suspend benthic sediments, temporarily elevating turbidity locally. Any temporary increase in turbidity as a result of the proposed action is not anticipated to measurably exceed levels caused by these normal, natural periods.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

All anticipated takes would be by Level B harassment resulting from vibratory pile driving/removal and impact pile driving and are likely to involve temporary changes in behavior. Injurious or lethal takes are not expected due to the expected source levels and sound source characteristics associated with the activity, and the proposed mitigation and monitoring measures are expected to further minimize the possibility of such take.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound.

Upland work can generate airborne sound and create visual disturbance that could potentially result in disturbance to marine mammals (specifically, pinnipeds) that are hauled out or at the water's surface with heads above the water. However, because there are no regular haul-outs in the vicinity of the site of the proposed project area, we believe that incidents of incidental take resulting from airborne sound or visual disturbance are unlikely.

A down the hole drill will be used for rock excavation and reaming. This is a low energy system powered by air. The down hole drill is contained inside the pile annulus so the energy form the drill is captured inside the pile. The tip of the pile will be between 5 and 20 feet below the mud line. Energy transmitted from the drill has to travel through the pile and through the marine sediment which dampens the energy before it can enter the water column. The interior of the pile is filled with air and air bubbles from the drilling process so the pile annulus and exhaust air works similar to a bubble curtain inside the pile to mitigate noise transmission. For these reasons drilling is unlikely to result in the harassment of marine mammals.

HTC has requested authorization for the incidental taking of small numbers of humpback whale, Steller sea lion, harbor seal, Dall's porpoise, gray whale, harbor porpoise, killer whale (*Orcinus orca*), minke whale, and Pacific white-sided dolphin near Icy Strait Point that may result from vibratory and impact pile driving during construction activities associated with the re-development of the cruise ship terminal described previously in this document.

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use generic sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by harassment might occur. To date, no studies have been conducted that explicitly examine impacts to marine mammals from pile driving sounds or from which empirical sound thresholds have been established. These thresholds (Table 4) are used to estimate when harassment may occur (*i.e.,* when an animal is exposed to levels equal to or exceeding the relevant criterion) in specific contexts; however, useful contextual information that may inform our assessment of effects is typically lacking and we consider these thresholds as step functions. NMFS is working to revise these acoustic guidelines; for more information on that process, please visit *www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—UNDERWATER INJURY AND DISTURBANCE THRESHOLD DECIBEL LEVELS FOR MARINE MAMMALS

Criterion	Criterion Definition	Threshold *
Level A harassment	PTS (injury) conservatively based on TTS **	190 dB RMS for pinnipeds. 180 dB RMS for cetaceans.
Level B harassment	Behavioral disruption for impulse noise (e.g., impact pile driving)	160 dB RMS.
Level B harassment	Behavioral disruption for non-pulse noise (e.g., vibratory pile driving, drilling).	120 dB RMS.

* All decibel levels referenced to 1 micropascal (re: 1 μPa). Note all thresholds are based off root mean square (RMS) levels
** PTS=Permanent Threshold Shift; TTS=Temporary Threshold Shift

Distance to Sound Thresholds

Underwater Sound Propagation Formula—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * \log_{10} (R_1/R_2)$,

Where:

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of fifteen is often used under conditions where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

According to the Caltrans (2012) compendium there is an average sound pressure level of 195 dB rms for impact driving of 60-in pile and 170 dB rms reported for 72-in steel pipe pile vibratory driving. Based on the formula listed above, it has been determined that the 190 dB rms Level A harassment (injury) threshold for underwater noise for pinniped species could be exceeded at a distance of up to approximately 22 meters during impact pile driving activities, and the 180 dB rms Level A harassment (injury) threshold for cetacean species could be exceeded at a distance of up to approximately 100 meters during impact pile driving activities. Additionally, the 160 dB rms Level B harassment (behavioral disruption) for impulsive source underwater noise for pinniped and cetacean species could be exceeded at a distance of up to approximately 2,150 meters, during impact pile driving and the 120 dB 21,544 meters during vibratory driving as is shown in Table 5.

Note that the actual area ensonified by pile driving activities is significantly constrained by local topography relative to the threshold radius depicted in Table 5. This is represented in in the monitoring plan submitted by HTC in Appendix B, Figure B–1

TABLE 5—DISTANCES TO RELEVANT SOUND THRESHOLDS *

Distance to threshold	190 dB m	180 dB m	160 dB m	120 dB km
Vibratory Driving	.....	.....	n/a	21.5
Impact Driving	21.5	100	2,154	.....

* SPLs used for calculations were: 195 dB for impact driving, 170 dB for vibratory diving.

Incidental take is estimated for each species by estimating the likelihood of a marine mammal being present within a ZOI, described earlier in the mitigation section, during active pile driving. Expected marine mammal presence is determined by past observations and general abundance near the project area during the construction window. Typically, potential take is estimated by multiplying the area of the ZOI by the local animal density. This provides an estimate of the number of animals that might occupy the ZOI at any given moment, or a daily density, which can then be multiplied by the anticipated number of pile driving days to give a total exposure estimate. However, this type of calculation is not applicable in this case, because there are no specific local animal densities for the marine mammal species under examination. As a result, the take requests were estimated using local marine mammal data sets, (*e.g.* Federal agencies), opinions from Federal agencies, and opportunistic marine mammal surveys.

Humpback Whale

The National Park Service has monitored humpback whales in the bay every year since 1985 to document the number of individuals, residence times, spatial and temporal distribution, feeding behavior and interactions with vessels (Neilson et. al 2013). This monitoring program covers most of Glacier Bay and Icy Strait. Results of 2012 monitoring documented a total of 208 individual humpback whales (including 16 mother-calf pairs) in Glacier Bay and adjacent waters of Icy Strait in the 3-month peak survey period between June and August. Of these 208 whales, 152 were documented as remaining in the vicinity for a period greater than 20 days (Neilson et. al 2013). This averages out to be approximately 70 whale sightings per month. Given that the period of active pile driving is likely to be four months (June through September), a worst-case estimate would predict that up to 280 Level B takes of humpback whale could occur as a result of the proposed action. This represents a very conservative estimate of the maximum number of humpback whales that could potentially be exposed to elevated underwater noise

Steller Sea Lion

The Western DPS of Steller sea lion includes all animals at, and west of, Cape Suckling, Alaska (144°W). The Eastern DPS of Steller sea lions are those animals east of this longitudinal boundary. While it was once thought that most of the Steller sea lions present in the waters of Icy Strait were members of the eastern DPS, western DPS Steller sea lions are also commonly observed in waters of Icy Strait (Allen and Angliss, 2013). There is little recent data available regarding the population density or abundance of Steller sea lions in Icy Strait or the vicinity other than populations at a number of haulout sites in the area have increased by 8.2% per year between 1970 and 2009. (Matthews *et al.,* 2011). The National Park Service has, however, published data from opportunistic marine mammal surveys conducted in Glacier Bay and Icy Strait between 1994 and 1999 (Gabriele and

Lewis 2000). These data provide information regarding opportunistic sightings of marine mammals of several species that were recorded during humpback whale surveys conducted between June and August of each monitoring year. The results of the National Park Service opportunistic surveys documented that the number of Steller sea lions sightings remained consistent at roughly 40 sightings during a three-month period between June and August each year. This averages out to be approximately 14 sightings per month. Since the authorization period is four months, a worst-case estimate would mean that up to 56 individual Level B takes of Stellar sea lions could occur as a result of pile driving activities. Assuming that all 56 were from the Eastern DPS (60,131–74,448)), this would represent less than 0.01% of that population. Under a scenario in which all takes were Western DPS sea lions, 56 takes would also account for less than 0.01% of that population segment (55,422). Individuals taken would be expected to be a mix of solitary adult males and females. Juvenile Steller sea lions would not be expected to be exposed, as there are no breeding rookeries within the vicinity. (Allen and Angliss, 2014).

Harbor Seal

The results of the National Park Service opportunistic surveys conducted in Glacier Bay and Icy Strait from 1994 and 1999 during a three-month period between June and August each year revealed that the maximum number of sightings in any 3 month period was recorded in 1997, when 359 sightings were documented. This averages out to be approximately 120 seal sightings per month. Given that the period of active pile driving is likely to be four months (June through September), a worst-case estimate would predict that up to 480 individual Level B takes of harbor seals could occur as a result of the proposed action. This represents 9.5% of the current best population estimate (5,042) for the Glacier Bay/Icy Strait stock (Allen and Angliss 2013). Juvenile harbor seals would not be expected to be exposed, as there are no documented breeding rookeries within the area that could potentially be exposed to noise levels above the Level B harassment threshold.

Dall's Porpoise

Dahlheim et al. (2008) encountered Dall's porpoise throughout Southeast Alaska and consistently found concentrations of animals in Icy Strait (Dahlheim et al., 2008). However, there is little comprehensive population density data regarding Dall's porpoise presence in Icy Strait and Port Frederick. Another study conducted in Glacier Bay and Icy Strait between 1994 and 1999 (Gabriele and Lewis 2000) indicated that Dall's porpoise are documented occasionally within waters of Icy Strait. Gabriele and Lewis (2000) documented a total of 6 Dall's porpoises during a four-year period conducting opportunistic marine mammal surveys in Glacier Bay and Icy Strait. All of these sightings were from waters of Icy Strait. In 2 of 4 years, no Dall's porpoises were sighted, while in 1999, a total of 12 Dall's porpoise sightings were recorded (on a total of 2 occasions). Using this number as a worst case estimate, the project could result in up to a maximum of 12 Level B takes of Dall's porpoise. This represents less than 0.01% of the current best population estimate (83,400) for this species (Allen and Angliss 2013). Since Dall's porpoises in the eastern North Pacific typically reside year-round, there is a potential that individuals exposed to be Level B take could be equally likely to be adult or juvenile, male or female.

Gray Whale

Gray whales are common along the Gulf of Alaska coast, but rare in the inside waters of southeastern Alaska (Braham 1984). Gabriele and Lewis (2000) documented only a single gray whale during a four-year period conducting opportunistic marine mammal surveys in Glacier Bay and Icy Strait. Using this number as a worst case estimate, the project could result in up to 1 Level B take of gray whale, representing less than 0.01% of the Eastern North Pacific stock (19,126) of gray whale (Carretta *et al.* 2013). Because whales of this stock migrate to the southern end of their range for breeding and calving, it is assumed that any individual gray whale that were to be exposed to a Level B harassment, would be a solitary adult male or female.

Harbor Porpoise

The waters of Glacier Bay and the adjacent waters of Icy Strait are considered to be an area of relatively high harbor porpoise density (Allen and Angliss 2013, Dahlheim *et al.,* 2008). Between 2010 and 2012, Dahlheim documented an estimated 332 harbor porpoise that reside in the Icy Strait area (Dahlheim 2015). Harbor porpoise was one of the most frequently documented marine mammal species during opportunistic marine mammal surveys conducted in Glacier Bay and Icy Strait between 1994 and 1999 (Gabriele and Lewis 2000). The number of sightings of harbor porpoise during the monitoring period ranged between 378 and 137 for the three-month period. Using a maximum of 378 sightings over a three month period results in a monthly average of 126. The period of active pile driving is likely to be four months (June through September) which would result in a worst case estimate of up to 504 individual Level B takes of harbor porpoise could occur as a result of the proposed action, representing 0.05% of the estimated population of the Southeast Alaska stock of harbor porpoise (Allen and Angliss 2013).

Killer Whale

Killer whales occur commonly in the waters of the action area, and could include members of several designated stocks that may occur in the vicinity of the proposed project area. These include (1) Alaska Residents, from southeast Alaska to the Aleutians and Bering Sea, (2) Gulf of Alaska, Aleutians, and Bering Sea Transients, from Prince William Sound through to the Aleutians and Bering Sea, and (3) West Coast Transients, from California through southeast Alaska (Allen and Angliss 2013).

One study conducted in Glacier Bay and Icy Strait between 1994 and 1999 determined that killer whales are documented occasionally within waters of Icy Strait (Gabriele and Lewis 2000). The number of sightings of killer whales during the monitoring period ranged between 36 and 88 for the three-month period. Sightings of 88 killer whales over a three-month period equates to a monthly average of 30 individuals. Applying that average to the four-month permit authorization period would provide a worst-case estimate of up to 120 Level B takes of killer whales occurring as a result of the proposed action.

Minke Whale

Minke whales are relatively common in the Bering and Chukchi seas and in the inshore waters of the Gulf of Alaska. They are not considered abundant in any other part of the eastern Pacific, but they are seen occasionally around Glacier Bay in southeast Alaska and in central Icy Strait. Gabriele and Lewis (2000) documented a total of 29 minke whales during a four-year period conducting opportunistic marine mammal surveys in Glacier Bay and Icy Strait. The maximum number of individual sightings in any given year was 8 minke whales. At this time, it is not possible to produce a reliable estimate of minimum abundance for this stock, as current data is not available.

However, line-transect surveys were conducted in shelf and near shore waters (within 30–45nm of land) in 2001–2003 from the Kenai Fjords in the Gulf of Alaska to the central Aleutian Islands. Minke whale abundance in this limited area was estimated to be 1,233 (Allen and Angliss 2013). Using this number as a worst case estimate, it is estimated that the project could result in up to a maximum of 8 Level B takes of minke whale, equivalent to less than 0.01% of the population. Minke whales are most commonly found in coastal waters during spring migrations, tending to move to offshore waters in the winter. Breeding typically occurs in the winter, though in some regions, breeding may occur year-round. For this reason, there is a potential that individuals exposed to be Level B take could be equally likely to be adult or juvenile, male or female.

Pacific White-Sided Dolphin

Gabriele and Lewis (2000) does not document any Pacific white-sided dolphin during a four-year period conducting opportunistic marine mammal surveys in Glacier Bay and Icy Strait while Dahlheim et al. (2008) reported similar findings for the Icy Strait region over a 17-year study period.

However, since there is a possibility that Pacific white-sided dolphin could potentially occur, it is estimated that the project could result in up to 1 Level B take of Pacific white-sided dolphin, representing less than 0.01% of the estimated population (26,880) (Allen and Angliss 2013). Dolphins are not known to breed in waters of Southeast Alaska, and it is assumed therefore that any individual Pacific white-sided dolphin that were to be exposed to a Level B harassment, would be a solitary adult male or female.

TABLE 6—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

Species	Total proposed authorized takes	Abundance	Percentage of total stock
Humpback whale (CNP Stock)	280	10,103	2.7
Steller sea lion (Eastern DPS)	56	60,131–74,448	* <0.01
Steller sea lion (Western DPS)		55,422	* <0.01
Harbor seal	480	5,042	9.5
Dall's porpoise	12	83,400	<0.01
Gray whale	1	19,126	<0.01
Harbor porpoise	504	11,146	0.05
Killer whale, AK Resident Stock	120	2,347	** 0.05
Killer whale, GOA, Aleutian Islands, Bering Sea Transient Stock		587	** 20.4
Killer whale, West Coast Transient Stock		354	** + 33.9
Minke whale	8	1,233	<0.01
Pacific white-sided dolphin	1	26,880	<0.01

* These percentages assume a worst-case, unlikely scenario in which all 56 estimated takes accrue to a single Steller sea lion DPSs.
** These percentages assume a worst-case, unlikely scenario in which all 120 estimated takes accrue to a single killer whale stock.
+ See Small Numbers section for further explanation.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

Pile driving activities associated with the cruise ship terminal re-development, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving is happening.

No injury, serious injury, or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for these outcomes is minimized through the construction method and the implementation of the planned mitigation measures. Specifically, vibratory hammers will be the primary method of installation, though impact driving may be used for brief, irregular periods. Vibratory driving does not have significant potential to cause injury to marine mammals due to the relatively low source levels produced (site-specific acoustic monitoring data show no source level measurements above 180 dB rms) and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks. When impact driving is necessary, required measures (implementation of shutdown zones) significantly reduce any possibility of injury. Given sufficient ''notice'' through use of soft start (for impact driving), marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious. The likelihood that marine mammal detection ability by trained observers is high under the environmental conditions described for Icy Strait Point further enables the implementation of shutdowns to avoid injury, serious injury, or mortality.

HTC's proposed activities are localized and of short duration. The entire project area is limited to the Icy Strait cruise ship terminal area and its immediate surroundings. The project will require the installation of a total of

approximately 104 steel pipe piles of varying diameters below the MHHW. Piles that will be used include 24-inch, 30-inch, 42-inch, and 60-inch steel pipe piles. Total impact hammer time would not exceed 5 minutes per pile for 104 piles resulting in less than 10 hours of driving time. Total vibratory hammer time would not exceed 5 hours per day for a maximum of 20 days resulting in a total of 100 hours over a four-month period. These localized and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Moreover, the proposed mitigation and monitoring measures are expected to reduce potential exposures and behavioral modifications even further. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed HTC re-development of the Icy Strait Point Cruise Ship Terminal is not reasonably expected to and is not reasonably likely to adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; HDR, 2012; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations, which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. Level B harassment will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the absence of any significant habitat within the project area, including rookeries, significant haul-outs, or known areas or features of special significance for foraging or reproduction; (4) the presumed efficacy of the proposed mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from HTC's re-development of the Icy Strait Point Cruise Ship Terminal will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

Table 6 demonstrates the number of animals that could be exposed to received noise levels that could cause Level B behavioral harassment for the proposed work associated with the re-development of the Icy Strait Point Cruise Ship Terminal in Hoonah, Alaska. With the exception of the West Coast transient stock of killer whales, the analyses provided above represents between <0.01% to 20.4% of the populations of these stocks that could be affected by Level B behavioral harassment. These are small percentages relative to the total populations of the affected species or stocks.

As explained previously, we are proposing to authorize the taking, by Level B harassment only, of 120 killer whales. Three stocks of killer whales are known to occur in the Icy Strait area: (1) Alaska resident stock; (2) Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock; and (3) West Coast transient stock. Under a scenario in which all of the proposed 120 killer whale takes came from only one of the three identified stocks, the number of takes would represent 0.05% of the Alaska resident stock; 20.4% of the Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock; and 33.9% of the West Coast transient stock.

The West Coast transient stock is of potential concern with 120 proposed takes accounting for 33.9% of their population. However, 120 represents the maximum number of takes proposed to be authorized for all three stocks of killer whales; given that all three stocks occur in the Icy Strait Area, the 120 proposed takes will most likely be apportioned among the three stocks, resulting in a smaller percentage of the West Coast transient stock that are likely to be taken. NMFS also believes that small numbers of the West Coast transient stock would be taken based on the limited region of exposure in comparison with the known distribution of the transient stock. The West Coast transient stock ranges from Southeast Alaska to California while the proposed project activity would be stationary. As described above in the Description of Marine Mammals in the Area of the Specified Activity section, a notable percentage of West Coast transient whales have never been observed in Southeast Alaska. A notable percentage of West Coast transient whales have never been observed in Southeast Alaska. Only 155 West Coast transient killer whales have been identified as occurring in Southeast Alaska according

to Dahlheim and White (2010). The same study identified three pods of transients, equivalent to 19 animals, that remained almost exclusively in the southern part of Southeast Alaska (*i.e.* Clarence Strait and Sumner Strait). This information indicates that only a subset of the entire West Coast Transient stock would be at risk for take in the Icy Strait area because a sizable portion of the stock has either not been observed in Southeast Alaska or consistently remains far south of Icy Strait. Finally, the number of takes proposed to be authorized represents the estimated incidents of take, not the number of individuals taken. That is, we believe the estimated numbers of takes, were they to occur, likely represent repeated exposures of a much smaller number of transient killer whales.

In summary, NMFS preliminarily finds that small numbers of the West Coast transient stock of killer whales would be affected by the proposed action. This conclusion is based on the small likelihood that all of the incidents of take would come from only one stock; the reduced percentage of the stock likely to be found in the Icy Strait area; the limited region of exposure in comparison with the known distribution of the transient stock; and the likelihood of repeated exposure of a subset of this stock. Therefore, the estimated incidents of take represent small numbers of West Coast transient killer whales.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. The nearest locations where subsistence hunting may occur are at Eagle Point, located approximately 10 miles distant from the Icy Strait Cruise Terminal project site and at Flynn Cove, located approximately 7.5 miles from the project site. Peak subsistence hunting months are March, May, and October and the pile driving is slated to occur in the June to September timeframe. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. HTC submitted a marine mammal monitoring plan as part of the IHA application. It can be found in [Appendix B of the HTC Application]. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

HTC submitted a marine mammal monitoring plan as part of the IHA application for this project, which can be found on the Internet at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Visual Marine Mammal Observation

HTC will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All observers will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. HTC will monitor the shutdown zone and disturbance zone before, during, and after pile driving, with observers located at the best practicable vantage points. Based on our requirements, the Marine Mammal Monitoring Plan would implement the following procedures for pile driving:

- Three individuals meeting the minimum qualifications identified in Appendix B of the monitoring plan submitted by HTC will monitor the Level A and B harassment zones during impact pile driving, and the Level B harassment zone during vibratory pile driving.
- During impact pile driving, the area within 100 meters of pile driving activity will be monitored and maintained as marine mammal buffer area in which pile installation will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area of potential disturbance. This area will be monitored by one qualified field monitor stationed either on the pile driving rig or in the immediate vicinity.
- The area within the Level B harassment threshold for impact driving (shown in Figure B–2 of Appendix B of the revised marine mammal monitoring plan) will be monitored by the field monitor stationed either on the pile driving rig or in the vicinity, and by a second qualified field monitor stationed on or in the vicinity of Halibut Island near the 2,150 meter limit of the Level B harassment zone. A third qualified

observer will also monitor from a boat that is conducting a transect along the 2,150 meter limit of the Level B harassment zone. Marine mammal presence within this Level B harassment zone, if any, will be monitored, but impact pile driving activity will not be stopped if marine mammals are found to be present. Any marine mammal documented within the Level B harassment zone during impact driving would constitute a Level B take (harassment), and will be recorded and reported as such.

• During vibratory pile driving, the area within 10 meters of pile driving activity will be monitored and maintained as marine mammal buffer area in which pile installation will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area of potential disturbance. The Level B harassment area will be monitored by three qualified observers (Figure B–2). One individual will be stationed either on the pile driving rig or in the immediate vicinity, a second individual will be stationed on either Halibut Island or a location in the vicinity, and a third observer will be located on a vessel that is conducting meander transects throughout the Level B harassment zone. The monitoring staff will record any presence of marine mammals by species, will document any behavioral responses noted, and record Level B takes when sightings overlap with pile installation activities.

• The individuals will scan the waters within each monitoring zone activity using binoculars (Vector 10X42 or equivalent), spotting scopes (Swarovski 20–60 zoom or equivalent), and visual observation.

• The area within which the Level A harassment thresholds could be exceeded (the 100 meter radius) will be maintained as a marine mammal exclusion zone, in which impact pile driving will be shut down immediately if any marine mammal is observed with the area.

• The area within which the Level B harassment thresholds could be exceeded during impact pile driving (Figure B–2) and vibratory pile driving (Figure B–3) will also be monitored for the presence of marine mammals during all impact and vibratory pile driving. Marine mammal presence within these zones, if any, will be monitored but pile driving activity will not be stopped if marine mammals were found to be present. Any marine mammal documented within the Level B harassment zone will constitute a Level B take, and will be recorded and used to document the number of take incidents.

• If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal buffer zone (the 100 meter radius) (*e.g.* excessive wind or fog), impact pile installation will cease until conditions allow the resumption of monitoring.

• The waters will be scanned 20 minutes prior to commencing pile driving at the beginning of each day, and prior to commencing pile driving after any stoppage of 20 minutes or greater. If marine mammals enter or are observed within the designated marine mammal buffer zone (the 100m radius) during or 20 minutes prior to impact pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

• The waters will continue to be scanned for at least 20 minutes after pile driving has completed each day, and after each stoppage of 20 minutes or greater.

Data Collection

We require that observers use approved data forms. Among other pieces of information, HTC will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, HTC will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

• Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

• Locations of all marine mammal observations; and

• Other human activity in the area.

Reporting Measures

HTC would provide NMFS with a draft monitoring report within 90 days of the conclusion of the proposed construction work. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), HTC would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Name and type of vessel involved;

• Vessel's speed during and leading up to the incident;

• Description of the incident;

• Status of all sound source use in the 24 hours preceding the incident;

• Water depth;

• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

• Description of all marine mammal observations in the 24 hours preceding the incident;

• Species identification or description of the animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with HTC to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. HTC would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that HTC discovers an injured or dead marine mammal, and the lead MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), HTC would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the

NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with HTC to determine whether modifications in the activities are appropriate.

In the event that HTC discovers an injured or dead marine mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), HTC would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. HTC would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Endangered Species Act (ESA)

There are two marine mammal species that are listed as endangered under the ESA with confirmed or possible occurrence in the study area: humpback whale and Steller sea lion (Western DPS). NMFS' Permits and Conservation Division has initiated consultation with NMFS' Protected Resources Division under section 7 of the ESA on the issuance of an IHA to HTC under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS is also preparing an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and will consider comments submitted in response to this notice as part of that process. The EA will be posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* once it is finalized.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to HTC for conducting the re-development of the Icy Strait Point Cruise Ship Terminal in Hoonah, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

1. This Incidental Harassment Authorization (IHA) is valid from June 1, 2015, through October 31, 2015. All active pile driving is expected to be completed by the end of September. October has only been included as part of this Authorization to cover any contingencies that may occur.
2. This Authorization is valid only for in-water construction work associated with the Re-development of the Icy Strait Point Cruise Ship Terminal Project in Hoonah, Alaska.
3. General Conditions
   (a) A copy of this IHA must be in the possession of HTC, its designees, and work crew personnel operating under the authority of this IHA.
   (b) The species authorized for taking are humpback whale (*Megaptera novaeangliae*), Steller sea lion (*Eumatopius jubatus*), harbor seal (*Phoca vitulina*), Dall's porpoise (*Phocoenoides dalli*), gray whale (Eschrichtius robustus), harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), minke whale (*Balaenoptera acutorostrata*), and Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)
   (c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b).
   (d) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.
   (e) HTC shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and staff prior to the start of all in-water pile driving, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
4. Mitigation Measures
   The holder of this Authorization is required to implement the following mitigation measures:
   (a) Time Restriction: For all in-water pile driving activities, HTC shall operate only during daylight hours when visual monitoring of marine mammals can be conducted.
   (b) Establishment of Level B Harassment (ZOI)
   (i) Before the commencement of in-water pile driving activities, HTC shall establish Level B behavioral harassment ZOI where received underwater sound pressure levels (SPLs) are higher than 160 dB (rms) and 120 dB (rms) re 1 μPa for impulse noise sources (impact pile driving) and non-pulse sources (vibratory hammer) respectively. The ZOIs delineate where Level B harassment would occur. For impact driving, the area within the Level B harassment threshold is between approximately 100 m and 2,150 m from pile driving activity. For vibratory driving, the level B harassment area is between 10 m and 21 km. These zones are illustrated in Figures B–1 and B–3 of Appendix B in the marine mammal monitoring plan.
   (c) Establishment of shutdown zone
   (i) Implement a minimum shutdown zone of 100 m radius around the pile during impact pile driving and 10 m during vibratory driving activities. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.
   (ii) See Appendix B Figure B–3 for additional information.
   (d) Use of Soft-start
   (i) The project will utilize soft start techniques for both impact and vibratory pile driving. We require HTC to initiate sound from vibratory hammers for fifteen seconds at reduced energy followed by a thirty-second waiting period, with the procedure repeated two additional times. For impact driving, we require an initial set of three strikes from the impact hammer at reduced energy, followed by a thirty-second waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's pile driving work and at any time following a cessation of pile driving of thirty minutes or longer (specific to either vibratory or impact driving).
   (ii) Whenever there has been downtime of 20 minutes or more without vibratory or impact driving, the contractor will initiate the driving with soft-start procedures described above.
   (e) Standard mitigation measures
   (i) Conduct briefings between construction supervisors and crews, marine mammal monitoring team, and HTC staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
   (ii) For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile).
   (f) *HTC* shall establish monitoring locations as described below.
5. Monitoring and Reporting.
   The holder of this Authorization is required to report all monitoring conducted under the IHA within 90 calendar days of the completion of the marine mammal monitoring.
   (a) Visual Marine Mammal Monitoring and Observation.
   (i) Three individuals meeting the minimum qualifications identified in Appendix B

of the monitoring plan submitted by HTC will monitor the Level A and B harassment zones during impact pile driving, and the Level B harassment zone during vibratory pile driving.

(ii) During impact pile driving, the area within 100 meters of pile driving activity will be monitored and maintained as marine mammal buffer area in which pile installation will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area of potential disturbance. This area will be monitored by one qualified field monitor stationed either on the pile driving rig or in the immediate vicinity.

(iii) The area within the Level B harassment threshold for impact driving (shown in Figure B–2 of Appendix B of the revised marine mammal monitoring plan) will be monitored by the field monitor stationed either on the pile driving rig or in the vicinity, and by a second qualified field monitor stationed on or in the vicinity of Halibut Island near the 2,150 meter limit of the Level B harassment zone. A third qualified observer will also monitor from a boat that is conducting a transect along the 2,150 meter limit of the Level B harassment zone. Marine mammal presence within this Level B harassment zone, if any, will be monitored, but impact pile driving activity will not be stopped if marine mammals are found to be present. Any marine mammal documented within the Level B harassment zone during impact driving would constitute a Level B take (harassment), and will be recorded and reported as such.

(iv) During vibratory pile driving, the area within 10 meters of pile driving activity will be monitored and maintained as marine mammal buffer area in which pile installation will not commence or will be suspended temporarily if any marine mammals are observed within or approaching the area of potential disturbance. The Level B harassment area will be monitored by three qualified observers (Figure B–2). One individual will be stationed either on the pile driving rig or in the immediate vicinity, a second individual will be stationed on either Halibut Island or a location in the vicinity, and a third observer will be located on a vessel that is conducting meander transects throughout the Level B harassment zone. The monitoring staff will record any presence of marine mammals by species, will document any behavioral responses noted, and record Level B takes when sightings overlap with pile installation activities.

(v) The individuals will scan the waters within each monitoring zone activity using binoculars (Vector 10X42 or equivalent), spotting scopes (Swarovski 20–60 zoom or equivalent), and visual observation.

(vi) If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal buffer zone (the 100 meter radius) (*e.g.* excessive wind or fog), impact pile installation will cease until conditions allow the resumption of monitoring.

(vii) The waters will be scanned 20 minutes prior to commencing pile driving at the beginning of each day, and prior to commencing pile driving after any stoppage of 20 minutes or greater. If marine mammals enter or are observed within the designated marine mammal buffer zone (the 100m radius) during or 20 minutes prior to impact pile driving, the monitors will notify the on-site construction manager to not begin until the animal has moved outside the designated radius.

(viii) The waters will continue to be scanned for at least 20 minutes after pile driving has completed each day, and after each stoppage of 20 minutes or greater.

(b) Data Collection.

(i) Observers are required to use approved data forms. Among other pieces of information, HTC will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, HTC will attempt to distinguish between the number of individual animals taken and the number of incidents of take. At a minimum, the following information be collected on the sighting forms:

1. Date and time that monitored activity begins or ends;
2. Construction activities occurring during each observation period;
3. Weather parameters (*e.g.,* percent cover, visibility);
4. Water conditions (*e.g.,* sea state, tide state);
5. Species, numbers, and, if possible, sex and age class of marine mammals;
6. Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
7. Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
8. Locations of all marine mammal observations; and
9. Other human activity in the area.

(c) Reporting Measures.

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), HTC would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

1. Time, date, and location (latitude/longitude) of the incident;
2. Name and type of vessel involved;
3. Vessel's speed during and leading up to the incident;
4. Description of the incident;
5. Status of all sound source use in the 24 hours preceding the incident;
6. Water depth;
7. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
8. Description of all marine mammal observations in the 24 hours preceding the incident;
9. Species identification or description of the animal(s) involved;
10. Fate of the animal(s); and
11. Photographs or video footage of the animal(s) (if equipment is available).

(ii) Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with HTC to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. HTC would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

(iii) In the event that HTC discovers an injured or dead marine mammal, and the lead MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), HTC would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with HTC to determine whether modifications in the activities are appropriate.

(iv) In the event that HTC discovers an injured or dead marine mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), HTC would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. HTC would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

6. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for HTC's redevelopment of the Icy Strait Cruise Ship Terminal in Hoonah, Alaska. Please include with your comments any supporting data or literature citations to help inform our final decision on HTC's request for an MMPA authorization.

Dated: March 16, 2015.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06431 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD748–X

Marine Mammals; File No. 19133

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Tim Gallagher, Alaska Area Manager, HDR, Inc., 2525 C Street, Suite 305, Anchorage, AK 99503–2632, has applied in due form for a permit to conduct research on spotted seals (*Phoca largha*), ringed seals (*Pusa hispida*), bearded seals (*Erignathus barbatus*), bowhead whales (*Balaena mysticetus*), and Beluga whales (*Delphinapteras leucas*).

DATES: Written, telefaxed, or email comments must be received on or before April 20, 2015.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 19133 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Brendan Hurley or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), and the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The area encompassing the Colville River Delta (CRD) on Alaska's North Slope is currently being assessed for potential oil and gas (O&G) exploration and development. HDR proposes to conduct semi-annual aerial surveys over the next 5 years to better characterize the occurrence and distribution of three ice seal species (spotted seals (*Phoca largha*), ringed seals (*Pusa hispida*), and bearded seals (*Erignathus barbatus*)), and provide a framework for understanding the potential impacts of O&G exploration and development on these animals in and around the CRD. Surveys will occur four times annually (from a Cessna 180 high-mounted fixed-wing or a twin engine, low-mounted fixed-wing DA 42 Multi-Purpose Platform (MPP) aircraft (or similar fixed-wing aircraft)) at 1,000 feet, but researchers will drop to an altitude of 700 feet when seals are observed. Annual estimated directed takes include up to 780 bearded seals, 780 ringed seals, 612 spotted seals, and up to 60 bowhead whales (*Balaena mysticetus*) and 150 Beluga whales (*Delphinapteras leucas*).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 13, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06387 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed Revision of a Currently Approved Information Collection; Comment Request; Trademark Petitions

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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 19, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0061 Trademark Petitions'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313– 1450; by telephone at 571–272–8946; or by email at *catherine.cain@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The USPTO administers the Trademark Act, 15 U.S.C. 1051 *et seq.,*

which provides for the registration of trademarks, service marks, collective trademarks and collective service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Individuals and businesses may also submit various communications to the USPTO, including letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore a filing date, and requests for reinstatement. The USPTO uses the information described in this collection to process letters of protest, requests to make special, responses to petition inquiry letters, petitions to make special, requests to restore filing date, and requests for reinstatement. The information is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. Information relating to the registration of a trademark is made publicly available by the USPTO. The release of information in a letter of protest is controlled and may be available upon request only.

A letter of protest is an informal procedure whereby third parties who object to the registration of a mark in a pending application may bring to the attention of the USPTO evidence bearing on the registrability of the mark. A letter of protest must identify the application being protested and the proposed grounds for refusing registration and include relevant evidence to support the protest.

A request to make special may be submitted where an applicant requests that initial examination of an application be advanced out of its regular order because the mark in the application was the subject of an inadvertently cancelled or expired previous registration.

A response to a petition inquiry letter is submitted by a petitioner who is responding to a notice of deficiency that the USPTO issued after receiving an incomplete Petition to the Director. A petition may be considered incomplete if, for example, it does not include the fee required by 37 CFR 2.6 or if it includes an unverified assertion that is not supported by evidence.

The USPTO generally examines applications in the order in which they are received. A petition to make special is a request by the applicant to advance the initial examination of an application out of its regular order.

A request to restore a filing date is submitted by an applicant who previously filed an application that was denied a filing date. The request must include evidence showing that the applicant is entitled to the earlier filing date.

If an applicant has proof that an application was inadvertently abandoned due to a USPTO error, an applicant may file a request to reinstate the application instead of a formal petition to revive. To support such a request, the applicant must include clear evidence of the USPTO error.

II. Method of Collection

Electronically, if applicants submit the information using the forms available through the Trademark Electronic Application System (TEAS). By mail or hand delivery, if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0061.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit organizations.

Estimated Number of Respondents: 2,988 responses per year.

Estimated Time per Response: The USPTO estimates that it will take approximately 35 minutes (0.58 hours) to 75 minutes (1.25 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

Estimated Total Annual Hour Burden: 2,749.67 hours per year.

Estimated Total Annual Cost Burden: $1,069,620.33. The USPTO expects that an attorney will complete the instruments associated with this information collection. The professional hourly rate for attorneys is $389. Using this hourly rate applied across the 2,749.67 respondent burden hours associated with this collection, the USPTO estimates $1,069,620.33 per year for the total hourly costs associated with respondents.

IC No.	Information collection instrument	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (c) × (d) = (e)	Total cost
1	Letter of Protest (TEAS Global)	1.0	1,692	1,692.00	$389.00	$658,188.00
1	Letter of Protest (Paper)	1.25	423	528.75	389.00	205,683.75
2	Request to Make Special TEAS Global).	0.58	90	52.50	389.00	20,422.50
2	Request to Make Special (Paper)	0.75	10	7.50	389.00	2,917.50
3	Response to Petition to Director Inquiry Letter (TEAS Global).	0.58	200	116.67	389.00	45,383.33
3	Response to Petition to Director Inquiry Letter (Paper).	0.75	35	26.25	389.00	10,211.25
4	Petition to Make Special (TEAS Global).	0.58	202	117.83	389.00	45,837.17
4	Petition to Make Special (Paper)	0.75	22	16.50	389.00	6,418.50
5	Request to Restore Filing Date (TEAS Global).	0.58	1	0.58	389.00	226.92
5	Request to Restore Filing Date (paper).	0.75	5	3.75	389.00	1,458.75
6	Request for Reinstatement (TEAS Global).	0.58	262	152.83	389.00	59,452.17
6	Request for Reinstatement (paper)	0.75	46	34.5	389.00	13,420.50
Total			2,988	2,749.67		1,069,620.33

Estimated Total Annual Cost Burden (Non-Hourly): $22,660.19. This collection has no capital startup, maintenance, or operating fees. This collection does have postage and filing fees.

Postage Costs

Applicants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the vast majority—approximately 98%—of the paper forms are submitted to the USPTO via first-class mail, while the rest are submitted by hand delivery. Out of 541 paper forms, the USPTO estimates that 531 forms will be mailed, at a rate of 49 cents per ounce. Therefore, the USPTO estimates that the postage costs for the paper submissions in this collection will be $260.19.

Filing Fees

The only item in this information collection with a filing fee is the Petition to Make Special, with a filing fee of $100. The total estimated filing fee cost for this collection is $22,400.

IC No.	Information collection instrument	Responses (yr) (a)	Filing fee ($) (b)	Total non-hour cost burden (yr) (a) × (b) = (c)
4	Petition to Make Special (TEAS Global)	202	$100.00	$20,200.00
4	Petition to Make Special (Paper)	22	100.00	2,200.00
Total		224		22,400.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs ($260.19) and filing fees ($22,400.00), is $22,660.19 per year.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–06448 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Proposed Revision of a Currently Approved Information Collection; Comment Request; Post Registration (Trademark Processing)

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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 19, 2015.

ADDRESSES: Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0055 Post Registration (Trademark Processing)'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at 571–272–8946, or by email to *Catherine.Cain@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO, including requests to amend their registrations to delete goods or services that are no longer being used by the registrant. Registered marks remain on the register for ten years and can be renewed, but will be cancelled unless the owner files with the USPTO a declaration attesting to the continued use (or excusable non-use) of the mark in commerce, and a renewal application, within specific deadlines. Applicants may also request to amend or divide a registration, respond to a post-registration Office action, and surrender a registration.

The rules implementing the Act are set forth in 37 CFR part 2. These rules mandate that each register entry include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar

information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. Thus, the Federal trademark registration process may reduce unnecessary litigation and its accompanying costs and burdens.

II. Method of Collection

Electronically, if applicants submit the information using the forms available through the Trademark Electronic Application System (TEAS). By mail or hand delivery, if applicants choose to submit the information in paper form.

III. Data

OMB Number: 0651–0055.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit organizations.

Estimated Number of Respondents: 185,047 responses per year. Of this total, the USPTO expects that 175,846 responses will be submitted through TEAS and 9,201 will be submitted on paper.

Estimated Time per Response: The USPTO estimates that it will take approximately 5 minutes (0.08 hours) to 35 minutes (0.58 hours) to complete this information. This includes the time to gather the necessary information, create the documents, and submit the completed request to the USPTO.

The time per response, estimated annual responses, and estimated annual hour burden associated with each instrument in this information collection is shown in the table below.

Estimated Total Annual Hour Burden: 43,095.72 hours.

Estimated Total Annual Cost Burden (Hourly): $16,764,233.78. The USPTO expects that attorneys will complete the instruments associated with this information collection. The professional hourly rate for attorneys in private firms is $389. Using this hourly rate, the USPTO estimates $16,764,233.78 per year for the total hourly costs associated with respondents.

IC No.	Item	Estimated time for response (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Total cost (c) × (d) = (e)
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS).	12	16,456	3,291.20	$389.00	$1,280,276.80
1	Declaration of Use of Mark in Commerce Under Section 8 (paper).	20	336	112.00	389.00	43,568.00
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS).	13	75,902	16,445.43	389.00	6,397,273.57
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (paper).	20	1,549	516.33	389.00	200,853.67
3	Declaration of Incontestability of a Mark Under Section 15 (TEAS).	5	823	68.58	389.00	26,678.92
3	Declaration of Incontestability of a Mark Under Section 15 (paper).	10	17	2.83	389.00	1,102.17
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS).	12	65,825	13,165.00	389.00	5,121,185.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (paper).	20	1,343	447.67	389.00	174,142.33
5	Surrender of registration for cancellation (TEAS Global).	5	347	28.92	389.00	11,248.58
5	Surrender of registration for cancellation (paper).	15	847	211.75	389.00	82,370.75
6	Section 7 Request (TEAS)	20	4,807	1,602.33	389.00	623,307.67
6	Section 7 Request (paper)	30	5,003	2,501.50	389.00	973,083.50
7	Response to Office Action for Post-Registration Matters (TEAS Global).	25	9,000	3,750.00	389.00	1,458,750.00
7	Response to Office Action for Post-Registration Matters (paper).	35	50	29.17	389.00	11,345.83
8	Request to Divide Registration (TEAS Global).	20	2,685	895.00	389.00	348,155.00
8	Request to Divide Registration (paper)	30	55	27.50	389.00	10,697.50
9	Section 12(c) Affidavit (TEAS Global)	10	1	0.17	389.00	64.83
9	Section 12(c) Affidavit (paper)	20	1	0.33	389.00	129.67
Totals			185,047	43,095.72		16,764,233.78

Estimated Total Annual Cost Burden (Non-Hourly): $54,392,518.33. This collection has no capital startup, maintenance, or operating fees. This collection does have postage costs and filing fees.

Postage Costs

Applicants incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the vast majority—approximately 98%—of the paper forms are submitted to the USPTO via first-class mail, while the rest are submitted by hand delivery. Out of 9,201 paper forms, the USPTO estimates that 9,017 forms will be mailed, at a rate of 49 cents per ounce. Therefore, the USPTO estimates that the postage costs for the paper submissions in this collection will be $4,418.33.

Filing Fees

Filing fees are charged per class of goods or services; therefore, the total filing fees can vary depending on the number of classes. The total filing fees of $54,388,100 shown here are based on the minimum fee of one class per application.

IC No.	Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a × b)
1	Declaration of Use of Mark in Commerce Under Section 8 (TEAS)	16,456	$100.00	$1,645,600.00
1	Declaration of Use of Mark in Commerce Under Section 8 (Paper)	336	100.00	33,600.00
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (TEAS).	75,902	400.00	30,360,800.00
2	Combined Declaration of Use of Mark in Commerce and Application for Renewal of Registration of a Mark Under Section 8 & 9 (Paper).	1,549	500.00	774,500.00
3	Declaration of Incontestability of a Mark Under Section 15 (TEAS)	823	200.00	164,600.00
3	Declaration of Incontestability of a Mark Under Section 15 (paper)	17	200.00	3,400.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (TEAS).	65,825	300.00	19,747,500.00
4	Combined Declaration of Use and Incontestability Under Section 8 and 15 (Paper).	1,343	300.00	402,900.00
6	Section 7 Request (TEAS)	4,807	100.00	480,700.00
6	Section 7 Request (Paper)	5,003	100.00	500,300.00
8	Request to Divide Registration (TEAS Global)	2,685	100.00	268,500.00
8	Request to Divide Registration (Paper)	55	100.00	5,500.00
9	Section 12(c) Affidavit (TEAS Global)	1	100.00	100.00
9	Section 12(c) Affidavit (Paper)	1	100.00	100.00
Totals		174,801		54,388,100.00

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs ($4,418.33) and filing fees ($54,388,100), is $54,392,518.33 per year.

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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 13, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–06446 Filed 3–19–15; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1967]

Reorganization of Foreign-Trade Zone 58 Under Alternative Site Framework; Bangor, Maine

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the City of Bangor, grantee of Foreign-Trade Zone 58, submitted an application to the Board (FTZ Docket B–67–2014, docketed 09–23–2014) for authority to reorganize under the ASF with a service area of the Counties of Hancock, Penobscot, Piscataquis, Waldo and Washington, Maine, within and adjacent to the Bangor Customs and Border Protection port of entry, and FTZ 58's existing Site 1 would be categorized as a magnet site;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 58318, 09–29–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 58 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this March 12, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–06457 Filed 3–19–15; 08:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service previously furnished by such agencies.

Comments Must Be Received on or Before: 4/20/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

Product Name/NSN: Easy Storage Box, 14¾″ x 12″ x 9½″, White 8115–00–NSH–0338
Mandatory Purchase By: General Services Administration, New York, NY
Mandatory Source of Supply: ReadyOne Industries, Inc., El Paso, TX
Contracting Activity: General Services Administration, New York, NY
Distribution: A-List

Product Names/NSNs: Cup, Disposable, Paper, BioBased, Cold Beverage, White, 21 oz./7350–00–NIB–0209
Cup, Disposable, Paper, Cold Beverage, White, 21 oz. 7350–00–NIB–0210
Cup, Disposable, Paper, Cold Beverage, White, 32 oz. 7350–00–NIB–0215
Mandatory Purchase By: General Services Administration, Fort Worth, TX
Mandatory Source of Supply: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA
Contracting Activity: General Services Administration, Fort Worth, TX
Distribution: A-List

Product Names/NSNs: Mandoline Slicer, Handheld/MR 338.
Shaker, Salad Dressing/MR 342
Mandatory Purchase By: Military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4
Mandatory Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Distribution: C-List

Service

Service Type: Base Operations Service
Service is Mandatory for: US Army, US Army Garrison-Detroit Arsenal, 6501 East Eleven Mile Road, Warren, MI
Mandatory Source of Supply: Professional Contract Services, Inc., Austin, TX
Contracting Activity: Dept of the Army, W4GG Hq US Army TACOM Warren, MI

Deletions

The following products and service are proposed for deletion from the Procurement List:

Products

Product Name/NSN: Bag, Trash, Cloth/2090–01–478–3561
Mandatory Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX
Contracting Activity: General Services Administration, New York, NY

Product Name/NSNs: Urinal, Incontinent, 6530–01–081–5303, 6530–01–081–5304, 6530–01–451–8065, 6530–01–451–8066, 6530–01–451–8068, 6530–01–451–8069, 6530–01–451–8070, 6530–01–451–8071, 6530–01–451–8072, 6530–01–451–8073
Mandatory Source of Supply: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: Department of Veterans Affairs, NAC, Hines, IL

Product Name/NSN: Cleaning Compound, 7930–01–398–0942
Mandatory Source of Supply: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: General Services Administration, Fort Worth, TX

Product Name/NSN: Stapler, Spring-powered, Pliers Style, 7520–01–598–4239
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Contracting Activity: General Services Administration, New York, NY

Product Name/NSNs: Ballpoint Pen, Round, Stick Type, ''Alpha Basic'', 7520–01–557–3166—Red Ink, 7520–01–557–3163—Red Ink w/Grip
Mandatory Source of Supply: Alphapointe, Kansas City, MO
Contracting Activity: General Services Administration, New York, NY

Product Name/NSN: Highlighter Set, Dry Transfer/7520–01–504–8939
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: General Services Administration, New York, NY

Service

Service Type: Laundry Service
Service is Mandatory for: U.S. Naval Hospital & Naval Dental Clinic Base, Farenholt Road, Agana Heights, GU
Mandatory Source of Supply: ICAN Resources, Inc., Dededo, GU
Contracting Activity: Dept of the Navy, NAVSUP FLT LOG CTR, Pearl Harbor, HI

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–06416 Filed 3–19–15; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a product and services from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 4/20/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 1/16/2015 (80 FR 2400–2401) and 2/13/2015 (80 FR 8068–8069), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.
2. The action will result in authorizing small entities to furnish the products and service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

Product Names/NSNs: Kit, Gifts for Santa/MR 385
Christmas Sticker Book/MR 378
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Slotted Spoon, Red/MR 390
Slotted Turner, Red/MR 391
Tongs, Red/MR 392
Slotted Spoon/MR 393, Green
Slotted Turner/MR 394 Green
Tongs, Green/MR 395
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
Mandatory for Purchase By: Defense Commissary Agency, Fort Lee, VA
Distribution: C-List

Service

Service Type: Janitorial Service
Service is Mandatory for: USDA, Agricultural Research Service, Southern Plains Agricultural Research Center, 2881 F&B RoadCollege Station, TX
Mandatory Source of Supply: Rising Star Resource Development Corporation, Dallas, TX
Contracting Activity: Dept of Agriculture, Agricultural Research Service, ARS WBSC 32SD, Beltsville, MD

Deletions

On 2/13/2015 (80 FR 8068–8069), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the product and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services deleted from the Procurement List.

End of Certification

Accordingly, the following product and services are deleted from the Procurement List:

Product

Product Name/NSNs: Folder, Zebley Claim
7530–00–000–0430
7530–00–000–0432
Mandatory Source of Supply: Goodwill Industries of the Pioneer Valley, Inc., Springfield, MA
Contracting Activity: Social Security Administration Hdqtrs-Office of Acquisition & Grants, Baltimore, MD

Services

Service Type: Custodial Service
Service is Mandatory for: USDA, Laboratory Research Building
6301 W. 750 North
West Lafayette, IN
Mandatory Source of Supply: Wabash Center, Inc., Lafayette, IN
Contracting Activity: Dept of Agriculture, Agricultural Research Service, USDA ARS MWA 52KJ, Lafayette, IN

Service Type: Microfilming Service
Service is Mandatory for: Commodities Future Trading Commission
1155 21st Street
Washington, DC
Mandatory Source of Supply: No NPA Assigned
Contracting Activity: Commodity Futures Trading Commission
Administrative Services, Washington, DC

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015–06417 Filed 3–19–15; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Developing Hispanic-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education

ACTION: Notice.

Overview Information

Developing Hispanic-Serving Institutions (HSI) Program Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.031S.

DATES: *Applications Available:* March 20, 2015.

Deadline for Transmittal of Applications: May 19, 2015.

Deadline for Intergovernmental Review: July 20, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The HSI Program provides grants to assist HSIs to expand educational opportunities for, and improve the academic attainment of, Hispanic students. HSI Program grants also enable HSIs to expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and help large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

Background: In 2008, the Higher Education Act of 1965 (HEA) was amended by the Higher Education Opportunity Act of 2008 (HEOA). The HEOA made a number of changes to the HSI Program; however the regulations for the HSI Program in 34 CFR part 606 have not yet been updated to reflect these changes. Therefore, we encourage applicants to carefully read this notice, which references the statutory provisions where the corresponding regulatory provisions for this program have not been updated.

For example, section 501 of the HEOA amended section 503(b) of the HEA to include, among the authorized activities under the HSI Program—

(1) Activities to improve student services, including innovative and customized instruction courses designed to help retain students and move the students into core courses;

(2) Articulation agreements and student support programs designed to facilitate the transfer of students from two-year to four-year institutions; and

(3) Providing education, counseling services, or financial information designed to improve the financial and economic literacy of students or their families.

The list of authorized activities in section 503(b) of the HEA was also amended to use the term ''distance education technologies'' in place of ''distance learning academic instruction capabilities.'' Therefore, notwithstanding the description of authorized activities in 34 CFR 606.10, applicants may include these activities in their proposals under this competition.

We encourage applicants to read carefully the *Selection Criteria* section of this notice. Consistent with the Department's increasing emphasis in recent years on promoting evidence-based practices through our grant competitions, the Secretary will evaluate applications on the extent to which the proposed project is supported by a logic model that meets the evidence standard of ''strong theory'' (as defined in this notice). Resources to assist applicants in creating a logic model can be found here: *http://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf.*

Priorities: This notice contains one absolute priority and two competitive preference priorities. The absolute priority is from the Department's notice of final supplemental priorities and definitions for discretionary grant programs (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425). Competitive Preference Priority 1 is from section 503(b)(5) of the HEA. Competitive Preference Priority 2 is from the Supplemental Priorities.

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Projects that are designed to increase the number and proportion of high-need students (as defined in this notice) who are academically prepared for, enroll in, or complete on time college, other postsecondary education, or other career and technical education.

Competitive Preference Priorities: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an application up to two additional points for each priority, for a total of up to four additional points, depending on how well the application meets each of these competitive preference priorities.

These priorities are:

Competitive Preference Priority 1 (Up to 2 Additional Points)

Tutoring, counseling, and student service programs designed to improve academic success, including innovative and customized instruction courses (which may include remedial education and English language instruction) designed to help retain students and move the students rapidly into core courses and through program completion.

Competitive Preference Priority 2 (Up to 2 Additional Points)

Projects that are designed to support the development and implementation of high-quality online or hybrid credit-bearing and accessible learning opportunities that reduce the cost of higher education, reduce time to degree completion, or allow students to progress at their own pace.

Definitions: The following definitions are from the Supplemental Priorities and from 34 CFR 77.1 and apply to the priorities and selection criteria in this notice:

High-minority school means a school as that term is defined by a local educational agency (LEA), which must define the term in a manner consistent with its State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965, as amended. The applicant must provide the definition(s) of high-minority schools used in its application.

High-need students means students who are at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools, who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Note: In developing logic models, applicants may want to use resources such as the Pacific Education Laboratory's Education Logic Model Application (*www.relpacific.mcrel.org/PERR.html* or *http://files.eric.ed.gov/fulltext/ED544779.pdf)* to help design their logic models.

Regular high school diploma means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a General Education Development credential, certificate of attendance, or any alternative award.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Program Authority: 20 U.S.C. 1101–1101d; 1103–1103g.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 606. (e) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants—Individual Development Grants and Cooperative Arrangement Development Grants. Planning grants will not be awarded in FY 2015.

Estimated Available Funds: $52,287,473.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $500,000–$650,000.

Estimated Average Size of Awards:

Individual Development Grants: $513,000.

Cooperative Arrangement Development Grants: $637,000.

Maximum Awards:

Individual Development Grants: $525,000.

Cooperative Arrangement Development Grants: $650,000.

We will reject any application that proposes a budget exceeding these maximum amounts for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register.**

Estimated Number of Awards:

Individual Development Grants: 56.

Cooperative Arrangement Development Grants: 31.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) IHEs that qualify as eligible HSIs are eligible to apply for new Individual Development Grants and Cooperative Arrangement Development Grants under the HSI Program. To be an eligible HSI, an IHE must—

(i) Have an enrollment of needy students, as defined in section 502(b) of the HEA (section 502(a)(2)(A)(i) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(i));

(ii) Have, except as provided in section 522(b) of the HEA, average educational and general expenditures that are low, per full-time equivalent (FTE) undergraduate student, in comparison with the average educational and general expenditures per FTE undergraduate student of institutions that offer similar instruction (section 502(a)(2)(A)(ii) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(ii));

Note: To demonstrate an enrollment of needy students and low average educational and general expenditures per FTE undergraduate student, an IHE must be designated as an ''eligible institution'' in accordance with 34 CFR 606.3 through 606.5 and the notice inviting applications for designation as an eligible institution for the fiscal year for which the grant competition is being conducted.

For purposes of establishing eligibility for this competition, the notice inviting applications for designation as an eligible institution for FY 2015 was published in the **Federal Register** on November 3, 2014 (79 FR 65197), and applications were due on December 22, 2014. Only institutions that submitted the required application and received designation through this process before the deadline date are eligible to submit applications for this competition.

(iii) Be accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered, or making reasonable progress toward accreditation, according to such an agency or association (section 502(a)(2)(A)(iv) of the HEA; 20 U.S.C. 1101a(a)(2)(A)(iv));

(iv) Be legally authorized to provide, and provide within the State, an educational program for which the institution awards a bachelor's degree (section 502(a)(2)(A)(iii) of the HEA), or be a junior or community college (20 U.S.C. 1101a(a)(2)(A)(iii));

(v) Have an enrollment of undergraduate FTE students that is at least 25 percent Hispanic students at the end of the award year immediately preceding the date of application (section 502(a)(5)(B) of the HEA; 20 U.S.C. 1101a(a)(5)(B)); and

(vi) Provide, as an attachment to the application, the documentation the IHE relied upon in determining that at least 25 percent of the IHE's undergraduate FTE students are Hispanic. The 25 percent requirement applies only to undergraduate Hispanic students and is calculated based upon FTE students as defined in section 502(a)(4) of the HEA. Instructions for formatting and submitting the verification documentation to Grants.gov are in the application package for this competition.

(b) Funds for the HSI Program will be awarded each fiscal year; thus, for this program, the ''end of the award year immediately preceding the date of application'' refers to the end of the fiscal year prior to the application due date. The end of the fiscal year occurs on September 30 for any given year.

(c) In considering applications for grants under this program, the Department will compare the data and documentation the institution relied on in its application with data reported to the Department's Integrated Postsecondary Education Data System (IPEDS), the IHE's State-reported enrollment data, and the institutional annual report. If different percentages or data are reported in these various sources, the institution must, as part of the 25 percent assurance verification, explain the reason for the differences. If the IPEDS data show that less than 25 percent of the institution's undergraduate FTE students are Hispanic, the burden is on the institution to show that the IPEDS data are inaccurate. If the IPEDS data indicate that the institution has an undergraduate FTE less than 25 percent, and the institution fails to demonstrate that the IPEDS data are inaccurate, the institution will be considered ineligible.[1]

(d)(i) A grantee under the HSI Program, which is authorized by title V of the HEA, may not receive a grant under any HEA, title III, part A or part B program (section 505 of the HEA; 20 U.S.C. 1101D). The title III, part A programs include: The Strengthening Institutions Program; the American Indian Tribally Controlled Colleges and Universities Program; the Alaska Native and Native Hawaiian-Serving Institutions Programs; the Asian American and Native American Pacific Islander-Serving Institutions Program; and the Native American-Serving Non-Tribal Institutions Program. Furthermore, a current HSI Program grantee may not give up its HSI grant in order to receive a grant under any title III, part A program (§ 606.2(c)(1)).

(ii) An HSI that does not fall within the limitation described in paragraph (d)(i) may apply for a FY 2015 grant under all title III, part A programs for which it is eligible, as well as under the HSI Program. However, a successful applicant may receive only one grant.

(e) An eligible HSI that submits multiple applications may only be awarded at most one Individual Development Grant and/or one Cooperative Arrangement Development Grant per fiscal year (34 CFR 606.9 and 606.13). In addition, the Secretary will not award a second Individual Development Grant to an HSI with a current five-year Individual Development Grant as described in 34 CFR 606.9(b)(1).

(f) An eligible HSI that submits a Cooperative Arrangement Development Grant with a partnering branch campus that is a part of the same institution will not be awarded a grant (34 CFR 606.7(b)).

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching unless the grantee uses a portion of its grant for establishing or improving an endowment fund. If a grantee uses a portion of its grant for endowment fund purposes, it must match those grant funds with non-Federal funds (section 503(c)(2) of the HEA; 20 U.S.C. 1101b(c)(2)).

IV. Application and Submission Information

1. *Address To Request Application Package:* Carnisia M. Proctor, U.S.

[1] For purposes of making the determination described in paragraph (e) of the eligibility criteria for this competition, IHEs must report their undergraduate Hispanic FTE percentages based on the student enrollment count closest to, but not after, September 30, 2014.

Department of Education, 1990 K Street NW., Room 6010, Washington, DC 20006–8513. Telephone: (202) 502–7606 or by email: *Carnisia.Proctor@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria, the absolute priority, and the competitive preference priorities that reviewers use to evaluate your application. We have established mandatory page limits for Individual Development Grant and Cooperative Arrangement Development Grant applications. You must limit the section of the application narrative that addresses:

- The selection criteria and the absolute priority to no more than 50 pages for an Individual Development Grant application and no more than 70 pages for a Cooperative Arrangement Development Grant application.
- A competitive preference priority, if you are addressing one or both, to no more than three pages (for a total of six pages if you address both).

Accordingly, under no circumstances may the application narrative exceed 56 pages for an Individual Development Grant application or 76 pages for a Cooperative Arrangement Development Grant application.

Please include a separate heading for the absolute priority and for each competitive preference priority that you address.

For the purpose of determining compliance with the page limits, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margins.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, captions and all text in charts, tables, figures, and graphs. These items may be single-spaced. Charts, tables, figures, and graphs in the application narrative count toward the page limit.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit applies to all of the application narrative section, including your complete response to the selection criteria (including the budget narrative), the absolute priority, and the competitive preference priorities. However, the page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the Department of Education Supplemental Information form (SF 424); Part II, Budget Information—Non-Construction Programs (ED 524); Part IV, the assurances and certifications; or the one-page project abstract, program activity budget detail form and supporting narrative, and the five-year plan. If you include any attachments or appendices not specifically requested in the application package, these items will be counted as part of your application narrative for purposes of the page-limit requirement.

Note: The narrative response to the budget selection criteria is not the same as the activity detail budget form and supporting narrative. The supporting narrative for the activity detail budget form lists the requested budget items line by line.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 20, 2015.

Deadline for Transmittal of Applications: May 19, 2015.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 20, 2015.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* (a) *General.* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

(b) *Applicability of Executive Order 13202.* Applicants that apply for construction funds under the HSI Program must comply with Executive Order 13202, as amended. This Executive order provides that recipients of Federal construction funds may not ''require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other construction project(s)'' or ''otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).'' Projects funded under this program that include construction activity will be provided a copy of this Executive order and will be asked to certify that they will adhere to it.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review

by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the HSI Program, CFDA number 84.031S, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the HSI Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.031, not 84.031S).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are

experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carnisia M. Proctor, U.S. Department of Education, 1990 K Street NW., Room 6010, Washington, DC 20006–8513. FAX: (202) 502–7813.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031S), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031S), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 606.22 and from 34 CFR 75.210 and are as follows:

(a) *Quality of the applicant's comprehensive development plan.* The extent to which—

(1) The strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability are clearly and comprehensively analyzed and result from a process that involved major constituencies of the institution;

(2) The goals for the institution's academic programs, institutional management, and fiscal stability are realistic and based on comprehensive analysis;

(3) The objectives stated in the plan are measurable, related to institutional goals, and, if achieved, will contribute to the growth and self-sufficiency of the institution; and

(4) The plan clearly and comprehensively describes the methods and resources the institution will use to institutionalize practice and improvements developed under the proposed project, including, in particular, how operational costs for personnel, maintenance, and upgrades of equipment will be paid with institutional resources.

(b) *Quality of activity objectives.* The extent to which the objectives for each activity are—

(1) Realistic and defined in terms of measurable results; and

(2) Directly related to the problems to be solved and to the goals of the comprehensive development plan.

(c) *Quality of implementation strategy.* The extent to which—

(1) The implementation strategy for each activity is comprehensive;

(2) The rationale for the implementation strategy for each activity is clearly described and is supported by the results of relevant studies or projects; and

(3) The timetable for each activity is realistic and likely to be attained.

(d) *Quality of key personnel.* The extent to which—

(1) The past experience and training of key professional personnel are directly related to the stated activity objectives; and

(2) The time commitment of key personnel is realistic.

(e) *Quality of project management plan.* The extent to which—

(1) Procedures for managing the project are likely to ensure efficient and effective project implementation; and

(2) The project coordinator and activity directors have sufficient authority to conduct the project effectively, including access to the president or chief executive officer.

(f) *Quality of evaluation plan.* The extent to which—

(1) The data elements and the data collection procedures are clearly described and appropriate to measure the attainment of activity objectives and to measure the success of the project in achieving the goals of the comprehensive development plan; and

(2) The data analysis procedures are clearly described and are likely to produce formative and summative results on attaining activity objectives and measuring the success of the project on achieving the goals of the comprehensive development plan.

(g) *Budget.* The extent to which the proposed costs are necessary and reasonable in relation to the project's objectives and scope.

(h) *Quality of the project design.* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the extent to which the proposed project is supported by strong theory (as defined in this notice).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Tiebreaker:* In tie-breaking situations for development grants described in 34 CFR 606.23(b), the HSI Program regulations require that we award one additional point to an application from an IHE that has an endowment fund of which the current market value, per FTE enrolled student, is less than the average current market value of the endowment funds, per FTE enrolled student, at comparable institutions that offer similar instruction. We also award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditures for library materials per FTE enrolled student at comparable institutions that offer similar instruction.

For the purpose of these funding considerations, we use 2012–2013 data.

If a tie remains after applying the tiebreaker mechanism above, priority will be given in the case of applicants for (a) Individual Development Grants, to applicants that addressed the statutory priority found in section 521(d) of the HEA; and (b) Cooperative Arrangement Development Grants, to applicants in accordance with section 524(b) of the HEA, under which the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant HSI.

If a tie still remains after applying the additional point(s) and the relevant statutory priority, we will determine the ranking of applicants based on the lowest endowment values per FTE enrolled student.

4. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or, we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the HSI Program:

a. The percentage change, over the five-year grant period, of the number of full-time degree-seeking undergraduate students enrolled at HSIs.

b. The percentage of first-time, full-time degree-seeking undergraduate students who were in their first year of postsecondary enrollment in the

previous year and are enrolled in the current year at the same two-year HSI.

c. The percentage of first-time, full-time degree-seeking undergraduate students who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same four-year HSI.

d. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year HSIs graduating within six years of enrollment.

e. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year HSIs graduating within three years of enrollment.

f. Federal cost per undergraduate and graduate degree at institutions in the HSI Program.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carnisia M. Proctor, U.S. Department of Education, 1990 K Street NW., Room 6010, Washington, DC 20006–8513. Telephone: (202) 502–7606 or by email: *Carnisia.Proctor@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Applicants should periodically check the HSI Program Web site for further information. The address is: *www.ed.gov/programs/idueshsi/index.html.*

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: March 17, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–06501 Filed 3–19–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), 5 U.S.C. 552a, the Chief Operating Officer for Federal Student Aid (FSA) of the U.S. Department of Education (the Department) publishes this notice of an altered system of records entitled ''Person Authentication Service (PAS)'' (18–11–12).

PAS contains records about former, current, and prospective students, and their parents and endorsers, who apply for a user ID and password (FSA ID). The PAS system will be used to generate authentication and log-on credentials for those individuals wishing to access various student financial assistance systems, online applications, Web sites, and services to obtain information about their personal records. PAS will replace the current Department of Education (ED) Personal Identification Number (PIN) Registration System, and the ED PIN Registration System will be retired. The system of records notice for the ED PIN Registration System is 18–11–12; it was published in the **Federal Register** on December 27, 1999 (64 FR 72400–72402).

PAS will be used to access a variety of Departmental systems and Web sites, including, but not limited to:

- Free Application for Federal Student Aid (FAFSA; *www.fafsa.ed.gov*)
- Studentaid.gov
- StudentLoans.gov
- TEACH Grant Agreement to Serve (ATS)
- Federal Student Aid Information Center (FSAIC)
- National Student Loan Data System (NSLDS; *www.nslds.ed.gov*)

Specifically, through this notice, the Department revises the name of the system from the ED PIN Registration System to the PAS and makes alterations to the system, including, but not limited to, the system location, the categories of records maintained in this system, the system's purposes, and the system's routine uses. Additionally, the Department seeks comment on the altered system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: Submit your comments on this notice of an altered system of records on or before April 20, 2015.

The Department filed a report describing the altered system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on March 10, 2015. This altered system of records will become effective at the later date of: (1) The expiration of the 40-day period for OMB review on April 19, 2015, unless OMB waives 10 days of the 40-day review period for compelling reasons shown by the Department; or (2) April 20, 2015, unless the system of records needs to be changed as a result of public comment or OMB review. The Department will publish any changes to the altered system of records notice that result from public comment or OMB review.

ADDRESSES: Address all comments about the altered system of records to FSA PAS System Owner, Technology Office, Union Center Plaza (UCP), 830 First Street NE., room 103E2, Washington, DC 20202–5454. Telephone: 202–377–3557. If you prefer to send your comments by email, use the following address: *comment@ed.gov.* You must include the

term ''Person Authentication Service'' in the subject line of your electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 103E2, UCP, 10th Floor, 830 First Street NE., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply appropriate accommodations or auxiliary aids to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: FSA PAS System Owner Infrastructure and Operations Group, UCP, 830 First Street NE., Room 103E2, Washington, DC 20202–5454. Telephone number: (202) 377–3557.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4) and (11)) requires the Department to publish this notice of an altered system of records in the **Federal Register**. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to a record about an individual that is maintained in a system of records from which information is retrieved by an unique identifier associated with each individual, such as a name or Social Security number (SSN). The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.''

The Privacy Act requires each agency to publish a system of records notice in the **Federal Register** and to submit a report to the Administrator of the Office of Information and Regulatory Affairs, OMB whenever the agency publishes a new system of records or significantly alters an established system of records. Each agency is also required to send copies of the report to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House of Representatives Committee on Oversight and Government Reform. These reports are included to permit an evaluation of the probable effect of the proposal on the privacy rights of individuals.

The PAS system of records will:

1. Allow a user to create and manage an FSA ID that provides a secure credential for access to FSA systems and Web sites;
2. Provide tracking on changes to user account information;
3. Provide matching with the Social Security Administration for identity verification purposes;
4. Provide usage and authentication information for FSA systems and Web sites;
5. Allow a user to electronically sign various student aid applications, including the FAFSA and the Renewal FAFSA, and Direct Loan Master Promissory Notes, as well as to initiate loan deferments or forbearances; and
6. Support the administration of Title IV of the Higher Education Act of 1965, as amended (HEA) programs.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 17, 2015.

James W. Runcie,

Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid (FSA) of the U.S. Department of Education (the Department), publishes a notice of an altered system of records to read as follows:

SYSTEM NUMBER:

18–11–12.

SYSTEM NAME:

Person Authentication Service (PAS).

SECURITY CLASSFICATION:

None.

SYSTEM LOCATION:

Dell Systems Virtual Data Center, 2300 West Plano Parkway, Plano, TX 75075–8247. (This is the virtual data center for the PAS application.)

PPS Infotech, 1801 Research Blvd., Suite 615, Rockville, MD 20850–3115. (PPS Infotech has access to the system and contracts directly with the Department for the development, operations and maintenance support for PAS.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PAS contains records about former, current, and prospective students, their parents and endorsers who apply for a user ID and password (FSA ID).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains identification and authentication information including, but not limited to, first name, middle name, last name, Social Security number (SSN), date of birth, address, telephone number(s), email address, and security challenge questions and corresponding answers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of personal information for the creation and management of an FSA ID (which includes a user ID and a password) is authorized programmatically by title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070, *et seq.*).

PURPOSE(S):

The information contained in this system will be used to support the administration of title IV of the HEA programs; to generate authentication and log-on credentials for those individuals wishing to access various Departmental student financial assistance systems, online applications, Web sites and services; and to obtain information about their personal records. The system will also provide tracking of changes to user account information, match user information with the Social Security Administration (SSA) for identity verification, and provide usage and authentication information for FSA systems and Web sites.

PAS will be used to access a variety of Departmental systems, including, but not limited to:

- Free Application for Federal Student Aid (FAFSA; *www.fafsa.ed.gov*)
- Studentaid.gov
- StudentLoans.gov
- TEACH Grant Agreement to Serve (ATS)
- Federal Student Aid Information Center (FSAIC)
- National Student Loan Data System (NSLDS; *www.nslds.ed.gov*)

The FSA ID generated and stored by this system may also be used by individuals to electronically sign various student aid applications, including the FAFSA and the Renewal FAFSA, and Direct Loan Master Promissory Notes, as well as to initiate loan deferments or forbearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with a purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a), under a computer matching agreement (CMA).

(1) *Program Disclosures.* The Department may disclose records for the following program purposes:

(a) To verify the identity of the individual whom records indicate is applying for, has applied for, has endorsed, or has received a title IV, HEA loan and/or grant, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies and their authorized representatives; private parties such as relatives, business and personal associates, and present and former employers; creditors; consumer reporting agencies; adjudicative bodies; and the individual whom the records identify as the endorser or the party obligated to repay the debt;

(b) To determine program eligibility and benefits, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, business and personal associates, and present and former employers; creditors; consumer reporting agencies; and adjudicative bodies;

(c) To facilitate default reduction efforts by program participants, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; consumer reporting agencies; and adjudicative bodies;

(d) To permit the making, servicing, collecting, assigning, adjusting, transferring, referring, or discharging of a loan or collecting a grant obligation, disclosures may be made to: Guaranty agencies, educational institutions, financial institutions, Federal Loan Servicers, or Federal Perkins Loan Servicers that made, held, serviced, or have been assigned the debt, and their authorized representatives; a party identified by the debtor as willing to advance funds to repay the debt; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, business and personal associates, and present and former employers; creditors; consumer reporting agencies; and adjudicative bodies;

(e) To investigate possible fraud or abuse or verify compliance with program regulations, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, present and former employers, and business and personal associates; creditors; consumer reporting agencies; and adjudicative bodies;

(f) To locate a delinquent or defaulted borrower, or an individual obligated to repay a loan or grant, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, business and personal associates, and present and former employers; creditors; consumer reporting agencies; and adjudicative bodies;

(g) To conduct credit checks or to respond to inquiries or disputes arising from information on the debt already furnished to a credit reporting agency, disclosures may be made to: Credit reporting agencies; guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, present and former employers, and business and personal associates; creditors; and adjudicative bodies;

(h) To investigate complaints or to update information or correct errors contained in Department records, disclosures may be made to: Guaranty agencies, educational and financial institutions, Federal Loan Servicers, Federal Perkins Loan Servicers, and their authorized representatives; Federal, State, or local agencies, and their authorized representatives; private parties such as relatives, present and former employers, and business and personal associates; creditors; credit reporting agencies; and adjudicative bodies; and

(i) To report information required by law to be reported, including, but not limited to, reports required by 26 U.S.C. 6050P and 6050S, disclosures may be made to the Internal Revenue Service (IRS).

(2) *Feasibility Study Disclosure.* The Department may disclose information from this system of records to other Federal agencies, and to guaranty agencies and their authorized representatives, to determine whether computer matching programs should be conducted by the Department for purposes such as to locate a delinquent or defaulted debtor or to verify compliance with program regulations.

(3) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(4) *Enforcement Disclosure.* In the event that information in this system of records indicates, either alone or in connection with other information, a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose the relevant records to an entity charged with the responsibility for investigating or enforcing those violations or potential violations.

(5) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed below is involved in judicial or administrative litigation or ADR, or has an interest in such litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Department of Justice (DOJ) has been requested to or agrees to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee;

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to the judicial or administrative litigation or ADR and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to an individual or an entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to a party, counsel, representative, or witness.

(6) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action, the Department may disclose the record in this system of records in the course of investigation, fact-finding, or adjudication to any party or the party's counsel or representative, a witness, or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(8) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(9) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget, if the Department seeks advice regarding whether records maintained in this system of records are required to be disclosed under the FOIA or the Privacy Act.

(10) *Disclosure to the DOJ.* The Department may disclose records to the DOJ, or the authorized representative of DOJ, to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to establish and maintain Privacy Act safeguards as required under subsection (m) of the Privacy Act (5 U.S.C. 552a(m)) with respect to the records in the system.

(12) *Research Disclosure.* The Department may disclose records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The Department may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain safeguards required under the Privacy Act with respect to the records in the system.

(13) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a Member of Congress in response to an inquiry from the Member made at the written request of that individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested the inquiry.

(14) *Disclosure to OMB for Federal Credit Reform Act (CRA) Support.* The Department may disclose records to OMB as necessary to fulfill CRA requirements. These requirements currently include transfer of data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental pre-claims assistance payments information.

(15) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other system or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(16) *Disclosure to Third Parties through Computer Matching Programs.*

Unless otherwise prohibited by other laws, any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program that is conducted under a CMA between the Department and the third party and requires that the matching be conducted in compliance with the requirements of the Privacy Act. Purposes of these disclosures may be to: (a) Establish or verify program eligibility and benefits; (b) establish or verify compliance with program regulations or statutory requirements, such as to investigate possible fraud or abuse; and (c) recoup payments or delinquent debts under any Federal benefit programs, such as locating or taking legal action against a delinquent or defaulted debtor.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). The Department may disclose to a consumer reporting agency information regarding a valid overdue claim of the Department; such information is limited to: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored electronically.

RETRIEVABILITY:

The records are retrievable by SSN, name, or an unique internal account identifier.

SAFEGUARDS:

All physical access to the Department site, and the sites of the Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a need-to-know basis, and controls individual users' ability to access and alter records within the system. All users of this system of records will have an unique User ID and corresponding password conforming to the Department's security policy. All interactions by individual users with the system are recorded.

Additionally, in accordance with the Federal Information Security Management Act of 2002 (FISMA), PAS must receive a signed Authority to Operate (ATO) from a designated Department official. The ATO process includes an assessment of security controls, a plan of action, milestones to remediate any identified deficiencies, and a continuous monitoring program.

FISMA controls implemented by the Department include a combination of management, operational, and technical controls, and include the following control families: Access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical and environmental protection, planning, personnel security, privacy, risk assessment, system and services acquisition, system and communications protection, system and information integrity, and program management.

RETENTION AND DISPOSAL:

The Department of Education has submitted a records retention and disposition schedule for the records covered by this system of records to the National Archives and Records Administration (NARA) for approval. No records will be destroyed prior to receiving NARA-approved disposition authority.

SYSTEM MANAGER(S) AND ADDRESS:

PAS Manager, Technology Office, Federal Student Aid, UCP, 830 First St. NE., Room 103E2, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth, and SSN. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity. You may address your request to the system manager at the address above.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record regarding you in the system of records, you can visit the ED PAS Account Management site, call the FAFSA on the web phone number listed on the Web site, or contact the system manager at the address given above. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in the system of records, you can contact the Customer Service Department at the telephone number listed on the PAS login or registration Web site (Federal Student Aid Information Center (FSAIC): 1–800–4–FED–AID (1–800–433–3243) or TTY (for the hearing impaired): 1–800–730–8913. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

If the SSN you provided to create the account does not match the records of the Social Security Administration (SSA), you will need to correct your SSN in PAS or contact the local office of the SSA for a SSN correction.

RECORD SOURCE CATEGORIES:

The identifying information (first name, middle name, last name, SSN, date of birth, address, telephone number, email address, security challenge questions and corresponding answers) will be collected from individuals applying for an FSA ID at the PAS registration Web site. In addition, PAS receives records from SSA which are maintained in the system.

EXEMPTIONS CLAIMED FOR SYSTEM:

None.

[FR Doc. 2015–06503 Filed 3–19–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Jacob K. Javits Gifted and Talented Students Education Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Jacob K. Javits Gifted and Talented Students Education Program.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.206A.

Dates:

Applications Available: March 20, 2015.

Deadline for Transmittal of Applications: May 4, 2015.

Deadline for Intergovernmental Review: July 6, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this competition under the Jacob K. Javits Gifted and Talented Students Education Program (Javits) is to provide grants to State educational agencies (SEAs) to enable them to carry out a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary and secondary schools nationwide to meet the special educational needs of gifted and talented students, particularly those from disadvantaged backgrounds or underrepresented groups. This grant competition implements the ''special rule'' in section 5464(c) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), that requires any Javits program funds appropriated for a fiscal year in excess of the amount of such funds appropriated for FY 2001 (*i.e.*, $7.5 million) to be used to award competitive grants to SEAs, local educational agencies (LEAs), or both. Due to the limited amount of funds available, the Assistant Secretary has opted to award competitive grants to SEAs only for the FY 2015 competition.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 5465 of the ESEA (20 U.S.C. 7253d).

Competitive Preference Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 20 points to an application that meets elements (1) and (2) of this priority. We award up to an additional 10 points to an application that meets either element (1) or element (2) of this priority.

This priority is:

Programs and projects designed to develop new information that:

(1) Improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students (up to 10 points); and

(2) Assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods (up to 10 points).

Note: In accordance with section 5465(b) of the ESEA, at least 50 percent of the applications approved under this competition must address element (2) above.

Requirements: The following program and application requirements are from section 5464 of the ESEA (20 U.S.C. 7253c).).

Program Requirements: Applications for funds under this program may propose to carry out one or more of the following activities:

(1) Conducting scientifically based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods to serve all students; and program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the proposed project;

(2) Carrying out professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

(3) Establishing and operating model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education);

(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning;

(5) Carrying out programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students;

(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities; or

(7) Providing funds for challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and LEAs that would not otherwise have the resources to provide such course work.

Application Requirements: Each SEA must describe in its application how:

(1) The proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

(2) The proposed programs can be evaluated.

Definitions: The definitions contained in 34 CFR 77.1(c) apply to this competition. The Assistant Secretary is placing special emphasis on the definition of evidence of promise (and other relevant terms) in this notice for the FY 2015 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

The definitions are:

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (ii) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger) favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

Logic model (also referred to as theory of action) means well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.*, the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with

reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcomes for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Program Authority: Title V, part D, subpart 6 of the ESEA (20 U.S.C. 7253–7253e).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The regulations in 34 CFR part 299.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$400,000.

Estimated Average Size of Awards: $350,000.

Estimated Number of Awards: 6–10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs.

Note: Under the ''special rule'' in section 5464(c) of the ESEA, the Assistant Secretary is authorized to award funds to SEAs, LEAs, or both. For FY 2015, the competitive grants made under this competition will be made to SEAs only.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other:*

a. *Participation of Private School Children and Teachers.* Applications for funds under Javits must provide for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including teachers and other personnel in professional development programs serving such students, located in areas served by the grant recipient.

b. *Administrative Direction and Control.* Administrative direction and control over grant funds must remain with the grantee.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs).

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.206A.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, provide the project narrative and management plan to address the selection criteria that reviewers use to evaluate your application. The required budget and budget narrative will be provided in a separate section. You must limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 20, 2015.

Deadline for Transmittal of Applications: May 4, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other

requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 6, 2015.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on the application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also, note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:*

Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under Javits, CFDA number 84.206A, must be submitted electronically using the Governmentwide Grants.gov Apply site. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for Javits at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.206, not 84.206A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You also can find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-

Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative section and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and email or fax your statement to: Jennifer Brianas, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E220, Washington, DC 20202–6450. FAX: (202) 205–4921.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.206A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.206A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your applications to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15

business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 of EDGAR. The maximum score for all selection criteria is 150, and the maximum possible score for each selection criterion is indicated in parentheses. The selection criteria for this competition are as follows:

(a) *Need for project* (30 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project (10 points).

(ii) The extent to which the proposed project will focus on serving or otherwise address the needs of disadvantage individuals (10 points).

(iii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses (10 points).

(b) *Quality of the project design* (40 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (10 points).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs (10 points).

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance (10 points).

(iv) The extent to which the proposed project is supported by evidence of promise (10 points).

(c) *Quality of project personnel* (20 points). The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator (10 points).

(ii) The qualifications, including relevant training and experience, of key project personnel (10 points).

(d) *Quality of the management plan* (30 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (15 points).

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (15 points).

(e) *Quality of the project evaluation* (30 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (10 points).

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (10 points).

(iii) The extent to which the methods of evaluation will, if well-implemented, produce evidence of promise (10 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

An additional factor we will consider in selecting an application for an award is the requirement in section 5465(b) of the ESEA (20 U.S.C. 7253d(b)). Under this section, the Assistant Secretary must ensure that no less than 50 percent of the applications approved under this competition address element (2) of the competitive preference priority in this notice.

3. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance

report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measure:* The Department has established the following Government Performance and Results Act of 1993 performance measure for Javits: The percentage of Javits projects with professional development activities focusing on the teaching and learning of gifted and talented students deemed to be of high quality by an expert panel.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Jennifer Brianas, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E220, Washington, DC 20202–6450. Telephone: (202) 401–0299 or by email: *Jennifer.Brianas@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 17, 2015.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2015–06492 Filed 3–19–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Asian American and Native American Pacific Islander-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Asian American and Native American Pacific Islander-Serving Institutions (AANAPISI) Program.

Notice inviting applications for new awards for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.031L.

Dates:

Applications Available: March 20, 2015.

Deadline for Transmittal of Applications: May 19, 2015.

Deadline for Intergovernmental Review: July 20, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The AANAPISI Program provides grants to eligible institutions of higher education (IHEs) that have an undergraduate enrollment of at least 10 percent Asian American or Native American Pacific Islander students to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Asian Americans and Native American Pacific Islanders and low-income individuals.

Background: We encourage applicants to read carefully the *Selection Criteria* section of this notice. Consistent with the Department's increasing emphasis in recent years on promoting evidence-based practices through our grant competitions, the Secretary will evaluate applications on the extent to which the proposed project is supported by a logic model that meets the evidence standard of ''strong theory'' (as defined in this notice). Resources to assist applicants in creating a logic model can be found here: *http://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf.*

Priorities: This notice contains one absolute priority, two competitive preference priorities, and one invitational priority. The absolute priority is from the Department's notice of final supplemental priorities and definitions for discretionary grant programs (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425). Competitive Preference Priority 1 is from section 320(c)(2)(H) of the Higher Education Act of 1965, as amended (HEA). Competitive Preference Priority 2 is from the Supplemental Priorities.

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Projects that are designed to increase the number and proportion of high-need students (as defined in this notice) who are academically prepared for, enroll in, or complete on time college, other postsecondary education, or other career and technical education.

Competitive Preference Priorities: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an application up to three additional points for each priority, for a total of up to six additional points, depending on how well the application meets each of these priorities.

These priorities are:

Competitive Preference Priority 1 (up to 3 additional points).

Academic tutoring and counseling programs and student support services.

Competitive Preference Priority 2 (up to 3 additional points).

Projects that are designed to leverage technology through implementing high-quality accessible digital tools, assessments, and materials that are aligned with rigorous college- and career-ready standards.

Invitational Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects that support activities that strengthen Native American Pacific Islander language preservation and revitalization.

Definitions: The following definitions are from the Supplemental Priorities and from 34 CFR 77.1 and apply to the priorities and selection criteria in this notice:

High-minority school means a school as that term is defined by a local educational agency (LEA), which must define the term in a manner consistent with its State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The applicant must provide the definition(s) of high-minority schools used in its application.

High-need students means students who are at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools, who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Note: In developing logic models, applicants may want to use resources such as the Pacific Education Laboratory's Education Logic Model Application (*www.relpacific.mcrel.org/PERR.html* or *http://files.eric.ed.gov/fulltext/ED544779.pdf)* to help design their logic models.

Regular high school diploma means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a General Education Development credential, certificate of attendance, or any alternative award.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Program Authority: Title III, part A, section 320 of the HEA (20 U.S.C. 1059g).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,062,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $200,000–$300,000 per year.

Estimated Average Size of Awards: $250,000 per year.

Maximum Awards: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) An IHE is eligible to receive funds under the AANAPISI Program if it qualifies as an Asian American and Native American Pacific Islander-Serving Institution. At the time of application, IHEs applying for funds under the AANAPISI Program must have an enrollment of undergraduate students that is at least 10 percent Asian American or Native American Pacific Islander, as defined as follows:

Asian American means a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent (including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam), as defined in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published in the **Federal Register** on October 30, 1997 (62 FR 58789).

Native American Pacific Islander means any descendant of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

At the time of submission of their applications, applicants must certify their total undergraduate headcount enrollment and that 10 percent of the IHE's enrollment is Asian American or Native American Pacific Islander. An assurance form, which is included in the application materials for this competition, must be signed by an official for the applicant and submitted.

To qualify as an eligible institution under the AANAPISI Program, an institution must also be—

(i) Accredited or pre-accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(ii) Legally authorized by the State in which it is located to be a community college or to provide an educational program for which it awards a bachelor's degree; and

(iii) Designated as an ''eligible institution'' by demonstrating that it has: (A) An enrollment of needy students as described in 34 CFR 607.3; and (B) low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

Note: The notice for applying for designation as an eligible institution was published in the **Federal Register** on November 3, 2014 (79 FR 65197) and applications were due on December 22, 2014. Only institutions that submitted applications by the deadline date and that the Department determined are eligible may apply for a grant.

(b) A grantee under the Developing Hispanic-Serving Institutions (HSI) Program, which is authorized by title V, part A of the HEA, may not receive a grant under any HEA, title III, part A programs, including the AANAPISI Program. Further, a current HSI Program grantee may not give up its HSI grant in

order to receive a grant under any title III, part A program.

An eligible HSI that is not a current grantee under the HSI Program may apply for a FY 2015 grant under all title III, part A programs for which it is eligible, as well as under the HSI Program. However, a successful applicant may receive only one grant.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching unless funds are used for an endowment.

IV. Application and Submission Information

1. *Address to Request Application Package:* Pearson Owens or Don Crews, U.S. Department of Education, 1990 K Street NW., 6th Floor, Washington, DC 20006–8513. You may contact these individuals at the following email addresses or telephone numbers:

Pearson.Owens@ed.gov; (202) 502–7804
Don.Crews@ed.gov; (202) 502–7574

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

You can also obtain an application via the Internet using the following address: *www.Grants.gov.*

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting one of the program contact people listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria, the absolute priority, the competitive preference priorities, and the invitational priority that reviewers use to evaluate your application. We have established mandatory page limits. You must limit the section of the application narrative that addresses:

- The selection criteria to no more than 50 pages.
- The absolute priority to no more than three pages.
- A competitive preference priority, if you are addressing one or both, to no more than three pages (for a total of six pages if you address both).
- The invitational priority to no more than two pages, if you address it.

Accordingly, under no circumstances may the application narrative exceed 61 pages.

Please include a separate heading for the absolute priority and for each competitive preference priority and invitational priority that you address.

For the purpose of determining compliance with the page limits, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margins.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, and captions and all text in charts, tables, figures, and graphs. These items may be single-spaced. Charts, tables, figures, and graphs in the application narrative count toward the page limits.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the Supplemental Information for SF 424 Form; Part II, the Budget Information Summary Form (ED Form 524); and Part IV, the assurances and certifications. The page limit also does not apply to the table of contents, the one-page abstract, the resumes, the bibliography, or the letters of support. If you include any attachments or appendices, these items will be counted as part of the application narrative for purposes of the page-limit requirement. You must include your complete response to the selection criteria and priorities in the application narrative.

We will reject your application if you exceed the page limits.

3. *Submission Dates and Times:*

Applications Available: March 20, 2015.

Deadline for Transmittal of Applications: May 19, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 20, 2015.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under the AANAPISI Program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the AANAPISI Program, CFDA number 84.031L, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the AANAPISI Program at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.031, not 84.031L).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing

instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact one of the people listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Pearson Owens, U.S. Department of Education, 1990 K Street NW., Room 6029, Washington, DC 20006–8513. FAX: (202) 502–7681.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031L), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031L), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 75.210. We will award up to 100 points to an application under the selection criteria; the total possible points for each selection criterion are noted in parentheses.

a. *Need for project.* (Maximum 20 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers:

1. The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (10 points)

2. The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (5 points)

3. The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (5 points)

b. *Quality of the project design.* (Maximum 25 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

2. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

3. The extent to which the proposed project is supported by strong theory (as defined in this notice). (10 points)

c. *Quality of project services.* (Maximum 10 points) The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been

underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers:

1. The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (5 points)

2. The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (5 points)

d. *Quality of project personnel.* (Maximum 10 points) The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers:

1. The qualifications, including relevant training and experience, of the project director or principal investigator. (5 points)

2. The qualifications, including relevant training and experience, of key project personnel. (5 points)

e. *Adequacy of resources.* (Maximum 5 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

1. The extent to which the budget is adequate to support the proposed project. (3 points)

2. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (2 points)

f. *Quality of the management plan.* (Maximum 15 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

1. The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

2. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (2.5 points)

3. The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (2.5 points)

g. *Quality of the project evaluation.* (Maximum 15 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers:

1. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (5 points)

2. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

3. The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Awards will be made in rank order according to the average score received from a panel of three non-Federal reviewers.

3. *Tie-breaker.* In tie-breaking situations, we award one additional point to an application from an IHE that has an endowment fund of which the current market value, per FTE enrolled student, is less than the average current market value of the endowment funds, per FTE enrolled student, at comparable institutions that offer similar instruction. We also award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditures for library materials per FTE enrolled student at comparable institutions that offer similar instruction. We also award one additional point to an application from an IHE that proposes to carry out one or more of the following activities—

(1) Faculty development;

(2) Funds and administrative management;

(3) Development and improvement of academic programs;

(4) Acquisition of equipment for use in strengthening management and academic programs;

(5) Joint use of facilities; and

(6) Student services.

For the purpose of these funding considerations, we use 2012–2013 data. If a tie remains after applying the tie-breaker mechanism above, priority will be given to applications from IHEs that have the lowest endowment values per FTE enrolled student.

4. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or, we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the AANAPISI Program:

a. The percentage of first-time, full-time degree-seeking undergraduate students at four-year AANAPISIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same AANAPISI;

b. The percentage of first-time, full-time degree-seeking undergraduate students at two-year AANAPISIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same AANAPISI;

c. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year AANAPISIs who graduate within six years of enrollment; and

d. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year AANAPISIs who graduate within three years of enrollment.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Pearson Owens or Don Crews, U.S. Department of Education, 1990 K Street NW., 6th floor, Washington, DC 20006–8513. You may contact these individuals at the following email addresses or telephone numbers:

Pearson.Owens@ed.gov; (202) 502–7804

Don.Crews@ed.gov; (202) 502–7574

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Applicants should periodically check the Department's Web site for the title III, part A programs for further information. The address is: *www.ed.gov/programs/aanapi/index.html.*

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to either of the program contacts listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Jamienne S. Studley, Deputy Under Secretary, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: March 17, 2015.

Jamienne S. Studley,

Deputy Under Secretary.

[FR Doc. 2015–06464 Filed 3–19–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP13–36–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Transcontinental Gas Pipe Line Company, LLC submits an application to amend the certificate granted by the Commission for the Rockaway Delivery Lateral Project.
Filed Date: 3/10/15.
Accession Number: 20150310–5208.
Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: RP15–630–000.
Applicants: Garden Banks Gas Pipeline, LLC.
Description: Compliance filing per 154.203: Change Info Postings URL to be effective 4/10/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5084.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–631–000.
Applicants: Mississippi Canyon Gas Pipeline, LLC.
Description: § 4(d) rate filing per 154.204: Change Info Postings URL to be effective 4/10/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5085.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–632–000.
Applicants: Nautilus Pipeline Company, LLC.
Description: § 4(d) rate filing per 154.204: Change Informational Postings Web site URL to be effective 4/10/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5087.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–633–000.
Applicants: Alliance Pipeline L.P.
Description: Compliance filing per 154.203: System Map URL to be effective 4/11/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5280.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–634–000.
Applicants: Equitrans, L.P.
Description: Compliance filing per 154.203: Order No. 801 Map Compliance Filing to be effective 4/1/2015.
Filed Date: 3/11/15.
Accession Number: 20150311–5293.
Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–635–000.

Applicants: Rager Mountain Storage Company LLC.

Description: Compliance filing per 154.203: Order No. 801 Map Compliance Filing to be effective 4/1/2015.

Filed Date: 3/11/15.

Accession Number: 20150311–5317.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: RP15–636–000.

Applicants: Cheniere Creole Trail Pipeline, L.P.

Description: Compliance filing per 154.203: Service Agreement Compliance Filing to be effective 5/1/2015.

Filed Date: 3/11/15.

Accession Number: 20150311–5350.

Comments Due: 5 p.m. ET 3/23/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 12, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06404 Filed 3–19–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1332–002.

Applicants: Canadian Hills Wind, LLC.

Description: Compliance filing per 35: Amended Co-Tenancy and Shared Facilities Agreement to be effective 5/12/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5092.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–72–001.

Applicants: Southwest Power Pool, Inc.

Description: eTariff filing per 35.19a(b): 1976R3 Kaw Valley Electric Cooperative Inc. Refund Report to be effective N/A.

Filed Date: 3/13/15.

Accession Number: 20150313–5040.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–77–001.

Applicants: Southwest Power Pool, Inc.

Description: eTariff filing per 35.19a(b): 2041R3 KCBPU–GMO Refund Report to be effective N/A.

Filed Date: 3/13/15.

Accession Number: 20150313–5045.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–920–000.

Applicants: Arizona Public Service Company.

Description: Report Filing: Supplement to the Record for Service Agreement No. 340 with City of Azusa to be effective N/A.

Filed Date: 3/13/15.

Accession Number: 20150313–5065.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15–1229–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–03–12_MSG_BCR_Clarification to be effective 3/13/2015.

Filed Date: 3/12/15.

Accession Number: 20150312–5133.

Comments Due: 5 p.m. ET 4/2/15.

Docket Numbers: ER15–1232–000.

Applicants: Illinois Municipal Electric Agency.

Description: Waiver Request of Illinois Municipal Electric Agency.

Filed Date: 3/11/15.

Accession Number: 20150311–5365.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15–1238–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): LMPc Replacement to be effective 5/27/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5034.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–1239–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3739; Queue No. X2–075 to be effective 2/24/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5049.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–1240–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–03–13_SA 2758 NSP-Trishe Wind Minnesota, LLC E&P (J288) to be effective 3/14/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5053.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–1241–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amendment to NCEMC IA Catawba Nuclear Station to be effective 6/1/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5061.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–1252–000.

Applicants: PJM Interconnection, L.L.C., American Electric Power Service Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): AEP submits revisions to OATT Attachment H–20B to update PBOP Rate to be effective 7/1/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5100.

Comments Due: 5 p.m. ET 4/3/15.

Docket Numbers: ER15–1253–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3481; Queue X4–015 to be effective 2/24/2015.

Filed Date: 3/13/15.

Accession Number: 20150313–5105.

Comments Due: 5 p.m. ET 4/3/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06403 Filed 3–19–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–1218–000]

Solar Star California XIII, LLC: Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Solar Star California XIII, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 31, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 11, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–06405 Filed 3–19–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[9924–98–Region 3]

Notice of Proposed Settlement Agreement Pursuant to CERCLA Section 122(H)(1) and Opportunity for Public Comment: Millsboro TCE Groundwater Contamination Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), notice is hereby given that a proposed administrative settlement agreement for recovery of past response costs (''Proposed Agreement'') associated with Millsboro TCE Groundwater Contamination Superfund Site, Millsboro, Delaware was executed by the Environmental Protection Agency (''EPA'') and is now subject to public comment, after which EPA may modify or withdraw its consent if comments received disclose facts or considerations that indicate that the Proposed Agreement is inappropriate, improper, or inadequate. The Proposed Agreement would resolve potential EPA claims under Section 107(a) of CERCLA, against Intervet, Inc. and Mallinckrodt Veterinary, Inc. (''Settling Parties''). The Proposed Agreement would require Settling Parties to reimburse EPA $950,000.00 for all non-reimbursed past response costs incurred by EPA for the Site through May 27, 2014.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Proposed Agreement. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103.

DATES: Comments must be submitted on April 20, 2015.

ADDRESSES: The Proposed Agreement and additional background information relating to the Proposed Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Proposed Agreement may be obtained from Cynthia T. Weiss (3RC42), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Millsboro TCE Contaminated Superfund Site, Proposed Administrative Settlement Agreement for Recovery of Past Response Costs'' and ''EPA Docket No. CERCLA–03–2015–0036–CR,'' and should be forwarded to Cynthia T. Weiss at the above address.

FOR FURTHER INFORMATION CONTACT: Cynthia T. Weiss (3RC42), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2659; *weiss.cynthia@epa.gov.*

Dated: March 4, 2015.

Cecil Rodrigues,

Director, Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III.

[FR Doc. 2015–06445 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9924–35–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sierra Club: *Sierra Club* v. *McCarthy,* No. 4:14–cv–00643–JLH (E.D. AK). In 2012, the Environmental Protection Agency (EPA) issued a rule partially disapproving a revision to a state implementation plan (SIP) submitted by Arkansas to address the requirements of the regional haze program. EPA also at the same time partially disapproved that portion of the Arkansas SIP submittal addressing the interstate transport visibility requirements associated with the promulgation of the 1997 national ambient air quality standards (NAAQS) for ozone and fine particulate matter ($PM_{2.5}$). In its lawsuit, Sierra Club alleged that EPA has failed to meet the

requirement of the Clean Air Act that the Agency promulgate a federal implementation plan (FIP) within two years of partially disapproving a SIP, in whole or in part. The proposed consent decree establishes proposed and final deadlines for EPA to take action to meet its obligations with respect to Arkansas.

DATES: Written comments on the proposed consent decree must be received by April 20, 2015.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2015–0162, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: M. Lea Anderson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5571; fax number (202) 564–5603; email address: *anderson.lea@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

On October 17, 2011, EPA proposed to partially approve and to partially disapprove a revision to the Arkansas SIP intended to address the regional haze requirements of the Clean Air Act. 76 F R 64186. In that same action, EPA also proposed to partially disapprove the portion of the Arkansas' interstate transport SIP submittal addressing the visibility requirement of section 110(a)(2)(D)(i)(II) of the Clean Air Act for the 1997 ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. On March 12, 2012, EPA finalized its partial approval and disapproval of the Arkansas Regional Haze and Interstate Transport SIP submittals. 77 F R 14604. When EPA disapproves a SIP submission in whole or in part, section 110(c) of the Act requires EPA to promulgate a FIP within two years unless the State corrects the deficiency and EPA approves the plan revision. Sierra Club filed a complaint in the United States District Court for the Northern District of California in August 2014 alleging that EPA had failed to promulgate a FIP for Arkansas as required by the Clean Air Act. That case was transferred to the United State District Court for the Eastern District of Arkansas in October 2014.

The proposed consent decree would resolve the lawsuit filed by the Sierra Club by establishing that EPA must take proposed action by March 16, 2015 and final action by December 15, 2015 to address the deficiencies in the Arkansas SIP that were identified by EPA in its March 12, 2012 action. See the proposed consent decree for the specific details.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2015–0162) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail)

system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: March 12, 2015.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2015–06508 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2013–0232; FRL–9924–79–ORD]

Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA is announcing an extension of the public comment period for the second external review draft of a document titled, ''Second External Review Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' (EPA/600/R–14/006). The original **Federal Register** document announcing the public comment period was published on January 30, 2015 (80 FR 5110). With this extension, the comment period ends on April 30, 2015. This assessment document was developed by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD) as part of the review of the primary (health-based) National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide.

DATES: The public comment period began on January 30, 2015, and ends April 30, 2015. Comments must be received on or before April 30, 2015.

ADDRESSES: The ''Second External Review Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' is available primarily via the internet on NCEA's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea* or the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2013–0232. A limited number of CD–ROM copies are available. Contact Ms. Marieka Boyd by phone: 919–541–0031; fax: 919–541–5078; or email: *boyd.marieka@epa.gov* to request a CD–ROM, and please provide your name, your mailing address, and the document title, ''Second External Review Draft Integrated Science Assessment for Oxides of Nitrogen—Health Criteria'' to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Dr. Molini Patel, NCEA; telephone: 919–541–1492; fax: 919–541–1818; or email: *patel.molini@epa.gov.*

SUPPLEMENTARY INFORMATION: Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by fax, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of **Federal Register** document that published on January 30, 2015 (80 FR 5110).

For information on submitting comments to the docket, please contact the ORD Docket at EPA's Headquarters Docket Center; telephone: 202–566–1752; fax: 202–566–9744; or email: *Docket_ORD@epa.gov.*

Dated: March 12, 2015.

Mary A. Ross,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2015–06340 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9020–1]

Environmental Impact Statements; Notice of Availability

AGENCY: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 03/09/2015 Through 03/13/2015

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20150063, Draft EIS, NOAA, HI, Hawaiian Islands Humpback Whale National Marine Sanctuary Draft Management Plan, Comment Period Ends: 06/19/2015, Contact: Edward Lindelof 301–713–3125.

EIS No. 20150064, Final EIS, USACE, FL, Port Everglades Harbor Navigation, Review Period Ends: 04/20/2015, Contact: Terri Jordan-Sellers, 904–232–1817.

EIS No. 20150065, Final EIS, FERC, 00, Multi-Project for Hydropower Licenses-Susquehanna River Hydroelectric Projects, Review Period Ends: 04/20/2015, Contact: Emily Carter 202–502–6512.

EIS No. 20150066, Draft Supplement, VA, CA, San Francisco Veterans Affairs Medical Center (SFVAMC) Long Range Development Plan, Comment Period Ends: 05/18/2015, Contact: Robin Flanagan 415–750–2049.

EIS No. 20150067, Draft EIS, BIA, IN, Pokagon Band of Potawatomi Indians Fee-to-Trust Transfer for Tribal Village and Casino City of South Bend, Comment Period Ends: 05/04/2015, Contact: Scott Doig 612–725–4514.

EIS No. 20150068, Draft Supplement, USFS, OR, Wallowa-Whitman National Forest Invasive Plants Treatment Project, Comment Period Ends: 05/04/2015, Contact: Gene Yates 541–523–1290.

EIS No. 20150069, Final EIS, USN, PA, Disposal and Reuse of the Former Naval Air Station Joint Reserve Base (NAS JRB) Willow Grove, Review Period Ends: 04/20/2015, Contact: James Anderson 843–963–4991.

EIS No. 20150070, Revised Final EIS, USFS, ID, Lower Orogrande Project, Review Period Ends: 04/20/2015, Contact: George Harbaugh 208–935–4260.

EIS No. 20150071, Draft EIS, USACE, CA, American River Common Features, Comment Period Ends: 05/04/2015, Contact: Anne Baker 916–557–7277.

EIS No. 20150072, Revised Draft EIS, USACE, LA, Southwest Coastal Louisiana, Comment Period Ends: 05/04/2015, Contact: Dr. William P. Klein, Jr. 504–862–2540.

EIS No. 20150073, Draft EIS, FTA, VA, Virginia Beach Transit Extension, Comment Period Ends: 05/04/2015, Contact: Ryan Long 215–656–7051.

EIS No. 20150074, Final EIS, USFS, OR, Lower Imnaha Rangeland Analysis, Review Period Ends: 04/20/2015, Contact: Kris Stein 541–426–5546.

Dated: March 17, 2015.

Dawn Roberts,

Management Analyst, Office of Federal Activities.

[FR Doc. 2015–06502 Filed 3–19–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2015–0091; FRL–9924–65–OAR]

Notice of Opportunity To Comment on an Analysis of the Greenhouse Gas Emissions Attributable to Production and Transport of Pennycress (Thlaspi Arvense) Oil for Use in Biofuel Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In this Notice, the Environmental Protection Agency (EPA) is inviting comment on its analysis of the greenhouse gas (GHG) emissions attributable to the production and transport of *Thlaspi arvense* (''pennycress'') oil feedstock for use in making biofuels such as biodiesel, renewable diesel, and jet fuel. This notice explains EPA's analysis of the production and transport components of the lifecycle GHG emissions of biofuel made from pennycress oil, and describes how EPA may apply this analysis in the future to determine whether biofuels produced from pennycress oil meet the necessary GHG reductions required for qualification as renewable fuel under the Renewable Fuel Standard program. Based on this analysis, we anticipate that biofuels produced from pennycress oil could qualify as biomass-based diesel or advanced biofuel if typical fuel production process technologies are used.

DATES: Comments must be received on or before April 20, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0091, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Air and Radiation Docket ID No. EPA–HQ–OAR–2015–0091.
- *Mail:* Air and Radiation Docket, Docket No. EPA–HQ–OAR–2015–0091, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460, Attention Air and Radiation Docket, ID No. EPA–HQ–OAR–2015–0091. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2015–0091. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Jon Monger, Office of Transportation and Air Quality, Mail Code: 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., 20460; telephone number: (202) 564–0628; fax number: (202) 564–1686; email address: *monger.jon@epa.gov.*

SUPPLEMENTARY INFORMATION: This notice is organized as follows:

I. Introduction
II. Analysis of GHG Emissions Associated With Use of Pennycress Oil as a Biofuel Feedstock
A. Feedstock Production, Land Availability, and Projected Volumes
1. Background
2. Volume Potential
3. Indirect Impacts
4. Crop Inputs
5. Potential Invasiveness
6. Crushing and Oil Extraction
B. Feedstock Distribution
C. Summary of Agricultural Sector GHG Emissions
D. Fuel Production and Distribution
III. Summary

I. Introduction

As part of changes to the Renewable Fuel Standard (RFS) program regulations published on March 26, 2010 [1] (the ''March 2010 rule''), EPA specified the types of renewable fuels eligible to participate in the RFS program through approved fuel pathways. Table 1 to 40 CFR 80.1426 of the RFS regulations lists three critical components of an approved fuel pathway: (1) Fuel type; (2) feedstock; and (3) production process. Fuel produced pursuant to each specific combination of the three components, or fuel pathway, is designated in Table 1 to 40 CFR 80.1426 as eligible for purposes of the Clean Air Act's (CAA) requirements for greenhouse gas (GHG) reductions to qualify as renewable fuel or one of three subsets of renewable fuel (biomass-based diesel, cellulosic biofuel, or advanced biofuel). EPA may also independently approve additional fuel pathways not currently listed in Table 1 to 40 CFR 80.1426 for participation in the RFS program, or a third-party may petition for EPA to evaluate a new fuel pathway in accordance with 40 CFR 80.1416.

EPA's lifecycle analyses are used to assess the overall GHG impacts of a fuel throughout each stage of its production and use. The results of these analyses, considering uncertainty and the weight of available evidence, are used to determine whether a fuel meets the necessary GHG reductions required under the CAA for it to be considered renewable fuel or one of the subsets of renewable fuel. Lifecycle analysis includes an assessment of emissions related to the full fuel lifecycle,

[1] See 75 FR 14670.

including feedstock production, feedstock transportation, fuel production, fuel transportation and distribution, and tailpipe emissions. Per the CAA definition of lifecycle GHG emissions, EPA's lifecycle analyses also include an assessment of significant indirect emissions, such as indirect emissions from land use changes, agricultural sector impacts, and production of co-products from biofuel production.

Pursuant to 40 CFR 80.1416, EPA received a petition from Arvens Technology, Inc., with contents claimed as confidential business information (CBI), requesting that EPA evaluate the lifecycle GHG emissions for biofuels produced using *Thlaspi arvense* (''pennycress'') oil, and that EPA provide a determination of the renewable fuel categories, if any, for which such biofuels may be eligible. As an initial step in this process, EPA has conducted an evaluation of the GHG emissions associated with the production and transport of pennycress when it is used as a biofuel feedstock, and is seeking public comment on the methodology and results of this evaluation.

EPA expects to consider comments received and then use the information to evaluate petitions received pursuant to 40 CFR 80.1416 that propose to use pennycress oil as a feedstock for the production of biofuel, and that seek an EPA determination regarding whether such biofuels qualify as renewable fuel under the RFS program. In evaluating such petitions, EPA will consider the GHG emissions associated with petitioners' biofuel production processes, as well as emissions associated with the transport and use of the finished biofuel, in addition to the GHG emissions associated with the production and transport of pennycress feedstock in determining whether petitioners' proposed biofuel production pathway satisfies CAA renewable fuel lifecycle GHG reduction requirements.

II. Analysis of GHG Emissions Associated With Use of Pennycress Oil as a Biofuel Feedstock

EPA has evaluated the lifecycle GHG impacts of using pennycress oil as a biofuel feedstock, based on information provided in the petition and other data gathered by EPA. For these analyses, we used a similar approach to that used for camelina oil in a rule published on March 5, 2013 [2] (the ''March 2013 rule''). In that rulemaking, EPA determined that several renewable fuel pathways using camelina oil feedstock meet the required 50% lifecycle GHG reduction threshold under the RFS for biomass-based diesel and advanced biofuel because the GHG emissions performance of camelina-based fuels is at least as good as that modeled for fuels made from soybean oil.

EPA believes that new agricultural sector modeling is not needed to evaluate the lifecycle GHG impacts of using pennycress oil as a biofuel feedstock for purposes of making GHG reduction threshold determinations for the RFS program. This is in part because of the similarities of pennycress oil to soybean oil and camelina oil, and because pennycress is not expected to have significant land use change impacts. Instead of performing new agricultural sector modeling, EPA relied upon the soybean oil analysis conducted for the March 2010 rule to assess the relative GHG impacts of growing and transporting pennycress oil for use as a biofuel feedstock. We have looked at every component of the agricultural sector GHG emissions from pennycress oil production, including land use change, crop inputs, crushing and oil extraction, and feedstock distribution. For each component, we believe that the GHG emissions are less than or equal to the emissions from that component of soybean oil production. Based on this analysis (described below), we propose to evaluate the agricultural sector GHG emissions impacts of using pennycress oil in responding to petitions received pursuant to 40 CFR 80.1416 by assuming that GHG emissions are similar to those associated with the use of soybean oil for biofuel production. We invite comment on this proposed approach.

A. Feedstock Production

1. Background

Pennycress is an oilseed crop of the flowering mustard plant family Brassicaceae. Pennycress is native to Eurasia and has been in North America for approximately 200 years. It is widespread throughout temperate regions, and can grow in cropland, fallow land, and along roadsides, among other places.[3] It is a winter annual that flowers in spring.[4] The fertilized flowers produce seedpods, with each plant producing up to 15,000 seeds. These seeds have a high oil content.[5]

Pennycress oil is not edible, and currently has no commercial markets, but it has many potential uses. Pennycress oil has high concentrations of erucic acid,[6] which could make it useful for industrial purposes such as lubricants and textiles softeners.[7] In addition, pennycress seed meal has been investigated for use as a biofumigant.[8] There is currently interest in developing pennycress for use as a biofuel crop because it can be grown in the winter between seasons for other major crops such as soybeans and corn, requires little inputs, and has a high oil content.[9] In addition, growing pennycress can help preserve soil quality and water quality by reducing runoff and erosion.[10] Because of the interest in pennycress as a biofuel crop, pennycress growth and fuel production are areas of active research at the United States Department of Agriculture (USDA), Western Illinois University, and in private industry.[11]

2. Volume Potential

Based on information currently available, pennycress is expected to be primarily planted in the U.S. as a rotation crop with corn and soybeans,[12] on acres that would otherwise remain fallow (see Table 1). Current research indicates that planting pennycress in

[2] 78 FR 14190.

[3] Pennycress Resource Network, *http://www.wiu.edu/pennycress/agronomics/.* Accessed February 19, 2015.

[4] Fan, J. et al. (2013) ''A life cycle assessment of pennycress (*Thlaspi arvense* L.)—derived jet fuel and diesel.'' Biomass and Bioenergy, 55:87–100.

[5] Moser, B.R., et al. (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

[6] Moser, B.R., *et al.* (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

[7] USDA Economic Research Service, ''Crambe, industrial rapeseed, and tung provide valuable oils,'' September 1996. Available at: *http://www.ers.usda.gov/ersDownloadHandler.ashx?file=/media/933430/ius6c_002.pdf.* Accessed July 8, 2014.

[8] Vaughn, S.F., *et al.* (2005) ''Biofumigant compounds released by field pennycress (*Thlaspi arvense*) seedmeal.'' Journal of Chemical Ecology, 31(1):167–177.

[9] Moser, B.R., *et al.* (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

[10] Christiansen, J. and C. Taylor, ''Cover crops improve soil health, help farmers weather drought.'' USDA National Resources Conservation Service. Available at: *http://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/home/?cid=STELPRDB1083051.* Accessed January 26, 2015.

[11] Evangelista, R.L. *et al.* (2012) ''Extraction of pennycress (*Thlaspi arvense* L.) seed oil by full pressing.'' Industrial Crops and Products, 37:76–81; Moser, B.R. *et al.* (2009) ''Composition and physical properties of cress (*Lepidium sativum* L.) and field pennycress (*Thlaspi arvense* L.) oils.'' Industrial Crops and Products 30:199–205; Moser, B.R., et al. (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

[12] Moser, B.R., *et al.* (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

lieu of fallowing would not decrease the next soybean yield.[13] Since substituting fallow land with pennycress production would not typically displace another crop, EPA does not believe new acres would need to be brought into agricultural use to increase pennycress production.

Table 1—Example Soybean, Corn and Pennycress Rotation

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Year 1				Corn Planting					Corn Harvest/ Pennycress Planting			
Year 2					Pennycress Harvest	Soybean Planting				Soybean Harvest		

Shaded cells indicate fallow months

Dark shaded cells indicate growing months

Pennycress is currently cultivated on approximately 1,000 acres of land in the U.S., in Illinois, Iowa, Ohio, and Indiana.[14] EPA anticipates that these states are most likely to have large scale increases in pennycress production in the short term, because pennycress is already cultivated there. Also, these states have high soybean acreage and the appropriate climate for pennycress to be cultivated as a winter crop before soybean planting. Based on USDA data on soybean acreage in 2014, pennycress could be cultivated on 31 million acres in these states.[15] However, industry is also considering cultivating pennycress in other Midwest corn-belt states, and according to their estimates, 40 million acres could be cultivated.[16] Industry projects that by 2022, approximately 2 million of these available acres will be used for pennycress production.[17] Based on our calculations of the potential biodiesel production from pennycress, as described below, we do not anticipate demand for pennycress oil to be greater than can be satisfied by available fallow acres.

Average yields of 1,000–2,000 pounds of pennycress seed per acre have been achieved on test plots,[18] and are in line with expected yields of other oilseeds such as canola/rapeseed. Based on a mid-range yield of 1,500 pounds per acre and current acreage (1,000 acres), approximately 55,000 gallons of pennycress-based biodiesel could be produced from existing pennycress acres (assuming 0.28 pounds of pennycress oil can be extracted from a pound of seed, and 7.6 pounds of oil produces 1 gallon of biodiesel).[19] Yield improvements of pennycress are expected to approach the yield growth rates of other oilseed crops over the next decade, as experience with growing pennycress improves cultivation practices and the application of existing technologies are more widely adopted.[20] Assuming a yield growth rate of 2% per year, starting with a yield of 1,500 pounds per acre, yields would be 1,800 pounds per acre by 2022. Based on this yield and the industry's projection of 2 million acres of pennycress in 2022, approximately 133 million gallons (MG) of pennycress-based biodiesel could be produced.[21] If investment in new seed technology allows yields to increase to levels projected by industry (4,000 pounds per acre), significantly more pennycress-based renewable fuels could be produced.[22] For the purposes of this analysis, we took a conservative approach in terms of lifecycle GHG impacts of crop production by assuming the lower yield estimate of 1,800 pounds per acre.

3. Indirect Impacts

Unlike commodity crops that are tracked by USDA, pennycress does not have a well-established, internationally traded market that would be significantly affected by an increase in pennycress-based biofuels. Based on information provided in the petition itself, from USDA, and in the scientific literature, returns on pennycress are expected to be approximately $120 per acre, given average yields of 1,800 pounds per acre and a contract price of $0.15 per pound (See Table 2). For comparison purposes, the USDA estimates of corn and soybean returns, including operating costs but not overhead costs such as hired labor, were between $206 and $440 per acre in 2013.[23] Over time, advancements in seed technology, improvements in planting and harvesting techniques, and changes in input usage could significantly increase future pennycress yields and returns, but it is unlikely the returns to farmers from pennycress will ever compete with the returns from corn, soybeans or other widely traded commodity crops. In addition, because pennycress is expected to be grown on

[13] Phippen, W.B. et al. (2010) ''Planting date, herbicide, and soybean rotation studies with field pennycress (*Thlaspi arvense* L.)'' Association for the Advancement of Industrial Crops Annual Meeting, Fort Collins, CO. September 19–22, 2010. Poster. Available at: *http://www.wiu.edu/pennycress/current-experiments/Planting%20Date%202010.pdf.*

[14] Correspondence with Terry Isbell of USDA Agricultural Research Service (ARS).

[15] 2014 soybean acreage from USDA, National Agricultural Statistics Service, *http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1000.*

[16] Arvens Technology, Inc., ''About Pennycress.'' Available at: *http://arvenstech.com/about.html.* Accessed February 23, 2015.

[17] Petition from Arvens Technology, Inc., June 2012.

[18] Isbell, T. and S. Chermak (2010). ''*Thlaspi arvense* (Pennycress) germination, development and yield potential.'' Advancement of Industrial Crops Annual Meeting, Fort Collins, CO. September 19–22, 2010. Abstract, p. 29. Available at: *http://www.aaic.org/10program.htm.*

[19] For biodiesel produced from soybean oil, 7.6 pounds of oil are also needed for one gallon of biodiesel. According to the petition, 0.28 lbs of pennycress oil can be extracted from a pound of seed. A similar value of 0.29 lbs oil per pound of seed is used by: Fan, J. et al. (2013) ''A life cycle assessment of pennycress (*Thlaspi arvense* L.)—derived jet fuel and diesel.'' Biomass and Bioenergy, 55:87–100.

[20] Correspondence with Terry Isbell of USDA ARS.

[21] Different amounts of feedstock oil are needed to produce a gallon of different types of fuel (biodiesel, renewable diesel, and renewable jet fuel). For simplicity, we only estimated the potential biodiesel production here, which requires the least amount of feedstock oil per gallon of fuel.

[22] Petition from Arvens Technology, Inc., June 2012.

[23] USDA Economic Research Service, Commodity Costs and Returns. Available at: *http://www.ers.usda.gov/data-products/commodity-costs-and-returns.aspx.* Accessed June 12, 2014.

fallow land, it will not impact other commodities through land competition. For these reasons, EPA has determined that, unlike a crop such as soybeans, production of pennycress-based biofuels is not expected to have a significant impact on other agricultural commodity markets and consequently would not result in significant indirect impacts, including indirect land use changes.

TABLE 2—PENNYCRESS COSTS AND RETURNS, PER ACRE [20]

	2022 Pennycress (1,800 lbs/acre)
Inputs	
Seed:	
Pennycress seed (cost: $1/lb)	$13.00 (13 lbs/ac).
Fertilizer:	
Nitrogen Fertilizer (cost: $1/lb)	$50.00.
Phosphate Fertilizer (cost: $1/lb)	$20.00.
Potassium Fertilizer (cost: $1/lb)	$20.00.
Sub-Total	$103.00.
Logistics:	
Planting Trip	$10.00.
Harvest & Hauling	$36.00.
Total Cost	$149.00.
Yields (lbs/acre)	1,800.
Price (per lb)	$0.15.
Total Revenue	$270.00.
Returns	$121.

Although we expect most pennycress used as a renewable fuel feedstock for the RFS program would be grown in the U.S. and Canada, we expect that pennycress grown in other countries would also not have a significant impact on other agricultural commodity markets and would therefore not result in significant indirect GHG emissions.

4. Crop Inputs

As part of our analysis of the GHG impacts from growing pennycress, we compared crop inputs for pennycress to those for soybeans. Inputs compared include nitrogen fertilizer, phosphorus fertilizer, potassium fertilizer, herbicide, pesticide, diesel, and gasoline.[25] We also looked at the N_2O emissions from both the nitrogen fertilizer inputs and the crop residues associated with pennycress.

Current literature suggests that only minimal fertilizer inputs are needed to grow pennycress.[26] Information from USDA and other sources suggests that approximately 50 lbs per acre nitrogen fertilizer may be required for successful pennycress cultivation, although information from the petitioner indicates that no additional nitrogen fertilizer would be needed.[27] Some current trials have not required the addition of phosphorus or potassium fertilizer since these nutrients have been available in the soil after corn plantings.[28] However, it is possible that when pennycress is produced at a commercial scale, some amount of phosphorus and potassium might be added to replace the phosphorus or potassium that is removed from the soil. Therefore, Table 3 shows a range of potential input assumptions for pennycress production,[29] compared to the FASOM agricultural input assumptions for soybeans, which were used in our assessment of soybeans for the March 2010 rule. From the March 2010 rule, we used soybean projected yields for 2022 of 1,500 to 3,000 lbs of seed per acre. For pennycress, we used projected 2022 yields of 1,800 lbs of seed per acre.

Pennycress has a higher percentage of oil per pound of seed than soybeans. Soybeans are approximately 18% oil by mass, therefore crushing one pound of soybeans yields 0.18 pounds of oil. In comparison, pennycress seeds can contain up to 34% oil, and mechanical crushing extracts approximately 28% oil.[30] The difference in oil yield was taken into account when calculating the emissions per ton of feedstock oil included in Table 3. As shown in Table 3, GHG emissions associated with agricultural inputs for pennycress and soybeans are similar when factoring in variations in oil yields per acre and fertilizer, herbicide, pesticide, and petroleum use.[31]

[24] Based on information from Arvens Technology, Inc., USDA, scientific literature, and EPA calculations.

[25] Diesel and gasoline are used for planting and harvesting pennycress. These values assume that no irrigation is needed.

[26] Moser, B.R., *et al.* (2009) ''Production and evaluation of biodiesel from field pennycress (*Thlaspi arvense* L.) oil.'' Energy and Fuels, 23:4149–4155.

[27] 50 lb N/acre from: Rukavina, H. et al. (2011) ''The effect of nitrogen rate on field pennycress seed yield and oil content.'' Association for the Advancement of Industrial Crops 23rd Annual Meeting, Fargo, ND. September 11–14, 2011. Poster. Available at: *http://www.wiu.edu/pennycress/current-experiments/Nitrogen%202011.pdf.*

[28] Correspondence with Win Phippin, Western Illinois University.

[29] Arvens Technology, Inc.; Correspondence with USDA. For more information, see ''Pennycress data and calculations—for docket'' on Docket EPA–HQ–OAR–2015–0091.

[30] Petition from Arvens Technology, Inc., June 2012. A similar value of 0.29 lbs oil per pound of seed is used by: Fan, J. *et al.* (2013) ''A life cycle assessment of pennycress (*Thlaspi arvense* L.)—derived jet fuel and diesel.'' Biomass and Bioenergy, 55:87–100.

[31] For more details on the greenhouse gas emissions associated with agricultural inputs, see ''Pennycress data and calculations—for docket'' on Docket EPA–HQ–OAR–2015–0091.

Table 3—Inputs for Pennycress and Soybean Production for Projected 2022 Yields[32]

	Pennycress, 0.9 tons/acre																			
	Inputs (per acre)					Emissions (per ton pennycress oil)					Soybeans (varies by region)									
											Inputs (per acre)					Emissions (per ton soybean oil)				
N2O			N/A			468.5	-	1049.5	kg CO2eq				N/A			449.0	-	661.1	kg CO2eq	
Nitrogen Fertilizer	0	-	50	lbs		0	-	326.5	kg CO2eq		3.5	-	8.2	lbs		23.2	-	79.1	kg CO2eq	
Phosphorus Fertilizer	0	-	20	lbs		0	-	44.6	kg CO2eq		5.4	-	21.4	lbs		13.5	-	64.8	kg CO2eq	
Potassium Fertilizer	0	-	20	lbs		0	-	29.5	kg CO2eq		3.1	-	24.3	lbs		5.3	-	48.5	kg CO2eq	
Herbicide	0	-	0	lbs		0	-	0	kg CO2eq		0.0	-	1.3	lbs		2.4	-	69.6	kg CO2eq	
Pesticide	0	-	0	lbs		0	-	0	kg CO2eq		0.1	-	0.8	lbs		12.4	-	50.2	kg CO2eq	
Diesel	1	-	1	gal		52.3	-	52.3	kg CO2eq		3.8	-	8.9	gal		227.9	-	622.3	kg CO2eq	
Gasoline	0	-	0	gal		0	-	0	kg CO2eq		1.6	-	3.0	gal		93	-	151.4	kg CO2eq	
Total						521	-	1502	kg CO2eq							961	-	1443	kg CO2eq	

5. Potential Invasiveness

Pennycress has naturalized in all of the continental United States,[33] and is not listed on the federal noxious weed list.[34] However, nine states currently have pennycress listed on a restricted weed list, indicating limitations on the use of the plant in those states.[35] A weed risk assessment by USDA found that pennycress has a high risk of invasiveness, and a high probability of impacting production systems such as agriculture, nurseries, forest plantations, and orchards.[36] However, unlike some other biofuel feedstocks evaluated under the RFS program for invasiveness, USDA found no evidence of pennycress causing impacts in natural systems or anthropogenic systems such as cities, suburbs, or roadways. Based on the potential risk to production systems, and in consultation with USDA, the use of pennycress as a biofuel feedstock raises concerns about its threat of invasiveness and whether its production could require remediation activities that would cause additional GHG emissions. Therefore, similar to EPA's actions with respect to other biofuel feedstocks found to present invasiveness risks, EPA anticipates that any petition approvals for renewable fuel pathways involving the use of pennycress oil as feedstock will include requirements associated with mitigating risks associated with invasiveness. Because pennycress does not pose as great an invasiveness risk as *Arundo donax* or *Pennisetum purpureum,* EPA believes that monitoring and reporting requirements similar to those for *Arundo donax* and *Pennisetum purpureum* would be appropriate, but does not expect to apply all of the Risk Management Plan (RMP) requirements that exist for those feedstocks. We would expect to impose monitoring and reporting requirements similar to 40 CFR 80.1450 (b)(1)(x)(A)(*1*)(*i*), (*ii*), (*iii*), and (*v*) and 80.1450 (b)(1)(x)(A)(*3*), (*4*), (*5*), and (*7*). In addition, a letter documenting the feedstock grower's compliance with all of the relevant federal, state, regional, and local requirements related to invasive species would be required. With these requirements in place, we would assume that there are no GHG emissions associated with potential invasiveness when pennycress is used as a biofuel feedstock. EPA is taking comment on the invasiveness concerns of pennycress and the appropriateness of the referenced requirements in mitigating those concerns.

6. Crushing and Oil Extraction

EPA evaluated the seed crushing and oil extraction process and compared the lifecycle GHG emissions from this stage for soybean oil and pennycress oil. EPA assumed the processing of pennycress would be similar to soybeans, canola, and camelina. Because pennycress seeds produce more oil per pound than soybeans, the GHG emissions associated with crushing and oil extraction are lower for pennycress than soybeans per pound of feedstock oil produced.

There is not a significant amount of industry data on energy used for crushing and oil extraction of pennycress. Based on data provided in the petition submitted, and EPA's standard emissions factors for electricity and natural gas, we estimate that the GHG emissions from crushing and oil extraction are 80 kgCO2e/ton pennycress oil. For comparison, in the analysis for the March 2010 final rule, the lifecycle GHG emissions from crushing and oil extraction were estimated to be 426 kgCO2e/ton soybean oil. As a conservative estimate, we propose to assume that the GHG emissions related to crushing and oil extraction are the same for pennycress as for soybeans.

Similar to soybeans, a press cake is also produced when pennycress is crushed and the oil is extracted. In our modeling of soybean oil for the March 2010 RFS rule, the FASOM and FAPRI–CARD models included the use of the soy meal (sometimes referred to as press cake) co-product as livestock feed. In our modeling, the use of the soy meal as livestock feed displaced the need for other similar feed products and therefore impacted the relative prices and production of crop and livestock products. These crop and livestock impacts were reflected in the land use change, livestock and agricultural sector GHG emissions impacts estimated for biofuels produced from soybean oil. Although EPA did not conduct modeling to isolate the GHG impacts of the soy meal co-product, we believe that overall the soy meal co-product lowered the GHG emissions associated with soybean oil-based biofuels. Similarly, we believe that any use of the pennycress press cake would provide an additional benefit (*i.e.,* lower GHG emissions) not reflected in our lifecycle GHG emissions analysis of pennycress oil. Little is known at this time about the possible beneficial use of pennycress press cake. Pennycress press

[32] The Intergovernmental Panel on Climate Change (IPCC) equations for N_2O emissions were updated since our earlier analysis of soybeans. We use the updated equations here.

[33] USDA Animal and Plant Health Inspection Service. ''Weed risk assessment for *Thlaspi arvense* L. (Brassicaceae)—Field pennycress,'' [Forthcoming].

[34] USDA (2014). ''Federal Noxious Weed List.'' Available at: *http://www.aphis.usda.gov/plant_health/plant_pest_info/weeds/downloads/weedlist.pdf.*

[35] USDA Agricultural Marketing Service (2014). ''State Noxious-Weed Seed Requirements Recognized in the Administration of the Federal Seed Act.'' Available at: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090172.* Producers interested in growing pennycress in these states should consult with the appropriate federal, state, and local authorities.

[36] USDA Animal and Plant Health Inspection Service. ''Weed risk assessment for *Thlaspi arvense* L. (Brassicaceae)—Field pennycress,'' [Forthcoming]. Traits that contributed to this result are that pennycress is a prolific seed producer, forms a persistent seed bank, can cause yield losses of field crops, and is poisonous to livestock.

cake contains glucosinolates, which may be toxic to animals in large concentrations.[37] However, the heat produced from crushing pennycress seeds may reduce the toxicity of the press cake,[38] or pennycress press cake could be mixed in low amounts with other seed meal for use as animal feed.[39] Alternatively, pennycress press cake could be used as a biofumigant.[40] Based on our analysis of pennycress oil, which does not consider use of the press cake, we have found that the agricultural, livestock and land use change emissions associated with producing pennycress oil are less than or equal to the corresponding emissions associated with producing soybean oil. Therefore, any beneficial use of the pennycress press cake (*e.g.,* as livestock feed or boiler fuel) would only serve to make the GHG emissions associated with pennycress oil even lower than the corresponding emissions for soybean oil.

B. Feedstock Distribution

EPA's assessment, based on the following reasoning, is that GHG emissions from feedstock distribution will be the same for pennycress as such emissions for soybeans. Because pennycress contains more oil per pound of seed, as discussed above, the energy needed to move the pennycress before oil extraction would be lower than soybeans per ton of oil produced. To the extent that pennycress is grown on more disperse fallow land than soybeans and would need to be transported further, the energy needed to move the pennycress could be higher than soybeans. Therefore, we believe we may assume for purposes of GHG emissions assessment that the GHG emissions associated with transporting pennycress and soybeans to crushing facilities will be the same. Pennycress and soybean oils are quite similar in terms of density and energy content; therefore, we also assumed that the GHG emissions from transporting the oil from a crushing facility to a biofuel production facility would be the same for the two different feedstocks.

C. Summary of Agricultural Sector GHG Emissions

Compared to soybean oil, pennycress oil has less than or equal GHG emissions per ton of oil from crop inputs, crushing and oil extraction, and direct and indirect land use change. Pennycress and soybean oils are also likely to have similar GHG emissions from feedstock distribution. Therefore, we believe that the feedstock production and transport portion of the lifecycle GHG emissions associated with pennycress are likely to be similar to or less than the GHG emissions for the corresponding portion of the lifecycle analysis for soybean oil. EPA's purpose in evaluating petitions under 40 CFR 80.1416 is not to prepare a precise lifecycle GHG emissions analysis of every fuel type, but to gather sufficient information on which to inform its decision of whether proposed biofuels qualify under the program in terms of lifecycle GHG emissions reduction. Based on our comparison of pennycress oil to soybean oil, EPA proposes to use, in its future evaluations of petitions proposing to use pennycress oil as a feedstock for biofuel production, an estimate of the GHG emissions associated with the cultivation and transport of pennycress oil that is the same as that which we have used for soybean oil, on a per ton of oil basis. Although EPA could conduct a more precise analysis, we do not believe it is necessary for purposes of the determinations EPA must make in responding to petitions. EPA solicits comment on this proposed approach.

D. Fuel Production and Distribution

Pennycress oil has physical properties that are similar to soybean and camelina oil, and is suitable for the same conversion processes as these feedstocks. In addition, the fuel yield per pound of oil is expected to be the same for each of these feedstocks. After reviewing comments received in response to this Notice, we will combine our evaluation of agricultural sector GHG emissions associated with the use of pennycress oil feedstock with our evaluation of the GHG emissions associated with individual producers' production processes and finished fuels to determine whether the proposed pathways satisfy CAA lifecycle GHG emissions reduction requirements for RFS-qualifying renewable fuels. Based on our evaluation of the lifecycle GHG emissions attributable to the production and transport of pennycress oil feedstock, EPA anticipates that fuel produced from pennycress oil feedstock through the same transesterification or hydrotreating process technologies that EPA evaluated for the March 2010 RFS rule for biofuel derived from soybean oil and the March 2013 RFS rule for biofuel derived from camelina oil would qualify for biomass-based diesel (D-code 4) RINs or advanced (D-code 5) RINs.[41] However, EPA will evaluate petitions for fuel produced from pennycress oil feedstock on a case-by-case basis.

III. Summary

EPA invites public comment on its analysis of GHG emissions associated with the production and transport of pennycress oil as a feedstock for biofuel production. EPA will consider public comments received when evaluating the lifecycle GHG emissions of biofuel production pathways described in petitions received pursuant to 40 CFR 80.1416 which use pennycress oil as a feedstock.

Dated: March 12, 2015.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

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BILLING CODE 6560–50–P

[37] Moser, B.R. (2012) ''Biodiesel from alternative oilseed feedstock: camelina and field pennycress.'' Biofuels, 3:193–209.

[38] Fan, J. *et al.* (2013) ''A life cycle assessment of pennycress (*Thlaspi arvense* L.)—derived jet fuel and diesel.'' Biomass and Bioenergy, 55:87–100.

[39] Moser, B.R. (2012) ''Biodiesel from alternative oilseed feedstock: camelina and field pennycress.'' Biofuels, 3:193–209. It is important to note that all animal feed products must be approved by the U.S. Food and Drug Administration (FDA) before they can be sold in the United States. Nothing in EPA's analysis should be construed as an official federal government position regarding the approval or disapproval of pennycress press cake as an animal feed. Only FDA is authorized to make that determination.

[40] Vaughn, S.F., *et al.* (2005) ''Biofumigant compounds released by field pennycress (*Thlaspi arvense*) seedmeal.'' Journal of Chemical Ecology, 31(1):167–177.

[41] The transesterification process that EPA evaluated for the March 2010 RFS rule for biofuel derived from soybean oil feedstock is described in section 2.4.7.3 (Biodiesel) of the Regulatory Impact Analysis for the March 2010 RFS rule (EPA–420–R–10–006). The hydrotreating process that EPA evaluated for the March 2013 rule for biofuel derived from camelina oil feedstock is described in section II.A.3.b of the March 2013 rule (78 FR 14190).

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting

AGENCY: Farm Credit System Insurance Corporation Board; Farm Credit System Insurance Corporation Board.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATE AND TIME: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on March 26, 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 System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102. 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 System Insurance Corporation Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- January 22, 2015

B. Business Reports

- FCSIC Financial Reports
- Report on Insured and Other Obligations
- Report on Investment Portfolio
- Quarterly Report on Annual Performance Plan

C. New Business

- Presentation of 2014 Audit Results by External Auditor

Closed Session

- FCSIC Report on System Performance

Executive Session

- Executive Session of the Audit Committee with the Auditor

Dated: March 17, 2015.

Dale L. Aultman,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2015–06472 Filed 3–19–15; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10364, Coastal Bank, Cocoa Beach, Florida

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Coastal Bank, Cocoa Beach, Florida (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Coastal Bank on May 6, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: March 16, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–06355 Filed 3–19–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and the Board's Regulation LL (12 CFR part 238) to acquire shares of a savings and loan holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 6, 2015.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Jane Houston McCready, Winchester, Kentucky; Sarah McCready Boston, New York, New York; and Louise French McCready Hart,* New York, New York, as individuals and in their capacities as co-trustees of Marital Trust B which was created under the Richard F. McCready Revocable Trust Agreement; to acquire voting shares of WinFirst Financial Corporation, and thereby indirectly acquire voting shares of Winchester Federal Bank, both in Winchester, Kentucky.

Board of Governors of the Federal Reserve System, March 17, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–06399 Filed 3–19–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et se.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 2015.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice

President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *First Bank Lubbock Bancshares, Inc.,* Lubbock, Texas; to acquire voting shares of First National Bank of Colorado City, Colorado City, Texas.

Board of Governors of the Federal Reserve System, March 17, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015–06398 Filed 3–19–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 19, 2015.

ADDRESSES: You may submit comments, identified by *FR Y–6, FR Y–7, FR Y–10, or FR Y–10E,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—Mark Tokarski—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: Annual Report of Holding Companies; Annual Report of Foreign Banking Organizations; Report of Changes in Organizational Structure; Supplement to the Report of Changes in Organizational Structure.

Agency form number: FR Y–6; FR Y–7; FR Y–10; FR Y–10E.

OMB control number: 7100–0297.

Frequency: FR Y–6: Annual; FR Y–7: Annual; FR Y–10: Event-generated; FR Y–10E: Event-generated.

Reporters: Bank holding companies (BHCs) and savings and loan holding companies (SLHCs) (collectively, holding companies (HCs)), securities holding companies, foreign banking organizations (FBOs), state member banks unaffiliated with a BHC, Edge Act and agreement corporations, and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only).

Estimated annual reporting hours: FR Y–6: 26,477 hours; FR Y–7: 972 hours; FR Y–10 initial: 530 hours; FR Y–10 ongoing: 39,735 hours; FR Y–10E: 2,649 hours.

Estimated average hours per response: FR Y–6: 5.5 hours; FR Y–7: 4 hours; FR Y–10 initial: 1 hour; FR Y–10 ongoing: 2.5 hours; FR Y–10E: 0.5 hours.

Number of respondents: FR Y–6: 4,814; FR Y–7: 243; FR Y–10 initial: 530; FR Y–10 ongoing: 5,298; FR Y–10E: 5,298.

General description of report: These information collections are mandatory as follows:

FR Y–6: Section 5(c)(1)(A) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)(1)(A)), sections 8(a) and 13(a) of the International Banking Act (IBA) (12 U.S.C. 3106(a) and 3108(a)), sections 11(a)(1), 25, and 25A of the Federal Reserve Act (12 U.S.C. 248(a)(1), 602, and 611a), and sections 113, 312,

618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1), respectively).

FR Y–7: Sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106(a) and 3108(a)) and sections 113, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1), respectively).

FR Y–10 and FR Y–10E**:** Sections 4(k) and 5(c)(1)(A) of the BHC Act (12 U.S.C. 1843(k), 1844(c)(1)(A)), section 8(a) of the IBA (12 U.S.C. 3106(a)), sections 11(a)(1), 25(7), and 25A of the Federal Reserve Act (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625), and sections 113, 312, 618, and 809 of the Dodd-Frank Act (12 U.S.C. 5361, 5412, 1850a(c)(1), and 5468(b)(1), respectively).

The data collected in the FR Y–6, FR Y–7, FR Y–10, and FR Y–10E are not considered confidential. With regard to information that a banking organization may deem confidential, the institution may request confidential treatment of such information under one or more of the exemptions in the Freedom of Information Act (FOIA) (5 U.S.C. 552). The most likely case for confidential treatment will be based on FOIA exemption 4, which permits an agency to exempt from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged and confidential,'' (5 U.S.C. 552(b)(4)). To the extent an institution can establish the potential for substantial competitive harm, such information would be protected from disclosure under the standards set forth in *National Parks & Conservation Association* v. *Morton,* 498 F.2d 765 (D.C. Cir. 1974). Exemption 6 of FOIA might also apply with regard to the respondents' submission of non-public personal information of owners, shareholders, directors, officers and employees of respondents. Exemption 6 covers ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,'' (5 U.S.C. 552(b)(6)). All requests for confidential treatment would need to be reviewed on a case-by-case basis and in response to a specific request for disclosure.

Abstract: The FR Y–6 is an annual information collection submitted by top-tier HCs and non-qualifying FBOs. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor holding company operations and determine holding company compliance with the provisions of the BHC Act, Regulation Y (12 CFR part 225), the Home Owners' Loan Act (HOLA), and Regulation LL (12 CFR part 238).

The FR Y–7 is an annual information collection submitted by qualifying FBOs to update their financial and organizational information with the Federal Reserve. The FR Y–7 collects financial, organizational, and managerial information. The Federal Reserve uses information to assess an FBO's ability to be a continuing source of strength to its U.S. operations, and to determine compliance with U.S. laws and regulations.

The FR Y–10 is an event-generated information collection submitted by FBOs; top-tier HCs; security holding companies as authorized under Section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (12 U.S.C. 1850a(c)(1)); state member banks unaffiliated with a BHC; Edge Act and agreement corporations that are not controlled by a member bank, a domestic BHC, or a FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only) to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities. The FR Y–10E is a free-form supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

Current Actions: The Federal Reserve proposes to collect the Legal Entity Identifier (LEI) for all banking and nonbanking legal entities reportable on the Banking, Non-Banking, SLHC, and 4K schedules (not the Branch schedules) of the FR Y–10 and on the Organization Chart section of the FR Y–6 and FR Y–7. The LEI is a 20-character alphanumeric code that is universal and uniquely corresponds to a single legal entity.[1] The Federal Reserve is only proposing requiring the reporting of an LEI if one has already been issued for the reportable entity at the time of collection. At this time, the Federal Reserve is not requiring an LEI to be obtained for the sole purpose of reporting the LEI on the FR Y–6, FR Y–7, and FR Y–10.

As evident by the recent financial crisis, it was difficult for regulators to precisely identify parties involved in financial transactions domestically and internationally. At the time, there was no unified global identification system for to link legal entities with different and multiple regulators and jurisdictions. The Board and each financial regulatory agency assigns its' own internal primary identifier to the entities that it regulates, such as the Federal Reserve's Research Statistics Supervision and Discount Identification (*i.e.,* RSSD ID) number, FDIC's Certificate number, and OCC's Charter number.

Several years ago, the Financial Stability Board began leading an international initiative to implement a global identifier system that would uniquely identify parties to financial transactions, and in January 2013, the LEI Regulatory Oversight Committee was established to oversee the Global Legal Entity Identifier System. Domestically, the Financial Stability Oversight Council's Data Committee has encouraged U.S. financial regulators to review and incorporate LEIs in their data collections that would most benefit for purposes of improving financial stability monitoring. As the usage of LEI becomes more prominent, it would enable examiners, economists, and financial analysts to perform improved analyses, particularly during stressed market conditions, and would assist the regulatory community and the financial services industry at large, both domestically and internationally. In addition, it is expected that the use of the LEI among the regulators will expand to facilitate better information sharing and coordination regarding domestic financial policy, rulemaking, examinations, reporting requirements, and enforcement actions. The U.S. Commodity Futures Trading Commission, the U.S. Securities and Exchange Commission, and the National Association of Insurance Commissioners have already incorporated LEI in some of their data collections, and the Consumer Financial Protection Bureau has recently proposed replacing the existing Home Mortgage Disclosure Act (HMDA) Reporter's Identification number in HMDA submissions with LEI.[2] A uniform, global LEI would assist regulators, supervisors, and public researchers and firms to more effectively

[1] ISO 17442:2012 defines the term ''legal entities'' to include, but is not limited to, unique parties that are legally or financially responsible for the performance of financial transactions or have the legal right in their jurisdiction to enter independently into legal contracts, regardless of whether they are incorporated or constituted in some other way (*e.g.,* all financial intermediaries, banks and finance companies, all entities that issue equity, debt or other securities for other capital structures, all entities listed on an exchange, all entities under the purview of a financial regulator and their affiliates, subsidiaries, and holding companies, counterparties to financial transactions). It excludes natural persons, but includes governmental organizations and supranationals.

[2] 79 FR 51731.

measure and monitor systemic risk and counterparty exposure, as well as improve operational efficiencies. A single global system would help support the shared objective of a more stable financial system.

While the Federal Reserve has considered retrieving LEI's from the issuers directly, this method has been deemed as ineffective since the associated structure data is very limited at this time. Reconciling the entity's LEI with their current structure data would be difficult and most likely result in inaccuracies given that so many institutions have similar attributes, such as entity names. Therefore, obtaining the LEI directly from the reporting entity is the most reliable source to accurately match an entity with the correct LEI.

The Federal Reserve proposes to add the LEI to the FR Y–6 and FR Y–7 organizational chart effective with fiscal year ends beginning June 30, 2015. Submission of existing LEI information would follow the normal FR Y–6 and FR Y–7 submission deadlines. The Federal Reserve proposes a one-time information collection to populate existing LEI data for all FR Y–10 reportable entities (excluding branches), as of June 30, 2015. Respondents would submit this information no later than September 30, 2015. LEIs issued after June 30, 2015, should be reported on the appropriate FR Y–10 schedules. For all LEIs assigned between June 30, 2015, and September 30, 2015, information must be received at the appropriate Federal Reserve Bank by October 30, 2015. The Federal Reserve would provide a means for institutions to provide their one-time submission data in a format easier than individual FR Y–10 submissions.

Question: Comments are invited on whether collecting existing LEI information only from entities that are reportable on the FR Y–10 would be sufficient rather than collecting LEI information from all entities reportable on the FR Y–6 and FR Y–7 organizational charts.

Board of Governors of the Federal Reserve System, March 16, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–06363 Filed 3–19–15; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[NOTICE–MVA–2015–01; Docket No. 2015–0002; Sequence No. 4]

Notice of a Class Deviation To Address Commercial Supplier Agreement Terms Inconsistent With Federal Law

AGENCY: Office of Government-wide Policy, General Services Administration.

ACTION: Request for Information (RFI).

SUMMARY: The Office of Acquisition Policy is requesting feedback on a proposed class deviation to the Federal Acquisition Regulation (FAR) and the General Services Acquisition Regulation (GSAR) to address common Commercial Supplier Agreement terms that are inconsistent with or create ambiguity with Federal law. This class deviation will go into effect forty-five (45) days from the date of publication of this RFI in the **Federal Register**, after considering comments received.

DATES: *Comments:* Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before April 20, 2015.

ADDRESSES: Submit comments in response to Notice—MVA–2015–01 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice—MVA–2015–01''. Select the link ''Comment Now'' that corresponds with ''Notice—MVA–2015–01'' and follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice—MVA–2015–01'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers/Notice—MVA–2015–01, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite Notice—MVA–2015–01 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. James Tsujimoto, Program Analyst, Acquisition Policy Division, at telephone 202–208–3585 or email *james.tsujimoto@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

GSA defines Commercial Supplier Agreements as terms and conditions that are customarily offered to the public by vendors of supplies or services that meet the definition of ''commercial item'' and are intended to create a binding legal obligation on the end user. Commercial Supplier Agreements are particularly common in information technology acquisitions, including acquisitions of commercial computer software and commercial technical data, but they may apply to any supply or service.

Customarily, commercial item supplies and services are offered to the public under standard agreements that may take a variety of forms, including license agreements, terms of service (TOS), terms of sale or purchase, and similar agreements. These customary, standard Commercial Supplier Agreements typically contain terms and conditions that make sense when the purchaser is a private party but are inappropriate when the purchaser is the Federal Government.

The existence of Federally-incompatible terms in contractors' standard Commercial Supplier Agreements has long been recognized in FAR 27.405–3(b), which is limited to the acquisition of commercial computer software. This clause advises contracting officers to exercise caution when accepting a contractor's terms and conditions. However, the use of Commercial Supplier Agreements is not limited to information technology acquisitions; Commercial Supplier Agreements have become ubiquitous in a broad variety of contexts, from travel to telecommunications to financial services to building maintenance systems, including purchases below the simplified acquisition threshold.

Discrepancies between Commercial Supplier Agreements and Federal law or the Government's needs create recurrent points of inconsistency. Below are several examples of incompatible clauses that are commonly found in Commercial Supplier Agreements:

- Jurisdiction or venue clauses may require that disputes be resolved in a particular state or Federal court. Such clauses conflict with the sovereign immunity of the US Government and cannot apply to litigation where the US Government is a defendant because those disputes must be heard either in US District Court (28 U.S.C. 1346) or the US Court of Federal Claims (28 U.S.C. 1491).
- Automatic renewal clauses may automatically renew or extend contracts unless affirmative action is taken by the Government. Such clauses that require the obligation of funds prior to appropriation violate the restrictions of

the Anti-Deficiency Act, 31 U.S.C. 1341(a)(1)(B).

• Termination clauses may allow the contractor to unilaterally terminate a contract if the Government is alleged to have breached the contract. Termination clauses and other clauses that permit substantive unilateral modification by the contractor are not permitted. Additionally, Government contracts are subject to the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The Contract Disputes Act requires a certain process for resolving disputes, including terminations, and that the ''Contractor shall proceed diligently with performance of this contract, pending final resolution'' under the terms of the FAR Disputes clause at 52.233–1.

As a result, Industry and Government representatives must undergo lengthy and costly contract term negotiations in order to avoid Commercial Supplier Agreement terms that conflict or are incompatible with Federal law. Both sides may expend considerable resources on legal counsel and negotiations before coming to agreement.

Moreover, the current order of precedence contained in the commercial item clause at FAR 52.212–4 potentially allows commercial agreements to supersede the terms of Federal contracts, especially in those areas where Federal law is implicated indirectly. As a result, industry and Government representatives must spend significant time and resources tailoring Commercial Supplier Agreements to comply with Federal law.

Discussion

GSA intends to issue a class deviation to clarify the order of precedence in the commercial item clause by explaining that the terms of the commercial item clause control in the event of a conflict with a Commercial Supplier Agreement.

The class deviation will also implement standard terms and conditions to minimize the need for negotiating the terms of Commercial Supplier Agreements on an individual basis. The new clause will make unenforceable any conflicting or inconsistent Commercial Supplier Agreement terms that are addressed in the class deviation, so long as an express exception is not authorized elsewhere by Federal statute. GSA has identified fifteen (15) points of inconsistency with Federal law that are addressed by this class deviation. Below is a list of the fifteen points of inconsistency and a summary of how they will be addressed by the class deviation:

1. Definition of contracting parties: Contract agreements are between the commercial supplier or licensor and the U.S. Government. Government employees or persons acting on behalf of the Government will not be bound in their personal capacity by the Commercial Supplier Agreement.

2. Contract formation: Commercial Supplier Agreements may be integrated into a contract, so long as the terms are included verbatim and are not incorporated by reference. The terms of the deviated clause and other identified elements will supersede any conflict with the Commercial Supplier Agreement. This order of precedence will allow for the incorporation of Commercial Supplier Agreements, with certain clauses being stricken as unenforceable, without the need to individually negotiate agreements. ''Click-wrap'', ''Browse-wrap'' and other such mechanisms that purport to bind the end-user will not bind the Government or any Government authorized end-user.

3. Patent indemnity (contractor assumes control of proceedings): Any clause requiring that the commercial supplier or licensor control any litigation arising from the government's use of the contractor's supplies or services is deleted. Such representation when the Government is a party is reserved by statute for the U.S. Department of Justice.

4. Automatic renewals of term-limited agreements: Due to Anti-Deficiency Act restrictions, automatic contract renewal clauses are impermissible. Any such Commercial Supplier Agreement clauses are unenforceable.

5. Future fees or penalties: Future fees—such as attorney fees, cost or interest—may only be awarded against the U.S. Government when expressly authorized by statute (*e.g.* Prompt Payment Act).

6. Taxes: Any taxes or surcharges that will be passed along to the Government will be governed by the terms of the underlying contract. The cognizant contracting officer must make a determination of applicability whenever such a request is made.

7. Payment terms or invoicing (late payment): Any Commercial Supplier Agreement terms that purport to establish payment terms or invoicing requirements that contradict the terms of the Government contract will be unenforceable. Discrepancies found during an audit must comply with the invoicing procedures from the underlying contract.

8. Automatic incorporation/deemed acceptance of third party terms: No third party terms may be incorporated into the contract by reference. Incorporation of third party terms after the time of award may only be performed by bilateral contract modification with the approval of the cognizant contracting officer.

9. State/foreign law governed contracts: Clauses that conflict with the sovereign immunity of the U.S. Government cannot apply to litigation where the U.S. Government is a defendant because those disputes must be heard either in U.S. District Court or the U.S. Court of Federal Claims. Commercial Supplier Agreement terms that require the resolution of a dispute in a forum other than that expressly authorized by Federal law are deleted. Statutes of limitation on potential claims shall be governed by U.S. Government law.

10. Equitable remedies, injunctions, binding arbitration: Equitable remedies, injunctive relief and binding arbitration clauses may not be enforced unless explicitly authorized by agency guidance or statute.

11. Unilateral termination of Commercial Supplier Agreement by supplier: Commercial suppliers may not unilaterally terminate or suspend a contract unless the supplies or services are generally withdrawn from the commercial market. Remedy from contractual breach by the Government must be pursued under the Contract Disputes Act.

12. Unilateral modification of Commercial Supplier Agreement by supplier: Unilateral changes of the Commercial Supplier Agreement are impermissible and any clause authorizing such changes is unenforceable.

13. Assignment of Commercial Supplier Agreement or Government contract by supplier: The contract, Commercial Supplier Agreement, party rights and party obligations may not be assigned or delegated without express Government approval. Payment to a third party financial institution may still be reassigned.

14. Confidentiality of Commercial Supplier Agreement terms and conditions: The content of the Commercial Supplier Agreement and the final contract pricing may not be deemed confidential. The Government may retain other marked confidential information as required by law, regulation or agency guidance, but will appropriately guard such confidential information.

15. Audits (automatic liability for payment): Discrepancies found during an audit must comply with the invoicing procedures from the underlying contract. Disputed charges

must be resolved through the Disputes clause. Any audits requested by the commercial supplier or licensor will be performed at supplier or licensor's expense.

This class deviation will apply to all new awards for GSA acquisitions for commercial supplies or services. Existing contracts will be required to incorporate the new terms whenever an option period is exercised or the contract is otherwise modified.

This effort will reduce risk by uniformly addressing common unacceptable Commercial Supplier Agreement terms, facilitate efficiency and effectiveness in the contracting process by reducing the administrative burden for the Government and industry, and promote competition by reducing barriers to industry, particularly small businesses.

Dated: March 17, 2015.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2015–06422 Filed 3–19–15; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: The Genetic Testing Registry

SUMMARY: Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 25, 2014 (79 FR 70194), and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The Office of the Director (OD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Ms. Sarah Carr, Acting Director, Office of Clinical Research and Bioethics Policy, Office of Science Policy, NIH, 6705 Rockledge Dr., Suite 750, Bethesda, MD 20892, or call non-toll-free number (301) 496–9838, or Email your request, including your address to: *OCRBP-OSP@od.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The Genetic Testing Registry, 0925–0651, Reinstatment Without Change,—Office of the Director (OD), National Institutes of Health (NIH)

Need and Use of Information Collection: Clinical laboratory tests are available for more than 5,000 genetic conditions. The Genetic Testing Registry (GTR) provides a centralized, online location for test developers, manufacturers, and researchers to voluntarily submit detailed information about the availability and scientific basis of their genetic tests. The GTR is of value to clinicians by providing information about the accuracy, validity, and usefulness of genetic tests. The GTR also highlights evidence gaps where additional research is needed.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 5,536.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Laboratory Personnel Using Bulk Submission.	Minimal Fields	190	29	18/60	1,653
	Optional Fields	159	29	14/60	1,076
Laboratory Personnel Not Using Bulk Submission.	Minimal Fields	116	29	30/60	1,682
	Optional Fields	97	29	24/60	1,125

Dated: March 13, 2015.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2015–06370 Filed 3–19–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1180]

Draft Guidance for Industry on Ensuring Safety of Animal Feed Maintained and Fed On-Farm; 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 #203 entitled ''Ensuring Safety of Animal Feed Maintained and Fed On-Farm.'' This draft guidance is intended to help animal producers (persons who feed animals) develop and implement on-farm practices to ensure the safety of animal feed maintained and fed to animals on the farm.

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 June 3, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. 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: Phares Okelo, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–453–6862, email: *phares.okelo@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry # 203 entitled ''Ensuring Safety of Animal Feed Maintained and Fed On-Farm.'' This draft guidance is intended to help animal producers (persons who feed animals) develop and implement on-farm practices to ensure the safety of animal feed maintained and fed to animals on the farm. In this document, ''farm'' means animal production units such as integrated poultry grower operations, swine finishing units, and cattle feedlots. This document outlines basic measures that may be taken to maintain the safety of all types of feed held on the farm for use in animal production. This draft guidance recommends establishing measures to ensure the acquisition of safe feed and maintenance of its safety until the feed is offered to animals in the farm environment. This document does not address feed manufacture, which also may occur on farms.

II. Significance of Guidance

This level 1 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 this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

FDA concludes that there are no collections of information under the Paperwork Reduction Act of 1995.

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 draft guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov.*

Dated: March 16, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06390 Filed 3–19–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10550 and CMS–10551]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 19, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development Attention: Document Identifier/OMB Control Number _____, Room C4–26–

05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10550 Hospital National Provider Survey

CMS–10551 Nursing Home National Provider Survey

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Hospital National Provider Survey; *Use:* Section 3104 of the Patient and Protection and Affordable Care Act (ACA) requires that the Secretary of the Department of Health and Human Services (HHS) conduct an assessment of the quality and efficiency impact of the use of endorsed measures in specific Medicare quality reporting and incentive programs. The ACA further specifies that the initial assessment must occur no later than March 1, 2012, and once every 3 years thereafter. This planned data collection activity was developed and tested as part of the 2015 Impact Report and data collection will be conducted for reporting in the 2018 Impact Report.

There are two modes of data collection with hospital quality leaders: (1) A semi-structured qualitative interview and (2) a standardized survey. The data from the qualitative interviews and standardized surveys will be analyzed to provide us with information on the quality and efficiency impact of measures that we use to assess care in the hospital inpatient and outpatient settings. The surveys seek to understand whether the use of performance measures has led to changes in provider behavior, and where undesired effects are occurring as a result of implementing quality and efficiency measures. The survey will also help identify characteristics associated with high performance, which if understood, could be used to leverage improvements in care among lower performing hospitals. The focus of the survey is to assess the impacts of the measures that we use in the context of public reporting (pay-for-reporting) and value-based purchasing programs. *Form Number:* CMS–10550 (OMB control number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 940; *Total Annual Responses:* 940; *Total Annual Hours:* 639. (For policy questions regarding this collection contact Noni Bodkin at 410–786–7837.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Nursing Home National Provider Survey; *Use:* Section 3104 of the Patient and Protection and Affordable Care Act (ACA) requires that the Secretary of the Department of Health and Human Services (HHS) conduct an assessment of the quality and efficiency impact of the use of endorsed measures in specific Medicare quality reporting and incentive programs. The ACA further specifies that the initial assessment must occur no later than March 1, 2012, and once every 3 years thereafter. This planned data collection activity was developed and tested as part of the 2015 Impact Report and data collection will be conducted for reporting in the 2018 Impact Report.

There are two modes of data collection with nursing home quality leaders: (1) A semi-structured qualitative interview and (2) a standardized survey. The data from the qualitative interviews and standardized surveys will be analyzed to provide us with information on the quality and efficiency impact of measures that we use to assess care in nursing homes delivering skilled nursing care. The surveys seek to understand whether the use of performance measures has led to changes in provider behavior (both at the nursing home-level and at the frontline of care), and whether undesired effects are occurring as a result of implementing quality and efficiency measures. The survey will also help identify characteristics associated with high performance, which if understood, could be used to leverage improvements in care among lower performing nursing homes. The focus of the survey is to assess the impacts of the measures that we use in the context of public reporting (pay-for-reporting) and quality improvement. *Form Number:* CMS–10551 (OMB control number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 940; *Total Annual Responses:* 940; *Total Annual Hours:* 639. (For policy questions regarding this collection contact Noni Bodkin at 410–786–7837.)

Dated: March 17, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–06408 Filed 3–19–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse: 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 materials, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Review of Project Grant Applications for Multi-site Clinical Trials.

Date: March 31, 2015.

Time: 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, 301–435–1426, *mcguireso@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cohort Studies of HIV/AIDS and Substance Use (U01).

Date: April 2, 2015.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, 301–435–1426, *mcguireso@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA) (R21).

Date: April 2, 2015.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 20892, 301–443–9511, *jrao@nida.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.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 13, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06349 Filed 3–19–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Multi-Site Evaluation of Project LAUNCH.

(OMB No.: 0970–0373)

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is planning to collect data for the multi-site evaluation (MSE) of Project LAUNCH (Linking Actions for Unmet Needs in Children's Health). Project LAUNCH is intended to promote healthy development and wellness in children from birth to eight years of age. Project LAUNCH grantees are funded by the Substance Abuse and Mental Health Services Administration (SAMHSA) to improve coordination among child-serving systems, enhance systems coordination, integrate child behavioral health services with other health services, and implement evidence-based programs to address children's healthy development.

The Project LAUNCH MSE seeks to determine the impact of the combined LAUNCH services and strategies on child, family, and systems level outcomes. Data for the MSE will be collected through several mechanisms. First, all LAUNCH grantees will submit semi-annual reports through a web-based data entry system. Second, Project LAUNCH grantees will be systematically sampled to include 10 non-tribal and 5 tribal sites, and matched comparison communities (10 non-tribal and 5 tribal) will be recruited to participate in data collection efforts. Within each site, 2 elementary schools and 4 early childhood education (ECE) centers will be selected as data collection sites. Data collected from this sample of LAUNCH and comparison communities will include:

- Surveys of parents of a sample of young children (birth through age eight). Topics include child health, social emotional health, school readiness, parent-child relationships, parent depression, home environment, and parental social support.
- Surveys of a sample of kindergarten teachers. The survey will assess kindergarten students' school readiness in the areas of physical health and well-being; social competence; emotional maturity; language and cognitive development; and communication skills.
- Surveys of elementary school and ECE administrators. The survey will assess child suspension and expulsion.

In addition, key informant interviews will be conducted with local and state early childhood leaders to gather contextual information about systems-level activities and change.

Respondents: All Project LAUNCH grantees for the web-based data collection; a systematic sample of parents, teachers, elementary school and ECE administrators in both LAUNCH and comparison communities; and key informants at the local and state levels in both LAUNCH and comparison communities.

ANNUAL BURDEN ESTIMATES

Instrument	Total No. of respondents	Annual No. of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Direct Service Activities web-based data collection	96	32	6	8.5	1632
Systems Activities and Outcomes web-based data collection	96	32	3	8	768
Parent Survey	8100	2700	3	0.5	4050
Teacher Survey	720	240	3	10	7200
School Suspension and Expulsion Survey	540	180	3	1	540
Systems Change Interview	315	105	3	1	315

Estimated Total Annual Burden Hours: 14,505.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2015–06385 Filed 3–19–15; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0456]

Pediatric Stakeholder Meeting; Request for Comments; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a document entitled ''Pediatric Stakeholder Meeting; Request for Comments'' that appeared in the **Federal Register** of February 26, 2015 (80 FR 10493). The document announced a public meeting seeking input from patient groups, consumer groups, regulated industry, academia and other interested parties to obtain any recommendations or information relevant to the report to Congress that FDA is required to submit concerning pediatrics, as outlined in the Food and Drug Administration Safety and Innovation Act (FDASIA). The document was published with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Office of Policy, Planning, Legislation, and Analysis, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3330, Silver Spring, MD 20993, 301–796–9115.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 26, 2015, in FR Doc. 2015–03974, on page 10493, the following correction is made:

On page 10493, in the first column, the Docket No. heading, ''[Docket No. FDA–20115–N–0456]'' is corrected to read ''[Docket No. FDA–2015–N–0456]''.

Dated: March 17, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–06426 Filed 3–19–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 15–16, 2015.

Open: April 15, 2015, 8:00 a.m. to 8:15 a.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: April 15, 2015, 8:15 a.m. to 6:05 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: April 16, 2015, 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 13, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06346 Filed 3–19–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Clinical Coordination Center (2243).

Date: April 21, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 13, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06348 Filed 3–19–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meeting (R13/U13).

Date: April 13–15, 2015.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3F30B, 5601 Fishers Lane, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane, Room 3F30B, Rockville, MD 20852, 240–669–5029, *battlesja@mail.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grants (R34).

Date: April 16, 2015.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 2H200B, 5601 Fisher Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Jane K. Battles, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID 5601 Fishers Lane, Room 3F30B, Rockville, MD 20852, 240–669–5029, *battlesja@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 13, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–06347 Filed 3–19–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1936]

Electronic Cigarettes and the Public Health; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; extension of comment period.

The Food and Drug Administration (FDA), Center for Tobacco Products, is announcing a public workshop to obtain information on electronic cigarettes (e-cigarettes) and the public health. This will be the final in a series of three workshops. The workshop will include presentations and panel discussions about the current state of the science and will focus on impacts on the population as a whole, including users and non-users of tobacco products.

Dates and Times: The public workshop will be held on June 1 and 2, 2015. Individuals who wish to attend the public workshop must register by May 20, 2015.

Location: The public workshop will be held at the Marriott Inn and Conference Center, University of Maryland University College, Potomac Ballroom, 3501 University Blvd. East, Hyattsville, MD 20783. The conference center's telephone number is 301–985–7300.

Contact Person: Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002, 1–877–287–1373, email: *workshop.CTPOS@fda.hhs.gov.*

Registration to Attend the Workshop: If you wish to attend the workshop in person or by Webcast, you must register by submitting an electronic or written request no later than May 20, 2015. Please submit electronic requests at *https://www.surveymonkey.com/s/CTP-June-Workshop.* Persons without Internet access may send written requests for registration to Caryn Cohen (see *Contact Person*). Requests for registration must include the prospective attendee's name, title, affiliation, address, email address if available, and telephone number. Registration is free and you may register to attend in-person or view the live Webcast. Seating and viewership are limited, so early registration is recommended. FDA may limit the number of registrants from a single organization and the total number of participants if registration reaches full capacity. For registrants with Internet access, confirmation of registration will be emailed to you no later than May 25, 2015. Onsite registration may be allowed if space is available. If registration reaches maximum capacity, FDA will post a notice closing registration at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm.*

If you need special accommodations due to a disability, please contact Caryn Cohen (see *Contact Person*) at least 7 days in advance of the meeting.

Presenters and Panelists: FDA is interested in gathering scientific information from individuals with a broad range of backgrounds on the scientific topics to be discussed at the workshop. To be considered as a presenter, please provide the following:

- A brief abstract for each presentation. The abstract should identify the specific topic(s) to be addressed and the amount of time requested.
- A one-page biosketch that describes and supports the speaker's scientific expertise on the specific topic(s) being presented, nature of the individual's experience and research in the scientific field, positions held, and any program development activities.

Panelists will discuss their scientific knowledge on the questions and

presentations in each session. To be considered to serve as a panelist, please provide the following:

• A one-page biosketch that describes and supports the speaker's scientific expertise on the specific topic(s) being presented, nature of the individual's experience and research in the scientific field, positions held, and any program development activities.

If you are interested in serving as a presenter or panelist, please submit the requested information, along with the topic on which you would like to speak, to *workshop.CTPOS@fda.hhs.gov* by April 3, 2015.

Oral Presentations by Members of the Public: This workshop includes a public comment session. Persons wishing to present during the public comment session must make this request at the time of registration and should identify the topic they wish to address from among those topics under consideration that are identified in section III. FDA will do its best to accommodate requests to present. FDA urges individuals and organizations with common interests to consolidate or coordinate their comments, and request a single time for a joint presentation. For those requesters with Internet access, Caryn Cohen (see *Contact Person*) will email you regarding your request to speak during the public comment period by May 25, 2015.

Transcripts: A transcript of the proceedings will be available after the workshop at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm* as soon as the official transcript is finalized. It will also be posted to the docket at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop to gather scientific information and stimulate discussion among scientists about electronic cigarettes (e-cigarettes). The focus of this workshop will be the impact of e-cigarettes on population health, including prevalence and patterns of use, impacts of e-cigarettes on tobacco product users and non-users, and knowledge, attitudes, and beliefs about e-cigarette products. A workshop on December 10–11, 2014, focused on e-cigarette product science, product packaging, constituent labeling, and environmental impact; and a workshop on March 9–10, 2015, focused on the impact of e-cigarettes on individual health.

On April 25, 2014, FDA published a document to extend its tobacco product authorities to additional products that meet the statutory definition of ''tobacco product'' entitled ''Deeming Tobacco Products to Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Regulations on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products'' (79 FR 23141, April 25, 2014, Docket No. FDA–2014–N–0189) (proposed deeming rule). If the proposed deeming rule is finalized as proposed, e-cigarettes that are tobacco products would be subject to FDA regulation under Chapter IX of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 387–387u). As stated in the proposed deeming rule, FDA ''is aware of the recent significant increase in the prevalence in e-cigarette use'' (79 FR 23141 at 23152), and there is much to be learned about these relatively new entrants to the market.

These workshops are intended to better inform FDA about these products. Should the Agency move forward as proposed to regulate e-cigarettes, additional information about the products would assist the Agency in carrying out its responsibilities under the law. This would be true regardless of the details of any such final rule. Accordingly, FDA is working to obtain such information now rather than waiting for the conclusion of the deeming rulemaking.

Participants should note that this workshop is not intended to inform the Agency's deeming rulemaking. All comments regarding the proposed deeming rule were to be submitted to the Agency by August 8, 2014 (Docket No. FDA–2014–N–0189). As such, the scope of this workshop is limited to the topics presented in section III.

II. Extension of Comment Period

Extension. At the start of the first workshop in this series, FDA announced via a **Federal Register** document the opening of a docket for submission of written comments regarding all three workshops (see Establishment of a Public Docket; Electronic Cigarettes and the Public Health Workshop, Docket No. FDA–2014–N–1936, *http://www.gpo.gov/fdsys/pkg/FR-2014-12-02/pdf/2014-28261.pdf*). The comment period for submission of written comments was scheduled to end on April 15, 2015. The Agency is extending the comment period to end on July 2, 2015, to allow interested parties time to submit comments concerning the third workshop.

General Information About Submitting Comments. Regardless of attendance at the public workshop, interested parties are invited to submit comments, supported by research and data, regarding e-cigarettes and the public health. Information related to workshop presentations and discussion topics, including specific questions to be addressed at the workshop, can be found at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm.*

Interested persons may submit either electronic comments to *http://www.regulations.gov* or written comments to this docket to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. 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. Comments submitted to the docket will not be added to other dockets, such as the docket for the proposed rule deeming additional tobacco products subject to the FD&C Act.

Public Availability of Comments. 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.* As a matter of Agency practice, FDA generally does not post comments submitted by individuals in their individual capacity on *http://www.regulations.gov.* This is determined by information indicating that the submission is written by an individual, for example, the comment is identified with the category ''Individual Consumer'' under the field titled ''Category (Required),'' on the ''Your Information'' page on *www.regulations.gov.* For this docket, however, FDA will not be following this general practice. Instead, FDA will post on *http://www.regulations.gov* comments to this docket that have been submitted by individuals in their individual capacity. If you wish to submit any information under a claim of confidentiality, please refer to 21 CFR 10.20.

Information Identifying the Person Submitting the Comment. Please note that your name, contact information, and other information identifying you will be posted on *http://www.regulations.gov* if you include that information in the body of your comments. For electronic comments submitted to *http://www.regulations.gov,* FDA will post the body of your comment on *http://*

www.regulations.gov along with your state/province and country (if provided), the name of your representative (if any), and the category identifying you (*e.g.,* individual, consumer, academic, industry). For written submissions submitted to the Division of Dockets Management, FDA will post the body of your comments on *http://www.regulations.gov,* but you can put your name and/or contact information on a separate cover sheet and not in the body of your comments.

III. Topics for Discussion

The public workshop will include presentations and panel discussion regarding e-cigarettes and the public health, specifically relating to the impact of e-cigarettes on the population as a whole. Topics to be addressed include: (1) Prevalence and patterns of use; (2) impacts on current tobacco product users; (3) impacts on non-users of tobacco products; and (4) knowledge, attitudes, beliefs, and perceptions about e-cigarette products.

Additional information related to workshop presentations and discussion topics, including specific questions to be addressed at the workshop, can be found at *http://www.fda.gov/TobaccoProducts/NewsEvents/ucm238308.htm.*

Dated: March 16, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–06388 Filed 3–19–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Intent To Publish a Funding Opportunity Announcement for Occupational Safety and Health Education and Research Centers

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides information on the Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH) intent to publish a funding opportunity announcement for Education and Research Centers (ERCs). The purpose of this program is to support existing NIOSH ERCs and establish new ERCs, as appropriate, to address the burden of Occupational Safety and Health (OSH) in the United States by providing state-of-the-art interdisciplinary graduate and research training for the next generation of OSH practitioners and researchers.

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DATES:

- *Anticipated Publication Date of Announcement:* May 2015
- *First Anticipated Application Due Date:* November 2015
- *Earliest Anticipated Award Date:* June 2016
- *Earliest Anticipated Start Date:* July 2016

FOR FURTHER INFORMATION CONTACT: Dr. Elizabeth H. Maples, National Institute for Occupational Safety and Health, Centers for Disease Control, 1600 Clifton Road NE., Mailstop E–74, Atlanta, GA 30333; Phone (not toll-free numbers): (404) 498–2557, Fax: (404) 498–2571, Email: *EMaples@cdc.gov.*

SUPPLEMENTARY INFORMATION: The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), intends to publish a funding opportunity announcement for Education and Research Centers (ERCs) that are focused on occupational safety and health graduate training and research training.

NIOSH is mandated to provide an adequate supply of qualified personnel to carry out the purposes of the Occupational Safety and Health Act, and the ERCs are one of the principal means for meeting this mandate. ERCs are academic institutions that provide high-quality interdisciplinary graduate training, continuing education, and outreach in the core occupational safety and health disciplines of industrial hygiene (IH), occupational health nursing (OHN), occupational medicine residency (OMR), and occupational safety (OS), as well as closely related allied disciplines. Research and research training are integral components of ERCs, with ERC faculty and NIOSH trainees conducting research on issues related to the NIOSH National Occupational Research Agenda (NORA). The ERCs also serve as regional resources for industry, labor, government, and the public.

This Notice of Intent is being provided to allow potential applicants sufficient time to develop meaningful collaborations and responsive projects. The Funding Opportunity Announcement (FOA) is expected to be published in May 2015 with an expected application due date in November 2015.

The FOA will utilize the T42 activity code. ERCs are located in accredited academic institutions across the country and provide graduate degree and certificate training in core and allied disciplines of OSH. ERCs also provide interdisciplinary research training to identify, assess, address, and improve OSH. ERCs conduct outreach to help improve knowledge and awareness of work-related safety and health issues, and they provide continuing education for OSH professionals. Through comprehensive, integrated programs, ERCs improve the safety and health of our nation's workers.

Recipient Reporting Requirements: Recipients funded with NIOSH ERC appropriations will be required to report project status on an annual basis. Specific reporting requirements will be detailed in the Terms and Conditions of the Notice of Award.

Award Information:

- Approximate Current Fiscal Year Funding: $24,000,000.
- Approximate Number of Awards: 15–20.
- Approximate Average Awards: Up to $1,800,000/year.
- Fiscal Year Funds: 2016.
- Budget Period: 12 months.
- Project Period: Up to 5 years for established ERCs and up to 3 years for new ERCs.

Application Selection Process: Applications will be evaluated for scientific and technical merit by an appropriate peer review group, in accordance with CDC peer review policy and procedure using review criteria that will be stated in the Funding Opportunity Announcement (FOA).

As part of the scientific peer review, all applications will:

- Undergo a selection process in which all responsive applications will be discussed and assigned an overall impact/priority score, and
- Receive a written critique.

Needs Assessment: ERCs must document that their proposed academic and research training programs meet specific regional or national workforce need and demand.

Regional Presence: ERCs should demonstrate collaborative efforts by working with a diverse and broad range

of organizations to enhance worker safety and health in their region.

This Notice encourages investigators with expertise and insights in the area of occupational safety and health to begin to consider applying for this upcoming FOA.

Budget Limits for Required and Optional Components: ERCs are complex, interdisciplinary centers. Up to $1,800,000/year total costs may be requested by an ERC. The following table lists required and optional ERC components and budget information:

ERC components	Funding information (total costs)
Planning and Evaluation Core (Required)	Up to $370,000/year.
Center Administration, Planning and Evaluation	Up to $250,000/year.
Interdisciplinary Activities	Up to $30,000/year.
Diversity Recruitment and Retention	Up to $5,000/year.
Outreach in Occupational Safety and Health	Up to $35,000/year.
Developmental Program Support (Optional)	Up to $50,000/year.
Academic Training Core (Required)	Up to $930,000/year with 70% to Direct Trainee Costs.
Required minimum of 3 Academic Training Programs. At least 2 from the core disciplines of IH, OHN, OMR, or OS, and 1 may be a core or allied discipline.	There are no budget limits for individual academic training programs. Applicants must stay within the total $1.8 million per year request in total costs.
There is no minimum number of trainees required for any one academic program.	A minimum of 70% of the overall Academic Training Core budget must go to Direct Trainee Costs that provide stipends, tuition and fees, research support, and travel.
Applicants must fully justify need for all programs and their capacity to meet training demand.	A maximum of 30% of the overall Academic Training Core budget may go to support Training-related Expenses that include support for faculty and staff salaries, supplies, equipment and non-trainee travel. This 70%/30% allocation of funding may be applied across all academic training programs in aggregate, and need not be applied to each individual academic training program.
NIOSH will consider applications for Doctor of Nursing Practice Programs.	
Complementary and Special Pathways for OMRs are eligible for NIOSH support if administered by an OMR Program accredited by the ACGME.	
Applicants may request trainee support for academic certificate training programs in approved core and allied disciplines. Trainee support is limited to tuition only and is included in the minimum 70% allocation toward Direct Trainee Costs. Certificate trainees should be clearly identified in academic training program budgets.	
Research Training Core (Optional)	Up to $400,000/year with 70% of Collaborative Research Training (CRT) to Direct Trainee Costs.
Pilot Projects Research Training (Optional)	Up to $100,000/year.
Collaborative Research Training (Optional)	Up to $300,000/year.
	CRT supports the research training needs of NIOSH trainees and students from other disciplines who receive NIOSH support during their academic training program. A minimum of 70% of requested funds must go to support Direct Trainee Costs that provide stipends, tuition and fees, research supplies, and travel; a maximum of 30% may go to support Training-related Expenses that include support for faculty and staff salaries, supplies, equipment and non-trainee travel.
Continuing Education Program (Required)	Up to $100,000/year.
Needs-based training should be offered to safety and health practitioners and allied disciplines to have a positive impact on workplace practices and policies.	

Dated: March 16, 2015.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2015–06468 Filed 3–19–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1078]

National Offshore Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee meetings.

SUMMARY: The National Offshore Safety Advisory Committee and its Commercial Diving Safety on the Outer Continental Shelf Subcommittee will meet on April 7 and 8, 2015, in New Orleans, LA to discuss the safety of operations and other matters affecting the offshore oil and gas industry. These meetings are open to the public.

DATES: The Commercial Diving Safety on the Outer Continental Shelf Subcommittee will meet on Tuesday, April 7, 2015, from 1 p.m. to 2 p.m. and the full National Offshore Safety Advisory Committee will meet on Wednesday, April 8, 2015, from 8:30 a.m. to 4:30 p.m. These meetings may end early if the Committee has completed its business, or they may be extended based on the number of public comments. All submitted written materials, comments, and requests to make oral presentations at the meetings should reach the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) by April 1, 2015. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: The meetings will be held at the OMNI Riverfront Hotel, 701 Convention Center Boulevard, New Orleans, LA 70130, (504) 524–8200, *http://www.omnihotels.com/hotels/new-orleans-riverfront.* The April 7, 2015 afternoon Subcommittee meeting will be held in the Bacchus B Conference Room. The April 8, 2015 full Committee meeting will be held in the Bacchus Conference Room.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the

individuals listed in **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee as listed in the ''Agenda'' section below. Written comments for distribution and review by Committee members prior to the meeting must be submitted no later than April 1, 2015, must be identified by docket number USCG–2013–1078 and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (Preferred method to avoid delays in processing).
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number for the Docket Management Facility is (202) 366–9329.

To avoid duplication, please submit comments using only one of the above methods.

Instructions: All submissions must include the words ''Department of Homeland Security'' and the docket number for this action, USCG 2013–1078. All comments submitted will be posted without alteration at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2013–1078 in the Search box, press Enter, and then click on the item you wish to view.

A public oral comment period will be held during the meeting on April 8, 2015, and speakers are requested to limit their comments to 3 minutes. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William Nabach, Designated Federal Official of the National Offshore Safety Advisory Committee, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE. Stop 7509, Washington, DC 20593–7509; telephone (202) 372–1410, fax (202) 372–8382 or email *William.A.Nabach@uscg.mil,* or Mr. Scott Hartley, telephone (202) 372–1437, fax (202) 372–8382 or email *Scott.E.Hartley@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826 or (800) 647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the authority of 41 CFR 102–3 and *Federal Advisory Committee Act,* 5 U.S.C. 552(a). The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NOSAC.* Alternatively, you may contact Mr. Scott Hartley as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The National Offshore Safety Advisory Subcommittee on Commercial Diving Safety on the Outer Continental Shelf will meet on April 7, 2015 from 1 p.m. to 2 p.m. to review, discuss and formulate recommendations for a final report on commercial diving safety.

Day 2

The National Offshore Safety Advisory full Committee will meet on April 8, 2015 from 8:30 a.m. to 4:30 p.m. to review and discuss Subcommittee progress, reports and recommendations received from the Subcommittee on Commercial Diving Safety on the Outer Continental Shelf from their deliberations on April 7, 2015. The National Offshore Safety Advisory Committee will then use this information and consider public comments in formulating recommendations to the Coast Guard. Public comments or questions will be taken at the discretion of the Designated Federal Official during the discussion and recommendation portions of the meeting as well as during the public comment period, see Agenda item (4).

A complete agenda for April 8, 2015, is as follows:

(1) Current Business—Presentation and discussion of a final report and included recommendations from the Subcommittee on Commercial Diving Safety on the Outer Continental Shelf.

(2) New Business—Introduction of new Task Statements by the Coast Guard:

(a) Cyber Security on the U.S. Outer Continental Shelf;

(b) Offshore Well Intervention Vessel Operations, Activities, Purpose and Definition;

(c) Safety of Persons Assigned to Lifeboats during Launching, Recovery and Maintenance Activities for Units working on the U.S. Outer Continental Shelf; and

(d) Towage of Mobile Offshore Drilling Units, Mobile Offshore Units and Floating Offshore Installations on the U.S. Outer Continental Shelf.

(3) Presentations and discussions on the following matters:

(a) Annual Report of Coast Guard Action/Disposition on National Offshore Safety Advisory Committee Final Reports;

(b) International Association of Drilling Contractors Contractor Management and Bridging Arrangement;

(c) Arctic and International Maritime Organization Polar Code; and

(d) Well Intervention.

(4) Public comment period.

The agenda, draft final report, new task statements and presentations will be available approximately 7 days prior to the meeting at the *https://homeport.uscg.mil/NOSAC* Web site or by contacting Mr. Scott Hartley.

Minutes

Meeting minutes will be available for public view and copying within 90 days following the meeting at the *https://homeport.uscg.mil/NOSAC* Web site.

Notice of Future 2015 National Offshore Safety Advisory Committee Meetings

To receive automatic email notices of future National Offshore Safety Advisory Committee meetings in 2015, go to the online docket, USCG–2013–1078 (*http://www.regulations.gov/#!docketDetail:D=USCG-2013-1078*), and select the sign-up-for-email-alerts option.

Dated: 16 March 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2015–06413 Filed 3–19–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2015–0174]

Commercial Fishing Vessel Engineers

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of an updated policy letter entitled ''Engineer Officer Endorsements on Uninspected Commercial Fishing Industry Vessels.'' The letter provides guidance to Coast Guard officers with respect to the upcoming enforcement of existing requirements for the proper credentialing of engineering officers. Some accident investigations have found that engineers were not properly credentialed to serve in their assigned positions. This notice promotes the Coast Guard's maritime safety and stewardship missions.

DATES: The Coast Guard's enforcement of existing requirements for the proper credentialing of engineer officers on uninspected commercial fishing vessels begins October 15, 2015.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Mr. Jack Kemerer, Coast Guard; telephone 202–372–1249, email *Jack.A.Kemerer@uscg.mil.* For information about viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Discussion

Longstanding Coast Guard regulations [1] state that an ''individual engaged or employed to perform the duties of chief engineer on a mechanically propelled, uninspected, seagoing, documented vessel of 200 gross tons or over must hold an appropriately endorsed MMC [merchant mariner credential] authorizing service as a chief engineer,'' and that, ''An individual in charge of an engineering watch on a mechanically propelled, seagoing, documented vessel of 200 GRT [gross regulatory tons] or more, other than an individual described in § 15.820 of this subpart, must hold an appropriately endorsed license or MMC authorizing service as an assistant engineer.'' In October 2011, we issued a policy letter [2] noting widespread non-compliance with these requirements among commercial fishing vessel engineers. Recognizing that the industry would require time to come into compliance, we set January 1, 2014, as the date we would begin strict enforcement of the regulations. In December 2013,[3] upon learning that industry required still more time, we delayed that date one year to January 1, 2015. We are again delaying the date, to October 15, 2015, but we are preparing to enforce compliance beginning on that October date.

We understand that strict industry-wide compliance may still not be practicable as of October 15, 2015. Therefore, where an owner/operator or company has established a training program designed to bring company operations into compliance with the prescribed regulations on engineer officer endorsements, the Officer in Charge, Marine Inspection (OCMI) may defer, for a specific vessel or fleet of vessels, on a case by case basis, strict enforcement of the provisions of the regulations beyond October 15, 2015. Persons seeking this consideration should submit a proposal to their cognizant OCMI as soon as possible but not later than October 15, 2015.

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: March 12, 2015

J.C. Burton,

Captain, U.S. Coast Guard, Director of Prevention and Compliance.

[FR Doc. 2015–06480 Filed 3–19–15; 8:45 am]

BILLING CODE 9110–04–P

[1] 46 CFR 15.820(c) and 46 CFR 15.825(a).

[2] Policy Letter 11–11 (CG–543 Memorandum 16700), Oct. 7, 2011, ''Engineer Officer Endorsements on Uninspected Commercial Fishing Industry Vessels.''

[3] CGMS DTG 061640Z Dec 13, ''Engineer Officer Endorsements on Uninspected Commercial Fishing Vessels.''

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0137]

Agency Information Collection Activities: Small Vessel Reporting System

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Small Vessel Reporting System (SVRS). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours, but no changes to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 20, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, 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 should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (79 FR 77020) on December 23, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates 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, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that

are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Small Vessel Reporting System.

OMB Number: 1651–0137.

Abstract: The Small Vessel Reporting System (SVRS) is a pilot program that allows certain participants using small pleasure boats to report their arrival telephonically instead of having to appear in person for inspection by a CBP officer each time they enter the United States. In some cases, a participant may also be asked to report to CBP for an in person inspection upon arrival. Participants may be U.S. citizens, U.S. lawful permanent residents, Canadian citizens, and permanent residents of Canada who are nationals of Visa Waiver Program countries listed in 8 CFR 217.2(a). In addition, participants of one or more Trusted Traveler programs and current Canadian Border Boater Landing Permit (CBP Form I–68) holders may participate in SVRS.

In order to register for the SVRS pilot program, participants enter data via the SVRS Web site, which collects information such as biographical information and vessel information. Participants will go through the in person CBP inspection process during SVRS registration, and in some cases, upon arrival in the United States.

For each voyage, SVRS participants will be required to submit a float plan about their voyage via the SVRS Web site in advance of arrival in the United States. The float plan includes vessel information, a listing of all persons on board, estimated dates and times of departure and return, and information on the locations to be visited on the trip. Participants in SVRS can create a float plan for an individual voyage or a template for a float plan that can be used multiple times.

SVRS is authorized by 8 U.S.C. 1225, 8 CFR 235.1, 19 U.S.C. 1433, and 19 CFR 4.2. The SVRS Web site is accessible at: *https://svrs.cbp.dhs.gov/.*

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the burden hours resulting from updated estimates of the number of respondents. There is no change to the information being collected.

Type of Review: Extension (with change).

Affected Public: Individuals.

SVRS Application

Estimated Number of Respondents: 7,509.

Estimated Number of Total Annual Responses: 7,509.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,877.

Float Plan

Estimated Number of Respondents: 2,589.

Estimated Number of Total Annual Responses: 2,589.

Estimated Time per Response: 10.6 minutes.

Estimated Total Annual Burden Hours: 457.

Dated: March 11, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–06374 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Oral Solution Products

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (''CBP'') has issued a final determination concerning the country of origin of certain oral solution products for cleansing of the colon known as Prepopik. Based upon the facts presented, CBP has concluded that, the country of origin of the oral solution is China for purposes of U.S. Government procurement.

DATES: The final determination was issued on March 13, 2015. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within April 20, 2015.

FOR FURTHER INFORMATION CONTACT: Grace A. Kim, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202) 325–7941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 13, 2015, pursuant to subpart B of Part 177, U.S. Customs and Border Protection Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain oral solution products known as Prepopik, which may be offered to the U.S. Government, Department of Veterans Affairs under its Federal Supply Schedule contract. This final determination, HQ H253443, was issued under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP concluded that the processing in China results in a substantial transformation. Therefore, the country of origin of the oral solution is China for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: March 13, 2015.

Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

HQ H253443

March 13, 2015

OT:RR:CTF:VS H253443 GaK

CATEGORY: Origin

Michael T. Shor
Arnold & Porter LLP
555 12th Street, NW
Washington, DC 20004–1206

RE: U.S. Government Procurement; Country of Origin of PREPOPIK®; Substantial Transformation

Dear Mr. Shor:

This is in response to your letter dated April 23, 2014, and your supplemental submission dated July 18, 2014, requesting a final determination on behalf of your client, Ferring Pharmaceuticals Inc. (''Ferring''), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection (''CBP'') Regulations (19 CFR part 177). Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (''TAA''), as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of Ferring's PREPOPIK® for

Oral Solution (''Prepopik''), which is a powder for oral solution for cleansing of the colon. We note that as a U.S. importer, Ferring is a party-at-interest within the meaning of 19 CFR § 177.22(d)(1) and is entitled to request this final determination.

Pursuant to 19 CFR § 177.22(b)(7), you requested confidential treatment with respect to certain information submitted. As that information constitutes privileged or confidential matters, it has been bracketed and will be redacted from any published versions.

FACTS:

Prepopik is a dual-acting osmotic and stimulant laxative bowel preparation for a colonoscopy in adults. Prepopik is imported in packets containing one dose, to which a dosing cup is added in the U.S. Prepopik is ingested by dissolving the powder in water, using the supplied plastic dosing cup. To produce Prepopik, sodium picosulfate (manufactured in Country A [******]), magnesium oxide (manufactured in Country B [******]), anhydrous citric acid (manufactured in Country C [******]), and three inactive ingredients (sourced from Country C and Country D [******]) are sent to China in powder form or in fine particles. The manufacturing process, described in detail to CBP, consists of sieving, wet mixing the sodium picosulfate to form granules, mixing magnesium oxide and citric acid into a granule formulation, product flavoring, and final blending which is stated not to result in a chemical reaction during any of the steps carried out in China. The final product is placed into single dosage packets. Each Prepopik packet contains 10mg sodium picosulfate, 3.5g magnesium oxide, and 12g citric acid. The packets are sent to a third party in the U.S. to be packaged into child-resistant pouches along with the pre-marked, plastic dosing cup.

After importation, once water is added, the magnesium oxide and citric acid combine to form magnesium citrate. The magnesium citrate, is an osmotic laxative that stimulates the absorption of water into the bowel, while the sodium picosulfate stimulates peristalsis in the bowel to expel its contents.[1]

ISSUE:

What is the country of origin of the Prepopik for purposes of U.S. government procurement and marking?

LAW AND ANALYSIS:

Country of Origin

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a).

In determining whether a substantial transformation occurs in the manufacture of chemical products such as pharmaceuticals, CBP has consistently examined the complexity of the processing, and whether the final article retains the essential identity and character of the raw materials. To that end, CBP has generally held that the processing of pharmaceutical products from bulk form into measured doses, filtering and packaging does not result in a substantial transformation. *See* Headquarters Rulings Letter (''HQ'') H197582, dated August 9, 2012; HQ H561975, dated April 3, 2002; and HQ H561544, dated May 1, 2000.

In HQ H215656, dated January 11, 2013, a pain reliever medicine called Rybix ODT was imported from France. The active pharmaceutical ingredient (''API'') was manufactured in India, which was shipped to France and processed in four stages. In the first stage, the API was de-lumped and granulated with a suspension of inactive ingredients then sieved and sized. In the second stage, several inactive ingredients designed to assist in drug administration were added to the API to make a flavor preblend. In the third stage, the tablets were formed and collected in polyethylene-lined foil bags. In the last stage, the tablets were packaged in child-resistant blister packs and prepared for shipment to the U.S. CBP found that the imported good did not undergo a substantial transformation in France, because the processing in France did not result in a change in the medicinal use of the product and the API retained its chemical and physical properties.

However, in HQ 563207, dated June 1, 2005, Actoplus Met™ was produced in Japan by combining two APIs: pioglitazone HCl (pioglitazone), an insulin sensitizer metformin, a biguanide used to decrease the amount of glucose produced by the liver and make muscle tissue more sensitive to insulin so glucose can be absorbed. The two APIs were mixed together to form a fix combination drug. The decision noted that with the combination of the two APIs, type 2 diabetes patients will receive more medical benefits than taking metformin alone. CBP held that the finished pharmaceutical, Actoplus Met™ had a new name, character and use distinct from the two APIs used in the production of the finished product. It was noted that while pioglitazone and metformin could be prescribed separately, the final product, Actoplus Met™, increased the individual effectiveness of pioglitazone and metformin in treating type 2 diabetes patients. Therefore, a substantial transformation was found to take place in Japan where the two APIs were combined to produce Actoplus Met™.

Ferring states that as imported, the only API present in Prepopik is the sodium picosulfate which retains its chemical and physical properties and is merely put into a dosage form and packaged. Ferring further contends that the processing in China does not result in a change in the medicinal use of the finished product. However, we note that magnesium oxide may be used for different reasons, as an antacid to relieve heartburn, sour stomach, or acid indigestion; or as a laxative for short-term, rapid emptying of the bowel. *See http://www.nlm.nih.gov/medlineplus/druginfo/meds/a601074.html; see also http://pubchem.ncbi.nlm.nih.gov/compound/magnesium_oxide* (Magnesium oxide (MgO) is an inorganic compound that occurs in nature as the mineral periclase and in aqueous media combines quickly with water to form magnesium hydroxide. It is used as an antacid and mild laxative and has many nonmedicinal uses). We note that combining magnesium oxide with water results in magnesium hydroxide which is also known for its laxative effect. While the combination with water by the user may cause the ''chemical reaction,'' we note that most medicines are taken with water, so we do not find that the addition of water in this case is what makes the magnesium oxide to function as a laxative. The combination of the magnesium oxide, citric acid and water may form the osmotic effect; however, the fundamental laxative property is already found in the magnesium oxide. Accordingly, we find that as in HQ 563207, the two ingredients (sodium picosulfate and magnesium oxide) contribute to the purpose of Prepopik. As the two ingredients are combined in China, we find that as in HQ 563207 a substantial transformation occurs in China. Individually, the sodium picosulfate and the magnesium oxide may be used to alleviate constipation, and together, when combined to form Prepopik, these ingredients have a more stiumlative effect. Therefore, we find that the country of origin of Prepopik is China.

Marking

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. § 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. § 1304 was ''that the ultimate purchaser should be able to know by an inspection of the marking on the imported goods the country of which the goods is the product. The evident purpose is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.'' *United States* v. *Friedlaender & Co.,* 27 CCPA 297, 302, C.A.D. 104 (1940). Part 134, CBP

[1] *See http://www.nlm.nih.gov/medlineplus/ency/article/002282.htm; see also http://www.nlm.nih.gov/medlineplus/druginfo/meds/a613020.html.*

Regulations (19 CFR § 134) implements the country of origin marking requirements and exceptions of 19 U.S.C. § 1304.

Section 134.1(b), CBP Regulations (19 CFR § 134.1(b)), defines ''country of origin'' as:

the country of manufacture, production or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the ''country of origin'' within the meaning of this part; . . .

The country of origin of an article for U.S. tariff purposes is the country in which the last substantial transformation took place. A substantial transformation occurs when an article is used in a manufacturing process or operation that results in a new article that has a new name, character or use different from that of the original imported article. A substantial transformation will not result from a minor manufacturing or combining process that leaves the identity of the article intact. *See United States* v. *Gibson-Thomsen Co.,* 27 C.C.P.A. 267 (1940); and *National Hand Tool Corp.* v. *United States,* 989 F.2d 1201 (Fed. Cir. 1992).

In the instant case, Ferring mixes all the ingredients by blending, sieving, and mixing. We find that this processing results in a substantial transformation. The combination of the two ingredients results in a more stimulative laxative effect for purposes of cleansing the bowels. Therefore, we find that the country of origin of Prepopik is China for country of origin marking purposes.

HOLDING:

Based on the facts in this case, we find that the imported Prepopik is substantially transformed in China. The country of origin for government procurement and marking purposes is China.

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR § 177.31, that CBP reexamine the matter anew and issue a new final determination.

Pursuant to 19 CFR § 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Glen E. Vereb,

Acting Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2015–06434 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Amspec Services, LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of October 27, 2014.

DATES: *Effective Dates:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on October 27, 2014. The next triennial inspection date will be scheduled for October 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 4075 Sprig Driver, Suite A, Concord, CA 94520, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec Services, LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical Properties.
12	Calculations.
17	Maritime measurement.

AmSpec Services, LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–13	ASTM D–4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–06	ASTM D–473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–01	ASTM D–287	Standard test method for API gravity of crude petroleum and petroleum products (hydrometer method).
27–46	ASTM D–5002	Standard test method for density and relative density of crude oils by digital density analyzer.
27–05	ASTM D–4928	Standard test method for water in crude oils by Coulometric Karl Fischer Titration.
27–48	D–4052	Density and Relative density of liquids by digital density meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*

Dated: March 13, 2015.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2015–06376 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of AmSpec Services, LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of July 22, 2014.

DATES: *Effective Dates:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on July 22, 2014. The next triennial inspection date will be scheduled for July 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 1350 Slater Rd., Unit 9, Ferndale, WA 98248, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. AmSpec Services, LLC is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
11	Physical Properties.
12	Calculations
17	Maritime measurement.

AmSpec Services, LLC is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D–287	API gravity of crude petroleum and petroleum products (hydrometer method).
27–48	D–4052	Density and Relative density of liquids by digital density meter.
27–05	D–4928	Water in crude oils by coulometric Karl Fishcher Titration.
27–13	D–4294	Sulfur in petroleum and petroleum products by energy-dispersive X-ray fluorescence spectrometer.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: March 13, 2015.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2015–06378 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Saybolt, LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Saybolt, LP, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of December 4, 2014.

DATES: *Effective Dates:* The approval of Saybolt, LP, as commercial gauger became effective on December 4, 2014. The next triennial inspection date will be scheduled for December 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Saybolt, LP, 4025 Oak Ln, Sulphur, LA 70665, has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Saybolt, LP is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be

directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories

Dated: March 13, 2015.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2015–06375 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc., has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of October 30, 2014.

DATES: *Effective Dates:* The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on October 30, 2014. The next triennial inspection date will be scheduled for October 2017.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1708 Marshall St., Jacksonville, FL 32206, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
1	Vocabulary.
3	Tank gauging.
7	Temperature determination.
8	Sampling.
12	Calculations.
17	Maritime measurement.

Intertek USA, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–08	ASTM D–86	Standard test method for distillation of petroleum products at atmospheric pressure.
27–48	ASTM D–4052	Standard test method for density and relative density of liquids by digital density meter.
27–58	ASTM D–5191	Standard test method for vapor pressure of petroleum products (mini-method).
27–11	ASTM D–445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–06	ASTM D–473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–57	ASTM D–7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: March 13, 2015.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2015–06380 Filed 3–19–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5828–N–12]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also

published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)-443–2265 (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; (This is not a toll free number).

Dated: March 12, 2015.

Norman A. Suchar,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/20/2015

Suitable/Available Properties

Building

Oregon

9 Buildings
07662 00 Ochoco Ranger Station
Prineville OR 97754
Landholding Agency: Agriculture
Property Number: 15201510016
Status: Unutilized
Directions: 0542 (1237.004991); 1016 (1217.004991); 1019 (1220.004991); 1020 (1223.004991); 1022 (1223.004991); 1505 (7420010370); 2107 (20696010370); 1325 (1226.004991); 2103 (1231.004991)
Comments: off-site removal only; no future agency need; 12+ months vacant; poor conditions; extensive maintenance required; contact Agriculture for more information on a specific property.

[FR Doc. 2015–06495 Filed 3–19–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA942000 L57000000.BX0000 14X L5017AR]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of lands described below are scheduled to be officially filed in the Bureau of Land Management, California State Office, Sacramento, California.

DATES: April 20, 2015.

ADDRESSES: A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way W–1623, Sacramento, California 95825, (916) 978–4310. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1- (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest a survey must file a notice that they wish to protest with the Chief, Branch of Geographic Services. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Chief, Branch of Geographic Services within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

San Bernardino Meridian

California

T. 8 S., R. 12 E., supplemental plat of section 5, accepted February 12, 2015.

T. 17 S., R. 2 E., supplemental plat of sections 9 and 10, accepted February 18, 2015.

Authority: 43 U.S.C., Chapter 3.

Dated: March 9, 2015.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2015–06393 Filed 3–19–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000 L12100000.PH0000 LXSS0006F0000; 12–08807; MO#4500077623; TAS: 14X1109]

Notice of Public Meetings: Mojave-Southern Great Basin Resource Advisory Council, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave-Southern Great Basin Resource Advisory Council (RAC), will hold three meetings in Nevada in fiscal year 2015. The meetings are open to the public.

Dates and Times: April 24, BLM Southern Nevada District Office, 4701 N. Torrey Pines Dr., Las Vegas, Nevada; July 16–17, BLM Ely District, Caliente Field Office, 1400 S. Front Street, Caliente, Nevada; and Sept. 17, Beatty Community Center, 100 A Avenue South, Beatty, Nevada. Meeting times will be published in local and regional media sources at least 14 days before each meeting. All meetings will include a public comment period.

FOR FURTHER INFORMATION CONTACT: Chris Hanefeld, Public Affairs Specialist, Ely District Office, 702 N. Industrial Way, Ely, NV 89301, telephone: (775) 289–1842, email: *chanefel@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Nevada. Topics for discussion at each meeting will include, but are not limited to:

- April 24 (Las Vegas)—Southern Nevada District Resource Management Plan, Southern Nevada Public Land Management Act and Transmission Corridors.
- July 16–17 (Caliente)—Ash Springs Recreation Area, and Mountain Biking and Trails Systems.
- September 17 (Beatty)—Battle Mountain District Resource Management Plan, and Mountain Biking and Trails Systems.

Managers' reports of field office activities will be given at each meeting. The Council may raise other topics at the meetings.

Final agendas will be posted on-line at the BLM Mojave-Southern Great Basin RAC Web site at *http://bit.ly/MOSORAC* and will be published in local and regional media sources at least 14 days before each meeting.

Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish to receive a copy of each agenda, may contact Chris Hanefeld no later than 10 days prior to each meeting.

Rudy Evenson,

Deputy Chief, Office of Communications.

[FR Doc. 2015–06394 Filed 3–19–15; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02015200, 15XR0687NA, RX185279294000000]

Notice of Availability for the Final Environmental Impact Statement/Environmental Impact Report for Long-Term Water Transfers, Central Valley and Bay Area, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation and the San Luis & Delta-Mendota Water Authority have prepared the Long-Term Water Transfers Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR). The Final EIS/EIR addresses water transfers to Central Valley Project (CVP) contractors south of the Delta and in the San Francisco Bay area from CVP and non-CVP sources from north of the Delta using Delta pumps (both CVP and State Water Project (SWP) facilities). Water transfers could occur through various methods such as groundwater substitution, cropland idling, reservoir release, and conservation, and could include individual and multiyear transfers from 2015 through 2024.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after the release of the Final EIS/EIR. After the 30-day waiting period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Send written correspondence or requests for copies to Mr. Brad Hubbard, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825; or via email to *bhubbard@usbr.gov.*

To request a compact disc of the Final EIS/EIR, please contact Mr. Brad Hubbard as indicated above, or call (916) 978–5204. The Final EIS/EIR may be viewed at the Bureau of Reclamation's Web site at *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=18361.* See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Final EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hubbard, Project Manager, Bureau of Reclamation, via email at *bhubbard@usbr.gov,* or at (916) 978–5204; or Ms. Frances Mizuno, Assistant Executive Director, San Luis & Delta-Mendota Water Authority, via email at *frances.mizuno@sldmwa.org,* or at (209) 832–6200.

SUPPLEMENTARY INFORMATION: Hydrologic conditions, climatic variability, and regulatory requirements for operation of water projects commonly affect water supply availability in California. Project supplies are often the primary source of water for south of Delta users, and the complex factors constraining operational decisions not only strain total annual water supplies, but regularly create mismatched timing between planting decisions and announcement of final water supply allocations, making advance planning for water shortages necessary and routine. These conditions and resulting shortages create a need for water transfers to help meet water demands.

The purpose of the Long-Term Water Transfers EIS/EIR is to facilitate voluntary water transfers from willing sellers upstream of the Delta to water users south of the Delta and in the San Francisco Bay Area. The maximum approvable quantity transferable to any contractor cannot exceed that contractor's total contract supply, but instead helps to make up for shortages. Such transfers need to be implementable within narrow annual windows for decisions on each end and flexible enough to address highly

variable shortages and annual differences in farming decisions north and south of the Delta.

The EIS/EIR analyzes four alternative actions. Alternative 1 is No Action. Alternative 2, Full Range of Transfers, is the Proposed Action. This alternative combines all potential transfer measures that met the purpose and need and were carried forward through the screening process. Alternative 3, No Cropland Modifications, includes conservation, groundwater substitution, and reservoir release. Alternative 4, No Groundwater Substitution, includes conservation, cropland idling transfers— rice, field and grains, crop shifting, and reservoir release.

Transfers of CVP supplies and transfers that require use of CVP facilities are subject to review by the Bureau of Reclamation (Reclamation) in accordance with the Central Valley Project Improvement Act of 1992, Reclamation's water transfer guidelines, and California State law. Pursuant to Federal and State law and subject to separate written agreement, Reclamation and the Department of Water Resources would facilitate water transfers involving CVP contract water supplies and CVP and SWP facilities. Buyers and sellers would be responsible for negotiating the terms of the transfers, including amount of water for transfer, method to make water available, and price.

The EIS/EIR identifies potential selling parties in northern California, methods by which water could be made available for transfer, and maximum amounts of water available through each method. The EIS/EIR also identifies potential purchasing agencies south of the Delta and the proposed use of transfer water.

The EIS/EIR analyzes alternative transfer methods to make water available through operational flexibility of the existing system. Groundwater substitution transfers occur when sellers forego diversion of their surface water supplies and pump an equivalent amount of groundwater as an alternative supply. The purchasing agency would receive the foregone surface water supply. The quantity of water available for transfer would account for potential stream flow losses as a result of groundwater-surface water interaction. Cropland idling would make water available for transfer that would have been used for agricultural irrigation without the transfer. Typically, the proceeds from the water transfer would pay farmers to idle land that they would have placed in production. Reservoir release transfers would involve releasing water from non-Project entities (not part of the CVP or SWP) for transfer that would have otherwise remained in storage. Conservation transfers involve actions to reduce the diversion of surface water by the transferring entity by reducing irrecoverable water losses.

Water transfers under the Proposed Action involving conveyance through the Delta would be implemented within the operational parameters of the existing system, which includes Biological Opinions on the Continued Long-term Operations of the CVP/SWP and any other regulatory restrictions in place at the time of implementation of the water transfers. Current operational parameters applicable to the transfer water include use of the SWP's Harvey O. Banks Pumping Plant and CVP's C.W. ''Bill'' Jones Pumping Plant during July through September only.

A Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on September 30, 2014 (79 FR 58802). The comment period on the Draft EIS/EIR ended on December 1, 2014. The Final EIS/EIR contains responses to all comments received and reflects comments and any additional information received during the review period.

Copies of the Final EIS/EIR are available for public review at the following locations:

1. Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.

2. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

3. San Luis & Delta-Mendota Water Authority, 842 6th Street, Los Banos, CA 93635.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you can ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 23, 2015.

Pablo R Arroyave,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2015–06409 Filed 3–19–15; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plat listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plat will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on April 20, 2015.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat and field notes of the dependent resurvey and survey in Township 19 South, Range 71 West, Sixth Principal Meridian, Colorado, were accepted on March 5, 2015.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2015–06395 Filed 3–19–15; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2015–N035; FXES11120300000–156–FF03E00000]

Notice of Availability of Draft Environmental Assessment and Revised Multi-Species Habitat Conservation Plan; Receipt of Application for Incidental Take Permit Amendment; NiSource Inc.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from NiSource Inc. and its subsidiary Columbia Pipeline Group (hereafter, NiSource), for an amendment to add the northern long-eared bat to its Endangered Species Act (ESA) incidental take permit (ITP). The application includes a revised Habitat Conservation Plan (HCP). The Service prepared an Environmental Assessment (EA). We request public comments on NiSource's revised HCP and our draft EA.

DATES: To ensure consideration, please send your written comments on or before April 20, 2015.

ADDRESSES: *Document availability:* The permit application and associated documents are available for review, subject to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and Freedom of Information Act, by any of the following methods:

- *Internet:* You may access electronic copies on the Internet at *http://www.fws.gov/midwest/endangered/permits/hcp/nisource/index.html.*
- *U.S. Mail:* You may obtain electronic copies on CD–ROM by submitting a request in writing to the U.S. Fish and Wildlife Service within 30 days of the date of publication of this notice; see **FOR FURTHER INFORMATION CONTACT.**
- *In-Person:* Printed copies are available for public inspection and review (by appointment only), at the office listed under **FOR FURTHER INFORMATION CONTACT**.

Submitting Comments: Send written comments via U.S. mail to the Regional Director, Midwest Region, Attn: Thomas Magnuson, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458, or by electronic mail to *permitsR3ES@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Karen Herrington, NiSource MSHCP Coordinator, by U.S. mail at U.S. Fish and Wildlife Service, 360 Pearson Ct., Saint Charles, MO 63304; or by phone at 612–713–5315.

SUPPLEMENTARY INFORMATION: We have received an application from NiSource for an amendment to its Endangered Species Act (ESA) incidental take permit (ITP), to add the northern long-eared bat. The application includes a revised HCP, developed to satisfy the criteria listed in section 10(a)(1)(B) of the ESA pertaining to issuance of incidental take permits. If NiSource has met these criteria, and its HCP and supporting information are statutorily complete, an amended incidental take permit that includes the northern long-eared bat will be issued. Issuances of ITPs by the Service are Federal actions subject to review under the National Environmental Policy Act (NEPA). To comply with NEPA, the Service prepared an EA, the purpose of which is to determine the significance of environmental impacts that could result from amending the NiSource ITP to include the northern long-eared bat, and through subsequent implementation of the revised NiSource HCP.

We request public comments on NiSource's revised HCP and our draft EA. For availability of these documents, see **ADDRESSES.**

NiSource, headquartered in Merrillville, Indiana, is engaged in natural gas transmission, storage, and distribution across the eastern United States. In September 2013, the Service issued NiSource an ITP for 10 federally listed species that occur in portions of its 14-State operating territory. The permit allows NiSource to incidentally take these species while operating and maintaining its interstate natural gas pipeline infrastructure. After issuance of the ITP, the Service proposed listing the northern long-eared bat (*Myotis septentrionalis*) under the ESA. The northern long-eared bat was not included in the original NiSource HCP.

On January 13, 2015, the Service received an application from NiSource to have the northern long-eared bat added to its ITP. The application includes a revised HCP that provides an analysis of NiSource activities across its 14-State operating territory, which includes Delaware, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. Northern long-eared bats are present in each of those 14 States. Based on the analysis in the revised HCP, certain NiSource activities (*e.g.,* right-of-way maintenance, facility inspection, upgrade and replacement of pipelines, relocations, routine expansions, and mitigation) have the potential to impact the northern long-eared bat. In particular, two NiSource activities will potentially cause take of northern long-eared bats: (1) Tree clearing in known and suitable summer, spring staging, and fall swarming habitat, and (2) ''waste pit'' construction in storage fields. NiSource mitigation directed at the Indiana bat will likely provide conservation benefits to the northern long-eared bat. The revised NiSource HCP identifies over 40 conservation measures that NiSource will implement in each of those 14 States to avoid, minimize, and mitigate potential impacts to northern long-eared bats. Beyond the ITP amendment request, there are no other changes to the NiSource HCP.

Over the 49 year life of the permit, NiSource is requesting incidental take, primarily in the form of habitat harassment and harm, for no more than 93,500 acres of habitat that could support up to 4,618 northern long-eared bats. After all practicable steps have been taken to avoid and minimize take, NiSource will fund mitigation projects to compensate for the impacts of its take. Such projects will include protecting high-quality northern long-eared bat habitats, restoring and protecting degraded northern long-eared bat habitat, and potentially establishing new habitat.

The NEPA process will culminate with a decision by the Service's Regional Director on one of three alternatives found in Chapter 2 of the EA: (1) No Action (Status Quo); (2) Approve ITP Amendment Request (Applicant's Preferred Alternative); (3) Approve ITP Amendment Request with Conditions (Service's Preferred Alternative). Once an alternative is selected, the Regional Director will then decide whether issuance of an amended ITP to NiSource Inc., including subsequent implementation of its revised HCP, will significantly affect the quality of the human environment, as defined by the NEPA.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made 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.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), and under NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Dated: February 18, 2015.

Lynn Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2015–06396 Filed 3–19–15; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–888]

Certain Silicon Microphone Packages and Products Containing Same: Commission Determination To Grant the Joint Motion To Terminate the Investigation on the Basis of Settlement; 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-referenced investigation based upon settlement.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. 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 July 26, 2013, based on a complaint filed by Knowles Electronics, LLC, of Itasca, Illinois. 78 *Fed. Reg.* 45272 (July 26, 2013). The notice of investigation named GoerTek, Inc. of Weifang, China and GoerTek Electronics, Inc. of Sunnyvale, California as respondents. The Commission's Office of Unfair Import Investigations is not a party to this investigation. The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of silicon microphone packages and products containing the same, by reason of infringement of certain claims of U.S. Patent Nos. 7,439,616 (''the '616 patent''); 8,018,049 (''the '049 patent''); and 8,121,331. Subsequently, the investigation was terminated as to claims 13 and 14 of the '616 patent and claim 24 of the '049 patent based on the withdrawal of complainant's allegations as to those claims. *See* Notice (May 16, 2014) (determining not to review Order No. 37 issued on April 17, 2014).

The evidentiary hearing in this investigation was held from May 6 through May 14, 2014. On August 29, 2014, the ALJ issued the final initial determination (''ID'') finding a violation of section 337. Respondents and complainant (conditionally) petitioned for review of various portions of the final ID. The Commission determined to review the final ID in part, and issued a Notice dated November 6, 2014, 79 FR 67446–48 (Nov. 13, 2014), in which the Commission specified the issues under review and the questions pertaining to such issues. The Commission received timely opening and reply briefs regarding the issues under review, as well as the issues of remedy, the public interest, and bonding, from both parties to the investigation.

On February 11, 2015, the parties filed a ''Joint Motion To Extend the Target Date by 10 Days'' representing that an extension was necessary because the parties were ''making progress on an agreement which, if signed, would resolve their dispute and permit termination of this investigation pursuant to 19 CFR 210.21.'' Motion To Extend at 1. The Commission granted the joint motion extending the target date for completion of this investigation to March 16, 2015. *See* Commission Notice dated February 27, 2015.

On February 25, 2015, the parties filed a ''Joint Motion To Terminate Investigation No. 337–TA–888 on the Basis of Settlement.''

Having examined the joint motion, the settlement agreement, and the record of this investigation, the Commission has determined to grant the joint motion to terminate the investigation. The Commission finds that this termination will not prejudice the public interest.

The Commission has therefore terminated this investigation. 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 Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 16, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–06381 Filed 3–19–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On March 16, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Indiana in the lawsuit entitled *United States and the State of Indiana* v. *Exide Technologies,* Civil Action No. 15–cv–433 (S.D. Ind.).

A Complaint that was filed along with the proposed Consent Decree alleges that Exide Technologies (''Exide'') has violated the Clean Air Act and its implementing regulations, certain terms and conditions of Exide's Clean Air Act Title V operating permit, and corresponding requirements under Indiana state law at its secondary lead smelting facility in Muncie, Indiana. The proposed Consent Decree would resolve the claims alleged in the Complaint in exchange for Exide's commitment to make specific improvements to its air pollution control and monitoring systems at its Muncie facility, including installing a new furnace exhaust gas afterburner, and to pay civil penalties to the United States and the State. The penalties would be paid as allowed claims in Exide's pending Chapter 11 bankruptcy proceeding, captioned *In re Exide Technologies,* No. 13–11482–KJC (Bankr. D. Del.). The Consent Decree would grant the United States and the State equivalent allowed penalty claims in the bankruptcy totaling $820,000, including a $246,000 allowed administrative expense claim and a $164,000 allowed general unsecured claim each for the United States and the State.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Indiana* v. *Exide Technologies,* D.J. Ref. No. 90–5–2–1–11003. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, D.C. 20044–7611.

During the public comment period, the 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 (at 25 cents per page). Please mail your request and a check or money order payable to the United States Treasury to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

The cost for a paper copy of the Consent Decree is $8.25.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–06369 Filed 3–19–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–410]

Controlled Substances: 2015 Proposed Aggregate Production Quotas for Three Temporarily Controlled Synthetic Cannabinoids

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice with request for comments.

SUMMARY: Three synthetic cannabinoids: N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA), N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA), and [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) were temporarily placed in schedule I of the Controlled Substances Act by a final order published by the Drug Enforcement Administration on January 30, 2015 (80 FR 5042). This means that any person that wishes to manufacture AB-CHMINACA, AB-PINACA, or THJ-2201 after January 30, 2015, must be registered with the Drug Enforcement Administration and have obtained a manufacturing quota pursuant to 21 CFR part 1303.

The Drug Enforcement Administration cannot issue individual manufacturing quotas for AB-CHMINACA, AB-PINACA, or THJ-2201 until it establishes aggregate production quotas. Therefore, this notice proposes the 2015 aggregate production quotas for AB-CHMINACA, AB-PINACA, and THJ-2201.

DATES: Interested persons may file written comments on this notice in accordance with 21 CFR 1303.11(c). Electronic comments must be submitted, and written comments must be postmarked, on or before April 20, 2015. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Based on comments received in response to this Notice, the Administrator may hold a public hearing on one or more issues raised. In the event the Administrator decides in her sole discretion to hold such a hearing, the Administrator will publish a notice of any such hearing in the **Federal Register**. After consideration of any comments and after a hearing, if one is held, the Administrator will publish in the **Federal Register** a final order establishing the 2015 aggregate production quotas for AB-CHMINACA, AB-PINACA, and THJ-2201.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–410'' on all correspondence, including any attachments. The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on Regulations.gov. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. Paper comments that duplicate an electronic submission are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152.

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

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

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

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

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

business information identified as directed above will be made publicly available in redacted form.

An electronic copy of this document is available at *http://www.regulations.gov* for easy reference. If you wish to personally inspect the comments and materials received, these materials will be available for public inspection by appointment. To arrange a viewing, please see the **FOR FURTHER INFORMATION CONTACT** paragraph above.

Legal Authority and Background

Section 306 of the Controlled Substances Act (CSA), 21 U.S.C. 826, requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration (DEA). 28 CFR 0.100.

The DEA established the 2015 aggregate production quotas for substances in schedules I and II on September 8, 2014 (79 FR 53216). Subsequently, on December 19, 2014, DEA published in the **Federal Register** a notice of intent to temporarily place 3 synthetic cannabinoids: N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA), N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA), and [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201) into schedule I of the CSA (79 FR 75767). On January 30, 2015, the DEA published in the **Federal Register** a final order to temporarily place these three synthetic cannabinoids in schedule I of the CSA (80 FR 5042), making all regulatory controls pertaining to schedule I controlled substances applicable to the manufacture of these three synthetic cannabinoids, including the requirement to establish an aggregate production quota pursuant to 21 U.S.C. 826 and 21 CFR part 1303.

AB-CHMINACA, AB-PINACA, and THJ-2201 were non-controlled substances when the aggregate production quotas for schedule I and II substances were established. Therefore no aggregate production quotas for AB-CHMINACA, AB-PINACA, and THJ-2201 were established at that time.

In determining the 2015 aggregate production quotas of these three synthetic cannabinoids, the Administrator considered the following factors in accordance with 21 U.S.C. 826(a) and 21 CFR 1303.11(b): (1) Total net disposal of the class by all manufacturers during the current and 2 preceding years; (2) trends in the national rate of net disposal of the class; (3) total estimated inventories of the basic class and of all substances manufactured from the class, and trends in inventory accumulation; (4) projected demand for each class as indicated by procurement quotas requested pursuant to 21 CFR 1303.12; and (5) other factors affecting medical, scientific, research, and industrial needs of the United States and lawful export requirements, as the Administrator finds relevant. These quotas do not include imports of controlled substances for use in industrial processes.

The Administrator, therefore, proposes that the annual 2015 aggregate production quotas for the following temporarily controlled schedule I controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class—schedule I	Proposed 2015 quota (g)
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (AB-CHMINACA)	15
N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA)	15
[1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (THJ-2201)	15

Dated: March 12, 2015.

Michele M. Leonhart,

Administrator.

[FR Doc. 2015–06456 Filed 3–19–15; 8:45 am]

BILLING CODE 4410–09–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. to 4:00 p.m., Thursday, April 16, 2015.

PLACE: The offices of the Morris K. Udall and Stewart L. Udall Foundation, 130 South Scott Avenue, Tucson, AZ 85701.

STATUS: This meeting of the Board of Trustees will be open to the public.

MATTERS TO BE CONSIDERED: (1) Chair's Remarks; (2) Executive Director's Remarks; (3) Overview of Trustee Responsibilities; (4) Board Officers & Committee Elections; (5) Consent Agenda Approval, including program reports of the Education Programs, U.S. Institute for Environmental Conflict Resolution, and Udall Center for Studies in Public Policy/Native Nations Institute for Leadership, Management, and Policy/Udall Archives, and resolutions related to the Operating Procedures of the Board of Trustees and the Parks in Focus Fund, Inc. (6) Financial and Internal Controls Update; (7) Ethics Briefing; (8) Program Panel & Discussion; and (9) Appropriations Update.

CONTACT PERSON FOR MORE INFORMATION: Philip J. Lemanski, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: March 16, 2015.

Philip J. Lemanski,

Executive Director, Morris K. Udall and Stewart L. Udall Foundation, and Federal Register Liaison Officer.

[FR Doc. 2015–06556 Filed 3–18–15; 4:15 pm]

BILLING CODE 6820–FN–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0001]

Sunshine Act Meetings

DATES: March 23, 30, April 6, 13, 20, 27, 2015.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 23, 2015—Tentative

Thursday, March 26, 2015

9:30 a.m. Briefing on Security Issues (Closed—Ex. 1)

1:30 p.m. Briefing on Security Issues (Closed—Ex. 1)

Friday, March 27, 2015

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1)

Week of March 30, 2015—Tentative

There are no meetings scheduled for the week of March 30, 2015.

Week of April 6, 2015—Tentative

There are no meetings scheduled for the week of April 6, 2015.

Week of April 13, 2015—Tentative

Tuesday, April 14, 2015

9:30 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Nima Ashkeboussi, 301–415–5775)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, April 16, 2015

9:30 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Nima Ashkeboussi, 301- 415–5775)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of April 20, 2015—Tentative

There are no meetings scheduled for the week of April 20, 2015.

Week of April 27, 2015—Tentative

There are no meetings scheduled for the week of April 27, 2015.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Glenn Ellmers at 301–415–0442 or via email at *Glenn.Ellmers@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: March 18, 2015.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–06575 Filed 3–18–15; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Normal Cost Percentages

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of revised normal cost percentages for employees covered by the Federal Employees' Retirement System (FERS) Act of 1986.

DATES: The revised normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2015. Agency appeals of the normal cost percentages must be filed no later than September 21, 2015.

ADDRESSES: Send or deliver agency appeals of the normal cost percentages and requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, Office of Planning and Policy Analysis, Office of Personnel Management, Room 4307, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Pub. L. 99–335, created a new retirement system intended to cover most Federal employees hired after 1983. Most Federal employees hired before 1984 are under the older Civil Service Retirement System (CSRS). Section 8423 of title 5, United States Code, as added by the FERS Act of 1986, provides for the payment of the Government's share of the cost of the retirement system under FERS. Employees' contributions are established by law and constitute only a portion of the cost of funding the retirement system; employing agencies are required to pay the remaining costs. The amount of funding required, known as ''normal cost,'' is the entry age normal cost of the provisions of FERS that relate to the Civil Service Retirement and Disability Fund (Fund). The normal cost must be computed by OPM in accordance with generally accepted actuarial practices and standards (using dynamic assumptions). The normal cost calculations depend on economic and demographic assumptions. Subpart D of part 841 of title 5, Code of Federal Regulations, regulates how normal costs are determined.

In its meeting on June 18, 2013, the Board of Actuaries of the Civil Service Retirement System (the Board) recommended changes to certain demographic assumptions used in the actuarial valuations of CSRS and FERS. The most significant change applies additional projected mortality improvement resulting in greater assumed annuitant longevity. The previous assumptions reflected mortality rates improved to year 2024; the revised projection assumes mortality rates are expected to improve indefinitely at an ultimate rate of 1.0 percent annually for employees and non-disabled annuitants. OPM has adopted the Board's recommendations.

With regard to the economic assumptions described under section 841.402 of title 5, Code of Federal Regulations, used in the actuarial valuations of FERS, the Board concluded that it would be appropriate to continue to assume a rate of investment return of 5.25 percent. In addition, the Board determined that the assumed inflation rate should remain at 3.00 percent and that the projected rate of General Schedule salary increases should remain at 3.25 percent. These salary increases are in addition to assumed within-grade increases. These assumptions are intended to reflect the long term expected future experience of the Systems.

The demographic assumptions are determined separately for each of a number of special groups, in cases where separate experience data is available. Based on the demographic and economic assumptions described above, OPM has determined the normal cost percentage for each category of employees under section 841.403 of title 5, Code of Federal Regulations.

Section 5001 of Public Law 112–96, The Middle Class Tax Relief and Jobs Creation Act of 2012, established provisions for FERS Revised Annuity Employees (FERS–RAE). The law permanently increases the retirement contributions by 2.30 percent of pay for these employees. Subsequently, Section 401 of Public Law 113–67, the Bipartisan Budget Act of 2013, created another class of FERS coverage, FERS-

Further Revised Annuity Employee (FERS–FRAE). Employees subject to FERS–FRAE coverage must pay even higher employee contributions than employees subject to FERS–RAE. Employees subject to FERS–FRAE must pay an increase of 1.30 percent of pay above the percentage set for FERS–RAE. Separate normal cost percentages apply for FERS–RAE and for FERS–FRAE.

The Governmentwide normal cost percentages, including the employee contributions, are as follows:

NORMAL COST PERCENTAGES FOR FERS, FERS-REVISED ANNUITY EMPLOYEE (RAE), AND FERS-FURTHER REVISED ANNUITY (FRAE) GROUPS

Group	FERS normal cost (percent)	FERS–RAE normal cost (percent)	FERS–FRAE normal cost (percent)
Members	22.1	15.0	15.1
Congressional employees, except members of the Capitol Police	20.4	15.0	15.1
Congressional employees who are members of the Capitol Police	20.4	20.9	21.0
Law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, and employees under section 302 of the Central Intelligence Agency Retirement Act of 1964 for certain employees	31.4	32.0	32.1
Air traffic controllers	33.1	33.7	33.7
Military reserve technicians	18.1	18.5	18.7
Employees under section 303 of the Central Intelligence Agency Retirement Act of 1964 for certain employees (when serving abroad)	20.3	20.9	21.0
All other regular FERS employees	14.5	15.0	15.1

Under section 841.408 of title 5, Code of Federal Regulations, these normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2015.

The time limit and address for filing agency appeals under sections 841.409 through 841.412 of title 5, Code of Federal Regulations, are stated in the **DATES** and **ADDRESSES** sections of this notice.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–06411 Filed 3–19–15; 8:45 am]

BILLING CODE 6325–38–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 January 1, 2015, to January 31, 2015.

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 U.S. Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A Authorities to report during January 2015.

Schedule B

No Schedule B authorities to report during January 2015.

Schedule C

The following Schedule C appointing authorities were approved during January 2015.

Agency name	Organization name	Position title	Authorization No.	Effective date
Department of Agriculture	Office of the Assistant Secretary for Congressional Relations.	Senior Legislative Analyst	DA150035	1/15/2015
	Office of Communications	Deputy Director	DA150041	1/20/2015
Department of Commerce	Office of the Chief of Staff	Director of Advance and Protocol	DC150043	1/15/2015
Consumer Product Safety Commission.	Office of Commissioners	Special Assistant (Legal)	PS150002	1/22/2015
Department of Defense	Washington Headquarters Services	Defense Fellow	DD150035	1/7/2015
	Office of Assistant Secretary of Defense (Legislative Affairs).	Special Assistant (Legislative Affairs) (Chief Policy).	DD150045	1/23/2015
Department of the Army	Office of the Under Secretary	Special Assistant	DW150012	1/28/2015
Export-Import Bank	Office of the Chairman	Director of Scheduling	EB150001	1/23/2015
Department of Homeland Security	Federal Emergency Management Agency.	Special Assistant	DM150049	1/7/2015
	Office of the Chief of Staff	Special Assistant	DM150050	1/20/2015

Agency name	Organization name	Position title	Authorization No.	Effective date
	Office of the Assistant Secretary for Policy.	Special Assistant In Information Sharing Policy.	DM150051	1/20/2015
	Office of the Assistant Secretary for Policy.	Special Assistant (3)	DM150052	1/20/2015
			DM150053	1/20/2015
			DM150056	1/23/2015
Department of Housing and Urban Development.	Office of Public Affairs	Deputy Speechwriter	DU150020	1/23/2015
		Deputy Press Secretary	DU150015	1/2/2015
Department of Justice	Office of Legislative Affairs	Attorney Advisor and Intergovernmental Liaison.	DJ150011	1/6/2015
	Office of the Associate Attorney General.	Senior Counsel	DJ140130	1/16/2015
		Deputy Director (Civil)	DJ150034	1/21/2015
	Community Relations Service	Senior Counsel	DJ150032	1/16/2015
	Office of the Attorney General	Confidential Assistant	DJ150033	1/16/2015
Department of Labor	Wage and Hour Division	Senior Policy Advisor	DL150025	1/23/2015
Office of National Drug Control Policy.	Office of the Director	Policy and Administrative Coordinator.	QQ150002	1/20/2015
Office of Science and Technology Policy.	Office of Science and Technology Policy.	Confidential Assistant	TS150004	1/6/2015
Office of the United States Trade Representative.	Office of the Ambassador	Special Assistant (2)	TN150002	1/20/2015
			TN150003	1/6/2015
	Office of Congressional Affairs	Senior Advisor	TN150008	1/20/2015
	Office of Intergovernmental Affairs and Public Liaison.	Director for Private Sector Engagement.	TN150004	1/27/2015
Small Business Administration	Office of the Administrator	Confidential Assistant	SB150012	1/23/2015
Department of State	Office of the Chief of Protocol	Protocol Officer (Ceremonials)	DS150020	1/23/2015
	Office of the Deputy Secretary	Senior Advisor	DS150021	1/23/2015
		Staff Assistant	DS150022	1/23/2015
	Office of the Secretary	Staff Assistant	DS150032	1/23/2015
Department of Transportation	Office of the Secretary (Public Affairs).	Deputy Press Secretary	DT150017	1/2/2015
		Director of Strategic Communications.	DT150021	1/6/2015
		Chief Speechwriter	DT150019	1/7/2015
		Press Secretary and Senior Media Advisor.	DT150025	1/23/2015
	National Highway Traffic Safety Administration.	Director of Communications	DT150018	1/2/2015
Department of the Treasury	Office of Assistant Secretary (Management).	Special Assistant	DY150029	1/23/2015
	Office of Assistant Secretary (Legislative Affairs).	Special Assistant	DY150030	1/23/2015

The following Schedule C appointing authorities were revoked during January 2015.

Agency name	Organization name	Position title	Authorization No.	Vacate date
Department of Agriculture	Office of the Assistant Secretary for Congressional Relations.	Legislative Director	DA150001	1/24/15
Department of the Army	Office of Assistant Secretary of the Army (Installations and Environment).	Special Advisor to the Assistant Secretary of the Army (Installations and Environments).	DW120035	1/3/15
Department of Education	Office of Innovation and Improvement.	Senior Advisor for Science, Technology, Engineering and Math.	DB140056	1/2/15
	Office of Communications and Outreach.	Deputy Assistant Secretary for External Affairs and Outreach Services.	DB090074	1/9/15
Department of Homeland Security	United States Immigration and Customs Enforcement.	Congressional Relations Director	DM140099	1/23/15
	Office of the Under Secretary for Protection and Programs Directorate.	Cyber Security Strategist	DM140216	1/31/15
Department of Justice	Office of Intergovernmental and Public Liaison.	Associate Director	DJ110043	1/10/15
	Office of the Associate Attorney General.	Counsel	DJ100169	1/24/15

Agency name	Organization name	Position title	Authorization No.	Vacate date
	Office of the Attorney General	Confidential Assistant	DJ090123	1/31/15
	Bureau of Public Affairs	Supervisory Public Affairs Specialist.	DS140062	1/19/15
Department of Transportation	Office of the Secretary (Public Affairs).	Speechwriter	DT140001	1/10/15

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. 2015–06407 Filed 3–19–15; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: March 30, 2015, at 11 a.m.

PLACE: Commission hearing room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: The Postal Regulatory Commission will hold a public meeting to discuss the agenda items outlined below. Part of the meeting will be open to the public as well as audiocast, and the audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.* Part of the meeting will be closed.

MATTERS TO BE CONSIDERED: The agenda for the Commission's March 30, 2015 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC:

1. Report from the Office of Public Affairs and Government Relations.
2. Report from the Office of General Counsel.
3. Report from the Office of Accountability and Compliance.

PORTIONS CLOSED TO THE PUBLIC:

4. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: David A. Trissell, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, changes in date or time of the meeting, access for handicapped or disabled persons, the audiocast, or similar matters). The Commission's Web site may also provide information on changes in the date or time of the meeting.

By direction of the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–06506 Filed 3–18–15; 11:15 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17g–5, SEC File. No. 270–581, OMB Control No. 3235–0649.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17g–5 (17 CFR 240.17g–5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

The Credit Rating Agency Reform Act of 2006 (Pub. L. 109–291) (''Rating Agency Act''), enacted on September 29, 2006, defines the term ''nationally recognized statistical rating organization,'' or ''NRSRO'' and provides authority for the Commission to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies. The Rating Agency Act added a new section 15E, ''Registration of Nationally Recognized Statistical Rating Organizations'' (15 U.S.C. 78o–7) to the Exchange Act. Exchange Act section 15E(h)(2) provides the Commission with authority to prohibit, or require the management and disclosure of, any potential conflict of interest relating to the issuance of credit ratings by an NRSRO (15 U.S.C. 78o–7(h)(2)).

The Commission adopted, and subsequently amended, Rule 17g–5 pursuant, in part, to section 15E(h)(2) of the Exchange Act.[1] Rule 17g–5 requires the disclosure of and establishment of procedures to manage certain NRSRO conflicts of interest, prohibits certain other NRSRO conflicts of interest, and contains requirements regarding the disclosure of information in the case of the conflict of interest of an NRSRO issuing or maintaining a credit rating on an asset-backed security that was paid for by the issuer, sponsor, or underwriter of the security.

On August 27, 2014, the Commission adopted amendments to Rule 17g–5.[2] The amendments modified the collection of information included in Rule 17g–5 in three ways. First, the Commission added paragraph (a)(3)(iii)(E) to Rule 17g–5 to require an NRSRO to obtain a representation from the issuer, sponsor, or underwriter of an asset-backed security that the issuer, sponsor, or underwriter will post on the Web site referred to in paragraph (a)(3)(iii) of Rule 17g–5 (''Rule 17g–5 Web site''), promptly after receipt, any executed Form ABS Due Diligence-15E delivered by a person employed to provide third-party due diligence services with respect to the security or money market instrument.

Second, the Commission added paragraph (c)(8) to Rule 17g–5 to prohibit an NRSRO from issuing or maintaining a credit rating where a person within the NRSRO who participates in determining or monitoring the credit rating, or developing or approving procedures or methodologies used for determining the

[1] *See Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 55857 (June 5, 2007), 72 FR 33564, 33595–33599 (June 18, 2007); *Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 59342 (Feb. 2, 2009) 74 FR 6456, 6465–6469 (Feb. 9, 2009); and *Amendments to Rules for Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 61050 (Nov. 23, 2009), 74 FR 63832, 63842–63850 (Dec. 4, 2009).

[2] *See Nationally Recognized Statistical Rating Organizations,* Exchange Act Release No. 72936 (August 27, 2014), 79 FR 55078, 55107–55194 (Sept. 15, 2014) (''Adopting Release'').

credit rating, including qualitative and quantitative models, also: (1) Participates in sales or marketing of a product or service of the NRSRO or a product or service of an affiliate of the NRSRO; or (2) is influenced by sales or marketing considerations.

Third, the Commission added paragraph (f) to Rule 17g–5, which provides that upon written application by an NRSRO the Commission may exempt, either unconditionally or on specified terms and conditions, the NRSRO from paragraph (c)(8) of Rule 17g–5 if the Commission finds that due to the small size of the NRSRO it is not appropriate to require the separation of the production of credit ratings from sales and marketing activities and the exemption is in the public interest.

The collection of information obligation imposed by Rule 17g–5 is mandatory for credit rating agencies that are applying to register or are registered with the Commission as NRSROs. Registration with the Commission as an NRSRO is voluntary.

Paragraph (a)(3) of Rule 17g–5 requires disclosures by NRSROs on a transaction by transaction basis. The Commission estimates that the total number of structured finance ratings issued by all NRSROs in a given year is approximately 2,436 and that it would take 1 hour per transaction to make the information publicly available. The Commission therefore estimates that the corresponding annual disclosure burden for NRSROs is approximately 2,436 hours industry-wide.

Paragraph (a)(3) of Rule 17g–5 also requires arrangers to disclose certain information. The Commission previously estimated that there are approximately 200 arrangers subject to the rule. The Commission estimates that it would take approximately 300 hours to develop a system, as well as the policies and procedures, for the disclosures required by Rule 17g–5. In the Adopting Release, the Commission estimated that there are approximately 336 issuers, sponsors, or underwriters of asset-backed securities. Therefore, the one-time burden for the additional 136 respondents is approximately 40,800 hours. The Commission therefore estimates that, over a three-year period, the total industry-wide one-time burden would be approximately 13,600 hours per year when annualized over three years.

Paragraph (a)(3) of Rule 17g–5 also requires disclosures by arrangers on a transaction by transaction basis. The Commission estimates that 336 arrangers would arrange approximately 20 new transactions per year and that it would take 1 hour per transaction to make the information publicly available, resulting in a total annual disclosure burden of approximately 6,720 hours.

Paragraph (a)(3) of Rule 17g–5 also requires disclosure of information by arrangers on an ongoing basis that is used by an NRSRO to undertake credit rating surveillance on the structured finance product. The Commission estimates this disclosure would be required for approximately 125 transactions a month, and it would take each respondent approximately 0.5 hours per transaction to disclose the information. Therefore, the Commission estimates that it would take each respondent approximately 750 hours on an annual basis to disclose such information, for a total aggregate annual disclosure burden of 252,000 hours.

Paragraph (e) of Rule 17g–5 requires NRSROs to submit an annual certification to the Commission. The Commission estimates that it would take each NRSRO approximately 2 hours to complete the certification, resulting in a total industry-wide annual reporting burden for 10 NRSROs of 20 hours.

New paragraph (a)(3)(iii)(E) of Rule 17g–5 may require NRSROs to redraft the agreement templates they use with respect to obtaining representations from issuers, sponsors, or underwriters as required under Rule 17g–5. The Commission estimates that an NRSRO will spend approximately two hours on a one-time basis to redraft these templates with respect to each issuer, sponsor, or underwriter, for a total industry-wide one-time disclosure burden of approximately 6,720 hours. The Commission therefore estimates that the total one-time disclosure burden to redraft the templates would be approximately 2,240 hours per year when annualized over three years.

New paragraph (a)(3)(iii)(E) of Rule 17g–5 also requires issuers, sponsors, and underwriters to post on the Rule 17g–5 Web sites any executed Form ABS Due Diligence-15E delivered by a person employed to provide third-party due diligence services. The Commission estimates that issuers, sponsors, and underwriters will need to post approximately 715 Forms ABS Due Diligence-15E on Rule 17g–5 Web sites per year (in addition to the information that is already posted to the Web sites). The Commission estimates that it will take the issuer, sponsor, or underwriter approximately ten minutes to upload each form and post it to the Web site, for a total industry-wide annual disclosure burden of approximately 119 hours.

As a consequence of the new absolute prohibition in paragraph (c)(8) of Rule 17g–5, the Commission believes that an NRSRO will need to update the written policies and procedures to address and manage conflicts of interest the NRSRO must establish, maintain, and enforce under section 15E(h) of the Exchange Act and Rule 17g–5. The Commission estimates that updating the conflicts of interest policies and procedures would take an NRSRO an average of approximately 100 hours, for an industry-wide one-time reporting burden of approximately 1,000 hours. In addition, Exhibit 7 to Form NRSRO requires an NRSRO to provide a copy of the written policies and procedures in the exhibit. Paragraph (e) of Rule 17g–1 requires an NRSRO to promptly file with the Commission an update of its registration on Form NRSRO when information on the form is materially inaccurate. The update of registration must be filed electronically on the Commission's EDGAR system. The Commission estimates that it would take an NRSRO an average of approximately twenty-five hours on a one-time basis to prepare and file the update of registration to account for the update of the NRSRO's written policies and procedures to address and manage conflicts of interest, for an industry-wide one-time reporting burden of approximately 250 hours. The Commission therefore estimates that the total one-time reporting burden to update the conflicts of interest policies and procedures and to prepare and file an update of registration to account for the update of the NRSRO's written policies and procedures would be 1,250 hours, or approximately 417 hours per year when annualized over three years.

Finally, paragraph (f) of Rule 17g–5 permits an NRSRO to apply for an exemption from the prohibited conflict under paragraph (c)(8) of Rule 17g–5. The Commission estimated that an NRSRO would likely spend an average of approximately 150 hours to draft and submit the application to the Commission. If all 10 NRSROs apply for an exemption, this would result in a one-time industry-wide reporting burden of 1,500 hours, or approximately 500 hours per year when annualized over 3 years.

Accordingly, the total estimated burden associated with Rule 17g–5 is 50,270 hours on a one-time basis (40,800 + 6,720 + 1,250 + 1,500 = 50,270) and 261,295 hours on an annual basis (2,436 + 6,720 + 252,000 + 20 +119 = 261,295).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

(b) the accuracy of the Commission's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Pamela C. Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 16, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–06358 Filed 3–19–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74512; File No. SR–FINRA–2015–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Expiration Date of the Refund Program Under FINRA Rule 3110.15 (Temporary Program To Address Underreported Form U4 Information)

March 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 3110.15 (Temporary Program to Address Underreported Form U4 Information) to extend the expiration date of the refund program under that rule, which currently is July 31, 2015, until December 1, 2015.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 30, 2014, the SEC approved FINRA Rule 3110.15, which establishes a temporary refund program whereby FINRA will issue a refund to members of Late Disclosure Fees assessed for the late filing of responses to Question 14M (relating to unsatisfied judgments or liens) on the Form U4 (Uniform Application for Securities Industry Registration or Transfer), subject to specified conditions.[4] The refund program under FINRA Rule 3110.15 is intended to incentivize members to disclose underreported information and save FINRA the time and regulatory resources expended in contacting firms and requesting that such information be reported. The refund program has a retroactive effective date of April 24, 2014,[5] and it is currently scheduled to expire on July 31, 2015. FINRA understands that, following SEC approval of the rule, some firms have undertaken a wholesale review of their registrants to identify judgments and liens that may have been unreported, including those that meet the parameters of the refund program. Based on FINRA's experience to date, FINRA believes that a four-month extension of the program will more effectively achieve its intended purpose. Therefore, FINRA is proposing to amend FINRA Rule 3110.15 to extend the sunset date of the refund program until December 1, 2015, which will give firms adequate time to identify and report information to FINRA. FINRA is not proposing any changes to the other parameters of the refund program.

As proposed, FINRA Rule 3110.15 will provide that FINRA will issue a refund to firms of Late Disclosure Fees assessed for the late filing of responses to Form U4 Question 14M (unsatisfied judgments or liens) if the Form U4 amendment is filed between April 24, 2014, and December 1, 2015, and one of the following conditions is met:

(1) The judgment or lien has been satisfied, and at the time it was unsatisfied, it was under $5,000, and the date the judgment or lien was filed with a court (as reported on Form U4 Judgment/Lien DRP, Question 4A) was on or before August 13, 2012; [6] or

(2) the unsatisfied judgment or lien was satisfied within 30 days after the individual learned of the judgment or lien (as reported on Form U4 Judgment/Lien DRP, Question 4.B.).

The refund program will continue to have a retroactive effective date of April 24, 2014, but it will automatically sunset on December 1, 2015, as proposed. Thus, firms will not be able to obtain a refund pursuant to the parameters established under the program after December 1, 2015. While the program is in effect, FINRA will initially assess firms a Late Disclosure Fee and subsequently refund the fee in the firm's FINRA Flex-Funding Account if the firm can establish, or if FINRA otherwise determines, that the conditions of the program have been satisfied.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 73966 (December 30, 2014), 80 FR 546 (January 6, 2015) (Order Approving File No. SR–FINRA–2014–038).

[5] *See* FINRA Board Approves Amendment to Supervision Rule Requiring Firms to Conduct Background Checks on Registration Applicants, FINRA News Release, April 24, 2014, available at *http://www.finra.org/Newsroom/NewsReleases/2014/P493588.*

[6] *See Information Notice* August 17, 2012 (Late Disclosure Fee Related to Reporting of Judgment/Lien Events), available at *http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p152106.pdf.*

rule change will be July 31, 2015, which is the current expiration date of FINRA Rule 3110.15. The proposed rule change extends the expiration date of FINRA Rule 3110.15 until December 1, 2015. As proposed, FINRA Rule 3110.15 will have a retroactive effective date of April 24, 2014, and it will automatically expire on December 1, 2015.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the temporary refund program under FINRA Rule 3110.15 incentivizes members to disclose underreported information relating to judgments and liens and saves FINRA the time and regulatory resources expended in contacting firms and requesting that such information be reported and that extending the expiration date of the refund program will more effectively achieve that purpose.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The temporary refund program under FINRA Rule 3110.15 encourages members to comply with their existing reporting obligations and allows them to receive a refund of Late Disclosure Fees if the conditions specified in FINRA Rule 3110.15 are satisfied. As such, FINRA does not believe that extending the expiration date of the temporary refund program will result in any burden on members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2015–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–005 and should be submitted on or before April 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06360 Filed 3–19–15; 8:45 am]

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[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74511; File No. SR–OCC–2015–006]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Provision of Clearance and Settlement Services for Energy Futures and Options on Energy Futures

March 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on March 2, 2015, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this proposed rule change by The Options Clearing Corporation (''OCC'') is to provide clearance and settlement services for energy futures contracts (''Energy Futures'') and options on Energy Futures contracts. In order to do so, OCC is proposing to add new risk models to its STANS methodology as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

well as to add a new ''Schedule C'' to the Agreement for Clearing and Settlement Services between OCC and NASDAQ Futures, Inc. (''NFX'') (the ''Clearing Agreement'').[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to provide clearance and settlement services for Energy Futures and options on Energy Futures. As described more fully below, OCC is proposing to add new risk models to its STANS methodology that are designed to risk manage Energy Futures.[4] The STANS methodology already accommodates the margining of futures and futures options and, after adopting the models described in this proposed rule change, Energy Futures would be risk managed using the same methodology as futures products currently cleared and settled by OCC.[5] In addition, OCC is proposing to add a new Schedule C to the Clearing Agreement since Energy Futures and options on Energy Futures are not types of contracts for which OCC has previously agreed to provide clearance and settlement services to NFX.

Energy Futures Background

OCC is proposing to clear and settle 25 Energy Futures and 3 futures options that are proposed to be traded on NFX.[6] These 25 Energy Futures include 9 futures contracts on petrol and natural gas products, 3 of which will have related options contracts, and 16 futures contracts on electricity. The proposed Energy Futures contracts are all cash-settled futures products, and the three options on futures contracts (as described below) will settle into the underlying Energy Futures contract. All of the Energy Futures contracts are ''look-alike'' products to futures products already traded on U.S. futures exchanges and cleared by other Derivatives Clearing Organizations (''DCOs'').[7]

Proposed Petrol and Natural Gas Futures Products

NFX will list petrol and natural gas futures contracts and options on petrol futures contracts. The futures are based on a variety of refined oil fuels and natural gasses that are commonly used for hedging market participants' portfolios. Specifically, NFX will list the following cash-settled petrol and natural gas futures contracts: NFX Brent Crude Financial Futures (BFQ), NFX Gasoil Financial Futures (GOQ), NFX Heating Oil Financial Futures (HOQ), NFX WTI Crude Oil Financial Futures (CLQ), NFX RBOB Gasoline Financial Futures (RBQ), NFX Henry Hub Natural Gas Financial Futures—10,000 (HHQ), NFX Henry Hub Natural Gas Financial Futures—2,500 (NNQ), NFX Henry Hub Natural Gas Penultimate Financial Futures—2,500 (NPQ) and NFX Henry Hub Natural Gas Penultimate Financial Futures—10,000 (HUQ).

Further, NFX will list options on NFX WTI Crude Financial Futures (LOQ), NFX Brent Crude Financial Futures (BCQ) and the NFX Henry Hub Penultimate Financial Futures (LNQ) that settle directly into the referenced futures contract.

Proposed Electricity Futures Products

NFX will also list electricity futures. These electricity futures are based on electricity prices at different hubs and smaller nodes from across the United States reflecting different power distribution grids and circuits and are look-alike products to products traded on ICE Futures, U.S. and cleared by ICE Clear U.S., Inc. For each of these nodes, there is a ''peak'' and ''off-peak'' future representing prices at time periods in the day when electricity usage is high compared to when the demand on the grid is lower. The electricity futures NFX selected for listing are the most popular nodes and hubs within the electricity futures market. More specifically, NFX will list the following electricity contracts, to be settled on final settlement prices based on an average regional transmission organization, independent system operator (''ISO'') published real-time or day-ahead locational marginal prices (''LMPs'')[8] for a pre-determined set of peak or off-peak hours for a contract month:

- NFX ISO–NE Massachusetts Hub Day-Ahead Off-Peak Financial Future (NOPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the Massachusetts Hub.
- NFX ISO–NE Massachusetts Hub Day-Ahead Peak Financial Futures (NEPQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the Massachusetts Hub.
- NFX MISO Indiana Hub Real-Time Peak Financial Futures (CINQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Indiana Hub as published by the Midcontinent Independent System Operator, Inc. (''MISO'').
- NFX MISO Indiana Hub Real-Time Off-Peak Financial Futures (CPOQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Indiana Hub as published by MISO.
- NFX PJM AEP Dayton Hub Real-Time Peak Financial Futures (MSOQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the AEP Dayton Hub.
- NFX PJM AEP Dayton Hub Real-Time Off-Peak Financial Futures (AODQ), settling on final settlement prices based on average real-time hourly

[3] The Clearing Agreement is the subject of a pending proposed rule change by filed OCC (SR–OCC–2015–03). This proposed rule change has not yet been published by the Commission. SR–OCC–2015–03 is publically available at: *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_03.pdf.* (The staff notes that the rule change was filed by the Commission on March 4, 2015 and subsequently published in the **Federal Register**. *See* Securities Exchange Act Release No. 74432 (March 4, 2015), 80 FR 12652 (March 10, 2015)).

[4] OCC believes that its existing risk models for options on futures contracts would appropriately manage risk for options on Energy Futures when used in conjunction with the proposed new risk models for Energy Futures.

[5] OCC would compute initial margin requirements for segregated futures accounts through the Standard Portfolio Analysis of Risk (''SPAN''®) margin calculation system without further modification, subject to OCC's collection of enhanced margin to be deposited in the segregated futures account in the event that the margin requirement as calculated under STANS would exceed the requirement calculated under SPAN. *See* Securities Exchange Act Release No. 72331 (June 5, 2014), 79 FR 33607 (June 11, 2014) (SR–OCC–2014–13). *See also* Securities Exchange Act Release No. 74268 (February 12, 2015), 80 FR 8917 (February 19, 2015) (SR–OCC–2014–24). This rule change has been approved by the Commission.

[6] Energy Futures and options on Energy Futures would trade during overnight trading sessions. *See* Securities Exchange Act Release No. 74241 (February 10, 2015), 80 FR 8383 (February 17, 2015) SR–OCC–2014–812.

[7] More specifically, Energy Futures are look-alike products to futures products that are currently traded on the New York Mercantile Exchange, Inc. and ICE Futures, U.S., and cleared by the Chicago Mercantile Exchange Inc. and ICE Clear U.S., Inc., respectively.

[8] Locational marginal pricing reflects the value of the energy at the specific location and time it is delivered.

off-peak LMPs for the contract month for the AEP Dayton Hub.

• NFX PJM Northern Illinois Hub Real-Time Peak Financial Futures (PNLQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Northern Illinois Hub.

• NFX PJM Northern Illinois Hub Real-Time Off-Peak Financial Futures (NIOQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Northern Illinois Hub.

• NFX PJM Western Hub Day-Ahead Off-Peak Financial Futures (PJDQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Day-Ahead Peak Financial Futures (PJCQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Real-Time Off-Peak Financial Futures (OPJQ), settling on final settlement prices based on average real-time hourly off-peak LMPs for the contract month for the Western Hub.

• NFX PJM Western Hub Real-Time Peak Financial Future (PJMQ), settling on final settlement prices based on average real-time hourly peak LMPs for the contract month for the Western Hub.

• NFX CAISO NP–15 Hub Day-Ahead Off-Peak Financial Futures (ONPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the NP–15 Hub.

• NFX CAISO NP–15 Hub Day-Ahead Peak Financial Futures (NPMQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the NP–15 Hub.

• NFX CAISO SP–15 Hub Day-Ahead Off-Peak Financial Futures (OFPQ), settling on final settlement prices based on average day-ahead hourly off-peak LMPs for the contract month for the SP–15 Hub.

• NFX CAISO SP–15 Hub Day-Ahead Peak Financial Futures (SPMQ), settling on final settlement prices based on average day-ahead hourly peak LMPs for the contract month for the SP–15 Hub.

Risk Model Changes

Background

The proposed Energy Futures are look-alike products to energy futures traded on other futures exchanges and cleared by other DCOs. Accordingly, there is a significant amount of historical data and academic literature concerning risk models for energy futures, as discussed below. OCC has used such data and literature in the development of its risk models for Energy Futures.

Based on such data and literature, OCC has identified two characteristics specific to energy futures (compared to futures contracts already cleared, settled and risk managed by OCC) for which new risk models need to be added to the STANS methodology: [9]

• Energy futures prices are known to be more volatile as contracts approach delivery because of the convergence with cash-market prices and the potential for real-life trading and delivery complications of the underlying commodity. This phenomenon is known as the ''Samuelson effect,'' [10] and

• The price volatility of certain energy futures display a seasonal pattern (a/k/a ''seasonality'').

In order to address these characteristics, OCC has designed multi-factor risk modeling capabilities that can risk model based on up to three factors: A short-run factor, a seasonal factor and a long-run factor. The short-run factor is designed to account for the Samuelson effect, which becomes more pronounced the closer the contract is to maturity (*i.e.,* delivery). The seasonal factor accounts for Energy Futures contracts that display volatility in a seasonal pattern, and the long-run factor accounts for the risk of a given Energy Future not addressed by either the short-run factor or the seasonal factor.

OCC's multi-factor models can be further categorized as either a two-factor model or three-factor model. The two factor model consists of a short-run and long-run factor, while the three-factor model consists of a short-run factor, long-run factor and seasonality factor.

Two-Factor Model

OCC plans to use a two-factor risk model to compute theoretical prices for NFX Brent Crude Financial Futures contracts and NFX WTI Crude Oil Financial Futures contracts since such futures do not exhibit seasonality.[11] The two-factor risk model will derive a given Energy Future's price based on a long-run factor and a short-run factor. The long-run factor component captures changes to the equilibrium price (*i.e.,* the prevailing market price at a point in time) of a given Energy Future based on factors such as expectations of the exhaustion of existing supply, improving technology for production, the discovery of additional supply of the commodity, inflation and political and regulatory effects. Based on historical data, OCC assumes that such long-run factors cause the equilibrium price for a given Energy Future to evolve according to a stochastic process that accounts for asymmetric skewness and excess kurtosis.[12] The short-run component captures short-run changes in demand or supply due to real-life factors such as variation in the weather or intermittent supply disruptions as well as increased volatility (*i.e.,* the Samuelson effect).[13] The short-run component of the model is mean reverting; therefore, in the absence of such short-term changes in demand or supply the long-run factor should determine the price for a given Energy Future. Additionally, the short-run is less noticeable as the tenor of the Energy Futures contract increases.

Three-Factor Model

OCC plans to use a three-factor risk model in order to compute theoretical prices for the remainder of the Energy Futures.[14] The three-factor model uses the same long-run and short-fun factor components as the two-factor model and adds a seasonality factor. Based on historical data, all Energy Futures except for Energy Futures on Brent Crude Oil and WTI Crude Oil experience seasonality.[15] In order to address seasonality, OCC would employ

[9] In developing its risk models for Energy Futures, OCC also considered a third characteristic, namely that electricity markets are known to be geographically segmented, which can cause abrupt and unanticipated changes in spot prices. However, after reviewing relevant academic literature and performing internal testing, OCC determined that adjusting its futures risk models to account for changes in the spot price of electricity was not appropriate. *See* Kholopova, M. (2006) ''Estimating a two-factor model for the forward curve of electricity,'' Ph.D. dissertation.

[10] *See* Samuelson, Paul A., ''Proof that Properly Anticipated Prices Fluctuate Randomly,'' Industrial Management Review, Vol. 6 (1965). No other futures contracts for which OCC provides clearance and settlement services exhibit the Samuelson effect.

[11] *See* Schwartz, E. and J. Smith (2000) ''Short-term variations and long-term dynamics in commodity prices,'' *Management Science,* vol. 46, pp. 893–911. The supply of Brent Crude Oil and WTI Crude Oil is not affected by seasonal variation in demand since there are low-cost transportation methods for Brent Crude Oil and WTI Crude Oil as well as the ability to store Brent Crude Oil and WTI Crude Oil.

[12] The model assumes that past price information is already incorporated into the current price and the next price movement is conditionally independent of past price movements. Additionally, the long-run factor accounts for ''fat tail'' events.

[13] This is often observed as shorter dated futures contracts exhibit greater volatility than longer dated futures contracts.

[14] OCC's proposed model is based upon recent academic literature on energy futures. *See* Mirantes, A., J. Poblacion and G. Serna (2012) ''The stochastic seasonal behavior of natural gas prices,'' *European Financial Management,* vol. 18, pp. 410–443.

[15] This is due to the lack of low-cost transportation and limited, or no, ability to store the commodity.

a trigonometric function,[16] which captures price dynamics in different seasons.

Based on the above, OCC believes that the proposed enhancements to STANS have been appropriately designed to support the clearance and settlement of Energy Futures, which belief is supported by model back testing results. Moreover, energy futures are not new or novel contracts, and the clearance and settlement of Energy Futures does not present material risk to OCC.[17]

Schedule C to the Clearing Agreement

OCC also proposes to add a Schedule C to the Clearing Agreement in order to support the clearance and settlement of Energy Futures and options on Energy Futures. OCC performs clearance and settlement services for NFX pursuant to the Clearing Agreement. Pursuant to the terms of the Clearing Agreement, OCC has agreed to clear the specific types of contracts enumerated in the Clearing Agreement and may agree to clear and settle additional types of contracts through the execution by both parties of a new Schedule C to the Clearing Agreement. Energy Futures and options on Energy Futures are not enumerated in the Clearing Agreement, nor do they fall under an existing Schedule C to the Clearing Agreement. Therefore, a new Schedule C providing for the clearance and settlement of Energy Futures and options on Energy Futures is required. A copy of such Schedule C is attached hereto as Exhibit 3.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[18] because it will assure the safeguarding of securities and funds which are in the custody and control of OCC. OCC believes that the proposed rule change assures the safeguarding of securities and funds in the custody and control of OCC because it would permit OCC to risk manage Energy Futures through appropriate risk models as described above. Such risk models would reduce the risk that clearing member margin assets would be insufficient should OCC need to use such assets to close-out the positions of a defaulted clearing member. In addition, the proposed rule change is consistent with Rule 17Ad–22(b)(2) under the Act,[19] because the proposed rule change would allow OCC to implement risk-based models and parameters, as described above, to set margin requirements for clearing members who trade Energy Futures. The proposed rule change is not inconsistent with any existing OCC By-Laws or Rules, including any rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition.[20] As described above, the proposed rule change concerns implementation of certain enhancements to OCC's risk models in order to facilitate the margining of clearing member positions in Energy Futures. OCC does not believe that these enhancements will affect the ability of clearing members or other market participants to clear Energy Futures or otherwise limit market participants' choices for selecting clearing services. In addition, the proposed rule change will uniformly affect all clearing members who trade Energy Futures.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commissions Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2015–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2015–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_006.pdf* .

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2015–006 and should be submitted on or before April 10, 2015.

For the Commission by the Division of Trading and Markets, pursuant to delegated Authority.[21]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06359 Filed 3–19–15; 8:45 am]

BILLING CODE 8011–01–P

[16] *See* note 13 *supra.*

[17] Cleared futures contracts account for less than two percent of OCC's total overall volume and, in 2011, OCC cleared 1,388 contracts traded on NFX. In 2012, OCC cleared 518,360 contracts traded on NFX (NFX did not have any cleared futures contract volume in 2013 and 2014). By way of reference, OCC's average daily cleared contract volume in through February 19, 2015, is 17 million contracts.

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(b)(2).

[20] 15 U.S.C. 78q–1(b)(3)(I).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74513; File No. SR–BATS–2015–16]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 12.14, Front Running of Block Transactions

March 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt new Rule 12.14, Front Running of Block Transactions, to conform with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') for purposes of an agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act.[3] The proposed rule change is identical to proposed rule changes submitted by the EDGX Exchange, Inc. (''EDGX'') and the EDGA Exchange, Inc. (''EDGA'') that were published by the Commission.[4]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17d–2.

[4] *See* Securities Exchange Act Release Nos. 70625 (October 8, 2013), 78 FR 62842 (October 22, 2013) (SR–EDGA–2013–29) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA Rules 3.22, 13.3, and Adopt Rule 12.14, Front Running of Block Transactions to Conform With the Rules of Other Self-Regulatory Organizations); *and* 70626 (October 8, 2013), 78 FR 62855 (October 22, 2013) (SR–EDGX–2013–36) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA [sic] Rules 3.22, 13.3, and Adopt Rule 12.14, Front Running of Block Transactions to Conform With the Rules of Other Self-Regulatory Organizations).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Rule 12.14, Front Running of Block Transactions, which would require that Members and persons associated with a Member shall comply with FINRA Rule 5270 as if such Rule were part of the Exchange's Rules.[5] FINRA Rule 5270 states that no FINRA member or person associated with a member shall cause to be executed an order to buy or sell a security or a related financial instrument[6] when such member or person associated with a member has material, non-public market information concerning an imminent block transaction[7] in that security, a related financial instrument or a security underlying the related financial instrument.

FINRA Rule 5270 includes exceptions to the general prohibitions of the rule where a member can demonstrate that a transaction is unrelated to the material, non-public market information received in connection with the customer order. The Supplementary Material to FINRA Rule 5270 includes an illustrative list of potentially permitted transactions as examples of transactions that, depending upon the circumstances, may be unrelated to the customer block order. These types of transactions may include: Where the member has information barriers established to prevent internal disclosure of such information; actions [sic] in the same security related to a prior customer order in that security; transactions to correct bona fide errors; or transactions to offset odd-lot orders.

In addition, Rule 5270 does not preclude transactions undertaken for the purpose of fulfilling, or facilitating the execution of, the customer block order. However, when engaging in trading activity that could affect the market for the security that is the subject of the customer block order, the member must minimize any potential disadvantage or harm in the execution of the customer's order, must not place the member's financial interests ahead of those of its customer, and must obtain the customer's consent to such trading activity. A member may obtain its customers' consent through affirmative written consent or through the use of a negative consent letter. The negative consent letter must clearly disclose to the customer the terms and conditions for handling the customer's orders; if the customer does not object, then the member may reasonably conclude that the customer has consented and the member may rely on such letter for all or a portion of the customer's orders. In addition, a member may provide clear and comprehensive oral disclosure to and obtain consent from the customer on an order-by-order basis, provided that the member documents who provided such consent and such consent evidences the customer's understanding of the terms and conditions for handling the customer's order.

The Exchange also proposes to state in new Rule 12.14 that although the prohibitions in Rule 5270 are limited to imminent block transactions, the front running of other types of orders that place the financial interests of the Member or persons associated with a Member ahead of those of its customer or the misuse of knowledge of an imminent customer order may violate

[5] The proposed rule text is substantially the same as IM–2110–3 of the Nasdaq Stock Market LLC (''Nasdaq''), which has been approved by the Commission. *See* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (order approving Nasdaq's application for registration as a national securities exchange). *See also* Securities Exchange Act Release No. 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–Nasdaq–2008–054) (Notice of Filing and Immediate Effectiveness). Securities Exchange Act Release No. 34–67774 (September 4, 2012), 77 FR 55519 (September 12 [sic], 2012) (Approval Order). *See also supra* note 4.

[6] FINRA Rule 5270 defines the term ''related financial instrument'' as ''any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security.''

[7] Under FINRA Rule 5270, a transaction involving 10,000 shares or more of a security, an underlying security, or a related financial instrument overlying such number of shares, is generally deemed to be a block transaction, although a transaction of fewer than 10,000 shares could be considered a block transaction. A block transaction that has been agreed upon does not lose its identity as such by arranging for partial executions of the full transaction in portions which themselves are not of block size if the execution of the full transaction may have a material impact on the market.

other Exchange rules, including Rule 3.1 and Rule 12.6, or provisions of the federal securities laws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. By incorporating FINRA Rule 5270, new Rule 12.14 prohibits front running trading activity that the Exchange believes is inconsistent with just and equitable principles of trade while also ensuring that Members may continue to engage in transactions that do not present the risk of abusive trading practices that the rule is intended to prevent. The Exchange believes that Rule 12.14 would enhance the protection of customer orders by addressing various types of abusive trading that may be intended to take advantage of customer orders. As previously noted, the proposed rule text is substantially similar to Nasdaq's IM–2110–3, which has been approved by the Commission,[9] as well as EDGA Rule 12.14 and EDGX Rule 12.14, which have been previously published by the Commission.[10] By adopting Rule 12.14, the Exchange believes that imminent customer block orders would be better protected and that the proposed rule change will prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and better protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to enable the Exchange to better protect imminent customer block orders, as well as to provide greater harmonization among Exchange and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for common members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange argues that waiver of the operative delay would enable it to enhance its rules protecting customer orders in a timely manner by explicitly prohibiting Members from trading ahead of block transaction in violation of proposed Rule 12.14 during what would be the operative delay period.[17] The Exchange also represents that waiver of the operative delay would allow it to promptly incorporate Rule 12.14 into the 17d–2 Agreement, further reducing duplicative regulation of Exchange Members that are also members of FINRA. In addition, the Exchange states that waiving the operative delay would provide greater harmonization among Exchange, EDGA, EDGX, and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for Members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement in a timelier manner. Based on the foregoing, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BATS–2015–16 on the subject line.

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (order approving Nasdaq's application for registration as a national securities exchange). *See also* Securities Exchange Act Release No. 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–Nasdaq–2008–054) (Notice of Filing and Immediate Effectiveness). Securities Exchange Act Release No. 34–67774 (September 4, 2012), 77 FR 55519 (September 12, 2012) (Approval Order).

[10] *See supra* note 4.

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] The Exchange also represents that it has already informed its Members that it will implement the proposed rule change on March 23, 2015, a date that was determined based upon the effective date of a prior version of this filing. *See* BZX and BYX Regulatory Circular 15–003, Front Running of Block Transactions, dated February 24, 2015.

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2015–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–16, and should be submitted on or before April 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06361 Filed 3–19–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74514; File No. SR–BYX–2015–13]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 12.14, Front Running of Block Transactions

March 16, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 3, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to adopt new Rule 12.14, Front Running of Block Transactions, to conform with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') for purposes of an agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act.[3] The proposed rule change is identical to proposed rule changes submitted by the EDGX Exchange, Inc. (''EDGX'') and the EDGA Exchange, Inc. (''EDGA'') that were published by the Commission.[4]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17d–2.

[4] *See* Securities Exchange Act Release Nos. 70625 (October 8, 2013), 78 FR 62842 (October 22, 2013) (SR–EDGA–2013–29) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA Rules 3.22, 13.3, and Adopt Rule 12.14, Front Running of Block Transactions to Conform With the Rules of Other Self-Regulatory Organizations); *and* 70626 (October 8, 2013), 78 FR 62855 (October 22, 2013) (SR–EDGX–2013–36) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend EDGA [sic] Rules 3.22, 13.3, and Adopt Rule 12.14, Front Running of Block Transactions to Conform With the Rules of Other Self-Regulatory Organizations).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Rule 12.14, Front Running of Block Transactions, which would require that Members and persons associated with a Member shall comply with FINRA Rule 5270 as if such Rule were part of the Exchange's Rules.[5] FINRA Rule 5270 states that no FINRA member or person associated with a member shall cause to be executed an order to buy or sell a security or a related financial instrument[6] when such member or person associated with a member has material, non-public market information concerning an imminent block transaction[7] in that security, a related financial instrument or a security

[5] The proposed rule text is substantially the same as IM–2110–3 of the Nasdaq Stock Market LLC (''Nasdaq''), which has been approved by the Commission. *See* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (order approving Nasdaq's application for registration as a national securities exchange). *See also* Securities Exchange Act Release No. 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–Nasdaq–2008–054) (Notice of Filing and Immediate Effectiveness). Securities Exchange Act Release No. 34–67774 (September 4, 2012), 77 FR 55519 (September 12 [sic], 2012) (Approval Order). *See also supra* note 4.

[6] FINRA Rule 5270 defines the term ''related financial instrument'' as ''any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security.''

[7] Under FINRA Rule 5270, a transaction involving 10,000 shares or more of a security, an underlying security, or a related financial instrument overlying such number of shares, is generally deemed to be a block transaction, although a transaction of fewer than 10,000 shares could be considered a block transaction. A block transaction that has been agreed upon does not lose its identity as such by arranging for partial executions of the full transaction in portions which themselves are not of block size if the execution of the full transaction may have a material impact on the market.

underlying the related financial instrument.

FINRA Rule 5270 includes exceptions to the general prohibitions of the rule where a member can demonstrate that a transaction is unrelated to the material, non-public market information received in connection with the customer order. The Supplementary Material to FINRA Rule 5270 includes an illustrative list of potentially permitted transactions as examples of transactions that, depending upon the circumstances, may be unrelated to the customer block order. These types of transactions may include: Where the member has information barriers established to prevent internal disclosure of such information; actions [sic] in the same security related to a prior customer order in that security; transactions to correct bona fide errors; or transactions to offset odd-lot orders.

In addition, Rule 5270 does not preclude transactions undertaken for the purpose of fulfilling, or facilitating the execution of, the customer block order. However, when engaging in trading activity that could affect the market for the security that is the subject of the customer block order, the member must minimize any potential disadvantage or harm in the execution of the customer's order, must not place the member's financial interests ahead of those of its customer, and must obtain the customer's consent to such trading activity. A member may obtain its customers' consent through affirmative written consent or through the use of a negative consent letter. The negative consent letter must clearly disclose to the customer the terms and conditions for handling the customer's orders; if the customer does not object, then the member may reasonably conclude that the customer has consented and the member may rely on such letter for all or a portion of the customer's orders. In addition, a member may provide clear and comprehensive oral disclosure to and obtain consent from the customer on an order-by-order basis, provided that the member documents who provided such consent and such consent evidences the customer's understanding of the terms and conditions for handling the customer's order.

The Exchange also proposes to state in new Rule 12.14 that although the prohibitions in Rule 5270 are limited to imminent block transactions, the front running of other types of orders that place the financial interests of the Member or persons associated with a Member ahead of those of its customer or the misuse of knowledge of an imminent customer order may violate other Exchange rules, including Rule 3.1 and Rule 12.6, or provisions of the federal securities laws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. By incorporating FINRA Rule 5270, new Rule 12.14 prohibits front running trading activity that the Exchange believes is inconsistent with just and equitable principles of trade while also ensuring that Members may continue to engage in transactions that do not present the risk of abusive trading practices that the rule is intended to prevent. The Exchange believes that Rule 12.14 would enhance the protection of customer orders by addressing various types of abusive trading that may be intended to take advantage of customer orders. As previously noted, the proposed rule text is substantially similar to Nasdaq's IM–2110–3, which has been approved by the Commission,[9] as well as EDGA Rule 12.14 and EDGX Rule 12.14, which have been previously published by the Commission.[10] By adopting Rule 12.14, the Exchange believes that imminent customer block orders would be better protected and that the proposed rule change will prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and better protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to enable the Exchange to better protect imminent customer block orders, as well as to provide greater harmonization among Exchange and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for common members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange argues that waiver of the operative delay would enable it to enhance its rules protecting customer orders in a timely manner by explicitly prohibiting Members from trading ahead of block

[8] 15 U.S.C. 78f(b)(5).

[9] *See* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (order approving Nasdaq's application for registration as a national securities exchange). *See also* Securities Exchange Act Release No. 58069 (June 30, 2008), 73 FR 39360 (July 9, 2008) (SR–Nasdaq–2008–054) (Notice of Filing and Immediate Effectiveness). Securities Exchange Act Release No. 34–67774 (September 4, 2012), 77 FR 55519 (September 12, 2012) (Approval Order).

[10] *See supra* note 4.

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

transaction in violation of proposed Rule 12.14 during what would be the operative delay period.[17] The Exchange also represents that waiver of the operative delay would allow it to promptly incorporate Rule 12.14 into the 17d–2 Agreement, further reducing duplicative regulation of Exchange Members that are also members of FINRA. In addition, the Exchange states that waiving the operative delay would provide greater harmonization among Exchange, EDGA, EDGX, and FINRA rules, resulting in less burdensome and more efficient regulatory compliance for Members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement in a timelier manner. Based on the foregoing, the Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BYX–2015–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2015–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2015–13, and should be submitted on or before April 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2015–06362 Filed 3–19–15; 8:45 am]

BILLING CODE 8011–01–P

[17] The Exchange also represents that it has already informed its Members that it will implement the proposed rule change on March 23, 2015, a date that was determined based upon the effective date of a prior version of this filing. *See* BZX and BYX Regulatory Circular 15–003, Front Running of Block Transactions, dated February 24, 2015.

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 9064]

Culturally Significant Objects Imported for Exhibition Determinations: ''Arctic Ambitions: Captain Cook and the Northwest Passage''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Arctic Ambitions: Captain Cook and the Northwest Passage,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Anchorage Museum at Rasmuson Center, Anchorage, Alaska, from on or about March 27, 2015, until on or about September 7, 2015, the Washington State History Museum, Tacoma, Washington, from on or about October 16, 2015, until on or about January 10, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of the Legal Adviser, U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 17, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–06421 Filed 3–19–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Orange County and Riverside County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that a Supplemental Draft Environmental Impact Statement (Supplemental Draft EIS) will be prepared for a proposed highway project in Orange County and Riverside County, California. The original Notice of Intent

was published on October 22, 1986 and revised on March 16, 1988.

DATES: The deadline for comments is Monday, April 13, 2015.

FOR FURTHER INFORMATION CONTACT: Smita Deshpande; 3347 Michelson Drive, Suite 100; Irvine, CA 92612; (949) 724–2245; *D12.NOP241.91@dot.ca.gov;* Chief, Division of Environmental Analysis.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the assigned National Environmental Policy Act (NEPA) agency, in cooperation with the United States Fish and Wildlife Service and United States Army Corps of Engineers, will prepare a Supplemental Draft EIS on a proposal for a median-to-median connector between State Route 241 (SR–241) and the State Route 91 (SR–91) Express Lanes, project in Orange County and Riverside County, California.

The proposed median-to-median connector project encompasses 12–ORA–241 (PM 36.1/39.1), 12–ORA–91 (PM 14.7/18.9), and 08–RIV–91 (PM 0.0/1.5) for a length of approximately 8.7 miles. Anticipated federal approvals include an FHWA Air Quality Conformity Determination, Biological Opinion Amendment and permits under Section 404 and 401 of the Clean Water Act.

Caltrans District 12, in cooperation with the Foothill/Eastern Transportation Corridor Agency (F/ETCA), proposes to construct the median-to-median connector from State Route 241 (SR–241) to the State Route 91 (SR–91) Express Lanes. The proposed median-to-median connector is phase 2 of the Eastern Transportation Corridor (ETC) project previously approved in 1994. It will provide improved access between SR–241 and SR–91 and is proposed to be a tolled facility. Caltrans will be the lead agency for the project. The United States Army Corps of Engineers and the United States Fish and Wildlife Service were identified as cooperating agencies in the corresponding 1991 ETC Draft EIS and 1994 ETC Final EIS.

The SR–241/SR–91 Express Lane Connector was originally evaluated as a SR–241/SR–91 high-occupancy vehicle (HOV) direct connector in the 1991 ETC Draft EIS and 1994 ETC Final EIS (both of which studied a broader project area with improvements on SR–133, SR–241 and SR–261). The Systems Management Concept (SMC) for the ETC project proposed that the project would be staged, incorporating general purpose traffic and eventually HOV lanes, to meet the forecasted demand. Under the SMC, ETC construction would be completed in one stage with three or more phases.

To implement Phase 2 of the ETC project, a Supplemental Draft EIS is being prepared to focus on the eastern portion of the original project and to address changes to environmental conditions and regulatory requirements. Various alternatives were studied in the 1991 ETC Draft EIS and 1994 ETC Final EIS; however, the Supplemental Draft EIS will include a No Build and one Build Alternative for the median-to-median connector only.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, cooperating agencies, participating agencies, local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Environmental Review of the project is anticipated to occur from 2015 through 2017. A public scoping meeting is not scheduled at this time; should you be interested, please let us know in writing. A public hearing will be held in 2016. Public notice will be given of the time and place of the hearing. The Supplemental Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Supplemental Draft EIS should be directed to Caltrans at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 16, 2015.

Shawn Oliver,

Team Leader, Right of Way and Environment, Federal Highway Administration, Sacramento, California.

[FR Doc. 2015–06415 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; BMW of North America, LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the BMW of North America, LLC (BMW) petition for an exemption of the X1 multi-purpose vehicle line (MPV) in accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). BMW requested confidential treatment for specific information in its petition that the agency will address by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2016 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Room W43–439, Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated November 21, 2014, BMW requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the X1 MPV vehicle line beginning with MY 2016. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. BMW stated that its X1 MPV line will be replacing its X1 passenger car line beginning with MY 2016. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for

its X1 MPV line. BMW stated that the X1 MPV line will be installed with an engine immobilizer device as standard equipment. Key features of the antitheft device will include a key with a transponder, loop antenna (coil), engine control unit (DME/DDE) with encoded start release input, an electronically coded vehicle immobilizer/car access system (EWS/CAS) control unit and a passive immobilizer. BMW will not offer an audible or visible alarm feature on the proposed device.

BMW stated that the antitheft device is a passive vehicle immobilizer system. BMW further stated that the EWS immobilizer device prevents the vehicle from being driven away under its own engine power. BMW further stated that the EWS immobilizer device also fulfills the requirements of the European vehicle insurance companies.

BMW stated that activation of its immobilizer device occurs automatically when the engine is shut off and the vehicle key is removed from the ignition lock cylinder. Deactivation of the device occurs when the Start/Stop button is pressed and the vehicle starting process begins. BMW stated that deactivation cannot be carried out with a mechanical key, but must occur electronically. Specifically, BMW stated that its transponder sends key data to the EWS/CAS control unit. The correct key data must be recognized by the EWS/CAS control unit in order for the vehicle to start. The transponder contains a chip which is integrated in the key and powered by a battery. The transponder also consists of a transmitter/receiver which communicates with the EWS/CAS control unit. The EWS/CAS control unit provides the interface to the loop antenna (coil), engine control unit and starter. The ignition and fuel supply are only released when a correct coded release signal has been sent by the EWS/CAS control unit to deactivate the device and allow the vehicle to start. When the EWS/CAS control unit has sent a correct release signal, and after the initial starting value, the release signal becomes a rolling, ever-changing, random code that is stored in the DME/DDE and EWS/CAS control units. The DME/DDE must identify the release signal and only then will the ignition signal and fuel supply be released.

BMW stated that the vehicle is also equipped with a central-locking system that can be operated to lock and unlock all doors or to unlock only the driver's door, thereby preventing forced entry into the vehicle through the passenger doors. The vehicle can be further secured by locking the doors and hood using either the key lock cylinder on the driver's door or the remote frequency remote control. BMW stated that the frequency for the remote control constantly changes to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

BMW further stated that all of its vehicles are currently equipped with antitheft devices as standard equipment, including the BMW X1 MPV line. BMW compared the effectiveness of its antitheft device with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of Part 541. BMW stated that the antitheft device that it intends to install on its X1 MPV line for MY 2016 has been sufficient to grant exemptions for other vehicle lines. Specifically, BMW has installed its antitheft device on its X1 (passenger car), X3, X4 and X5 vehicle lines, as well as its Carline 1, 3, 4, 5, 6, 7, Z4, and MINI vehicle lines, all which have been granted parts-marking exemptions by the agency. BMW asserts that theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which it proposes to install on the X1 MPV line. BMW also stated that for MY/CY 2011, the agency's data show that theft rates for its lines are: 0.69 (1-series), 0.62 (3-series), 0.63 (5-series), 1.08 (7-series), 0.26 (X3), 0.00 (X5), 0.00 (X6), 0.55 (Z4/M), and 0.35 (MINI). Using an average of 3 MYs data (2010–2012), NHTSA's theft rates for BMW's 1 series, 3 series, 5 series, 6 series, 7 series, X3, X5, X6, Z4/M and MINI vehicle lines are 0.5503, 07177, 0.7314, 0.0000, 1.7952, 0.2055, 0.5501, 2.5840, 0.4696 and 0.3770 respectively. Theft data for BMW's X1 (passenger car), X4, and Carline 4 is not available.

BMW's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of Part 543.6, BMW provided information on the reliability and durability of its device. To ensure reliability and durability of the device, BMW conducted tests and believes that the device is reliable and durable because it complied with its own specific standards and the antitheft device is installed on other vehicle lines for which the agency has granted a parts-marking exemption. Further assuring the reliability and durability of the X1 antitheft device, BMW notes that the mechanical keys for the X1 MPV line are unique. Specifically, a special key blank, a special key cutting machine and the vehicle's unique code are needed to duplicate a key. BMW stated that new keys will only be issued to authorized persons, and the guide-ways that are milled in the mechanical keys make the locks almost impossible to pick and the keys impossible to duplicate on the open market.

BMW's proposed device lacks an audible or visible alarm, therefore, this device cannot perform one of the functions listed in 49 CFR 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, in its November 2014 petition, BMW asserted that in a previous **Federal Register** notice published by the agency (58 FR 44872, dated August 25, 1993), NHTSA's review of the theft data for 10 General Motors' (GM) vehicle lines that had been granted partial exemptions concluded that the lack of an audible and visible alarm had not prevented the antitheft device from being effective and that despite the absence of an audible or visible alarm, when placed on vehicle lines as standard equipment, the GM antitheft devices ''continue to be as effective in deterring and reducing motor vehicle theft as compliance with parts-marking requirements.'' Therefore, BMW expects that the X1's antitheft device will be just as effective as parts-marking.

Based on the supporting evidence submitted by BMW, the agency believes that the antitheft device for the BMW X1 MPV line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon supporting evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that BMW has provided adequate reasons for its belief that the antitheft device for the X1 MPV line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with

the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information BMW provided about its device.

For the foregoing reasons, the agency hereby grants in full BMW's petition for exemption for the MY 2016 X1 MPV line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given MY. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If BMW decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR Part 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2015–06384 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Availability and Solicitation of Applications for Magnetic Levitation Projects

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of funding availability.

SUMMARY: This notice of funding availability (NOFA or Notice) details the grant application requirements and submission procedures for obtaining up to $27.8 million in Federal funding, as authorized by sections 1101(a)(18) and 1307 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Public Law 109–59 (August 10, 2005)), as amended by section 102 of the SAFETEA–LU Technical Corrections Act of 2008, Public Law 110–244 (June 6, 2008), for existing magnetic levitation (maglev) projects located east of the Mississippi River. Pursuant to the Joint Committee statement accompanying the SAFETEA–LU Technical Corrections Act, three projects are eligible for funding under this Notice: The ''Pittsburgh project'', the ''Baltimore-Washington project'', and the ''Atlanta-Chattanooga project''. FRA previously announced the availability of funds for maglev projects located east of the Mississippi River pursuant to a NOFA issued on October 16, 2008, but one of the selected applicants has decided not to pursue the project for which the funds were allocated resulting in the availability of the funds for this Notice. Funds awarded under this Notice can be used for preconstruction planning activities and capital costs of a viable maglev project.

DATES: Applications for funding under this NOFA are due no later than 5:00 p.m. EST, April 20, 2015. Applications for funding received after 5:00 p.m. EST on April 20, 2015, will not be considered. See Section 4 of this Notice for additional information regarding the application process.

ADDRESSES: Applications must be submitted via Grants.gov. For any required or supporting application materials that an applicant is unable to submit via Grants.gov (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Renee Cooper, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 20, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials.

FOR FURTHER INFORMATION CONTACT: For further information regarding this Notice, please contact Renee Cooper, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 20, Washington, DC 20590; Email: *FRA-Grants@dot.gov;* Phone: (202) 493–0491; Fax: (202) 493–6333.

SUPPLEMENTARY INFORMATION: FRA strongly suggests that applicants read this Notice in its entirety prior to preparing application materials. There are programmatic prerequisites and administrative requirements described herein that applicants must comply with in order to submit an application and be considered for funding.

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1. Funding Opportunity Description
2. Award Information
3. Eligibility and Review Criteria
4. Application and Submission Information
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Section 1: Funding Opportunity Description

Section 102 of the SAFETEA–LU Technical Corrections Act (Public Law 110–244, June 6, 2008) (the 2008 Act), amended sections 1101(a)(18) and 1307 of SAFETEA–LU and provided $45 million in contract authority for maglev projects located east of the Mississippi River. Of the funding available for projects east of the Mississippi River ($45 million), approximately $27.8 million in funding is available for award under this NOFA.

In the Joint Explanatory Statement of the House Transportation and Infrastructure Committee and the Senate Environmental and Public Works, Banking, Housing and Urban Affairs, and Commerce, Science and Transportation Committees accompanying the 2008 Act (the Joint Explanatory Statement), Congress explained that in amending SAFETEA–LU to allow FRA discretion to award funds to ''projects'' located east of the Mississippi River, ''the intent is to limit the eligible projects to three existing

projects east of the Mississippi River: Pittsburgh, Baltimore-Washington, and Atlanta-Chattanooga.'' Based upon that clear Congressional direction, the solicitation for applications under this NOFA is limited to those three projects.

Through this NOFA, FRA will determine whether any of the three eligible projects east of the Mississippi River will receive all or a portion of available funds for maglev projects (based upon a review of submitted applications) and has the discretion to award funds to one or more of those three projects.

Section 2: Award Information

FRA will make available up to $27.8 million in funding available under this NOFA. Should additional funds become available after the release of this Notice, FRA *may* elect to select an additional project for award or contribute additional funding to a selected project submitted under this NOFA (matching fund requirements would still apply). FRA may select one or more of the eligible projects for funding and may award less than the amount of project funding requested by the applicant based on considerations such as individual project scope and total available funding. FRA reserves the right to apportion the available funding at its discretion.

Fund recipients under this NOFA must comply with the requirements outlined in Title 2, CFR (particularly 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), as required by the grant award conditions, and all other applicable Federal and DOT/FRA guidance. The funding provided under this NOFA will be made available in the form of a Cooperative Agreement between FRA and the selected applicant(s). Cooperative agreements allow for greater Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. Funds will be transmitted to selected applicants on a reimbursable basis.

Section 3: Eligibility and Review Criteria

3.1 Applicant Eligibility

In accordance with the Joint Explanatory Statement, eligible projects are limited to three existing projects east of the Mississippi River: Pittsburgh, PA; Baltimore, MD–Washington, DC; and Atlanta, GA–Chattanooga, TN. Applicants must be a State, States, or an authority designated by one or more States.

If the project proponents propose service in more than one State, a single State or designated State authority should apply on behalf of all participating States. FRA encourages States to submit applications through their respective Departments of Transportation.

3.2 Project Eligibility

Congress established three project eligibility requirements for financial assistance under this program. The project must: (1) Involve a segment or segments of a high-speed ground transportation corridor; (2) result in an operating transportation facility that provides a revenue producing service; and (3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by one or more States. With respect to the second criterion, Congress titled section 1307 ''Deployment of Magnetic Levitation Transportation Projects'' and the funding provided through section 1101(a)(18) of SAFETEA–LU, as amended by the 2008 Act, is made available for the ''deployment of magnetic levitation projects.'' FRA interprets the statute as a whole as evidencing a Congressional intent that the Federal funds be used to directly advance and result in the construction of a maglev project. Thus, in order to be eligible for funding under this program, an application must include evidence that an operating transportation facility that provides a revenue producing service will be constructed.

Congress also defined other key terms and program requirements. Maglev is defined to mean ''transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.''

Eligible project costs can include costs for preconstruction planning work and/or capital costs for fixed guideway infrastructure for a maglev project (see SAFETEA–LU section 1307(a)(1) for the complete definition).

These criteria and definitions are prerequisites to FRA evaluating an application and the application materials must include data to support these eligibility requirements. If the criteria are not met to FRA's satisfaction, the project is not eligible for funding.

3.3 Cost Sharing and Matching Fund Requirements

The Federal share of a selected project or projects shall not exceed 80 percent of the total project cost (based on the final project scope selected for funding by FRA). The grantee(s) is (are) responsible for providing a minimum of 20 percent of the total project cost from non-federal sources.

Section 4: Application and Submission Information

4.1 Submission Dates and Times

Complete applications must be submitted to Grants.gov no later than 5:00 p.m. EST on April 20, 2015. Applicants are strongly encouraged to apply early to ensure that all materials are received before this deadline.

4.2 Application Procedures

This NOFA will be available to the public beginning March 19, 2015. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and submit an application can be found at Grants.gov. Registering with Grants.gov is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Under no circumstances will applications be accepted after the due date. Delayed registration is not an acceptable justification for extending the application deadline.

In order to apply for funding under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. *Acquire a DUNS Number.* A Data Universal Numbering System (DUNS) number is required for Grants.gov registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–866–705–5711 or by applying online at *http://www.dnb.com/us.*

2. *Acquire or Renew Registration with the System for Award Management (SAM) Database.* All applicants for Federal financial assistance must maintain current registrations in the System for Award Management (SAM) database. An applicant must be registered in SAM to successfully register in Grants.gov. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and sub recipients. Organizations that have previously submitted applications via Grants.gov are already registered with SAM, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of the application deadline. Information about SAM registration procedures can be accessed at *www.sam.gov.*

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Applicants must complete an AOR profile on Grants.gov and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at *www.grants.gov/applicants/get_registered.jsp.*

4. *Acquire Authorization for your AOR from the E-Business Point of Contact (E-Biz POC).* The Applicant's E-Biz POC must log in to Grants.gov to confirm a representative as an AOR. Please note that there can be more than one AOR at an organization.

5. *Search for the Funding Opportunity on Grants.gov.* The Catalog of Federal Domestic Assistance (CFDA) number for this opportunity is 20.318, titled ''Railroad Development.''

6. *Submit an Application Addressing All of the Requirements Outlined in this Funding Availability Announcement.* After submitting the application through Grants.gov, a confirmation screen will appear on the applicant's computer screen. This screen will confirm that the applicant has submitted an application and provide a tracking number to track the status of the submission. Within 24 to 48 hours after submitting an electronic application, an applicant should receive an email validation message from Grants.gov. The validation message will explain whether the application has been received and validated or rejected, with an explanation. Applicants are urged to submit an application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

If an applicant experiences difficulties at any point during this process, please call the Grants.gov Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays).

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may imbed picture files, such as .jpg, .gif, and .bmp, in document files, please do not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

4.3 Content of Application

Required documents for the application package are outlined in the checklist below. Applicants are encouraged to visit the FRA Web site (*www.fra.dot.gov*) to download the required templates and forms.

FRA Documents and Forms

- Project Narrative
- Statement of Work
- FRA's Additional Assurances and Certifications

OMB Standard Forms

- SF 424: Application for Federal Assistance
- SF 424A: Budget Information—Non Construction (for projects with planning costs only)
- SF 424B: Assurances—Non Construction
- SF 424C: Budget Information—Construction
- SF 424D: Assurances—Construction
- SF LLL: Disclosure of Lobbying Activities

Applicants must complete and submit all components of the application package. FRA welcomes the submission of other relevant supporting documentation that may have been developed by the applicant (planning, environmental documentation, engineering and design documentation, letters of support, etc.).

Applicants should submit all application materials through Grants.gov. For any required or supporting application materials that an applicant is unable to submit via Grants.gov (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Renee Cooper, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 20, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials.

4.3.1 Project Narrative

The following points describe the minimum content which will be required in the Project Narrative component of grant applications (additionally, FRA recommends that the Project Narrative generally adhere to the following outline sequence). These requirements must be satisfied through a narrative statement submitted by the applicant, and may be supported by spreadsheet documents, tables, maps, drawings, and other materials, as appropriate. The Project Narrative may not exceed 25 pages in length (including any appendices).

The FRA recommends that applicants read this section carefully and submit all required information:

1. Include a title page that lists the following elements in either a table or formatted list: project title, location (city, State, district), the applicant organization name, the name of any co-applicants, and the amount of Federal funding requested and the proposed non-Federal match.

2. Designate a point of contact for the application and provide his or her name and contact information, including phone number, mailing address, and email address. The point of contact must be an employee of an eligible applicant.

3. Indicate the amount of Federal funding requested, the proposed non-Federal match, and total project cost, including the methodology or practices deployed for accurately estimating costs (such as the best practices cited in the Government Accountability Office's Cost Estimate and Assessment Guide). Additionally, identify any other sources of Federal funds committed to the project, as well as any pending Federal funding requests. Make sure to also note if the requested Federal funding must be obligated or expended by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, or other factors. Finally, specify whether Federal funding has ever previously been sought for the project and not secured, and name the Federal program and fiscal year from which the funding was requested.

4. Explain how the applicant meets the respective applicant and project

eligibility criteria described earlier in Section 3 of this NOFA.

5. Provide a brief 4–6 sentence summary of the proposed project, capturing the transportation challenges the proposed project aims to address, the market to be served by the new service, as well as the intended outcomes and anticipated benefits that will result from the proposed project.

6. Include a detailed project description that expands upon the brief summary required above. This detailed description should provide, at a minimum, additional background on the transportation challenges the project aims to address, the expected users, beneficiaries, and outcomes of the project, and any other information the applicant deems necessary to justify the proposed project. Be specific regarding the relevance or relationship of the proposed project to other investments in the region along the corridor, as well as the operating changes that are anticipated to result from the introduction and integration of maglev services within existing transportation corridors and assess the major risks (including safety risks) or obstacles to maglev's successful deployment and operation. Provide a detailed summary of all work done to date, including any preliminary engineering work, the project's previous accomplishments and funding history, and a chronology of key documents produced and funding events (*e.g.,* grants and contracts).

7. Include a thorough discussion of how the project meets all of the selection criteria for the respective project type, as outlined in Section 5 of this notice. In responding to the criteria, applicants are reminded to clearly identify, quantify, and compare expected benefits and costs of proposed projects.

8. Describe proposed project implementation and project management arrangements for the full maglev corridor project, including the activities proposed in this application. Include descriptions of the expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting.

9. Describe the plan to finance any planning, land acquisition, buildout, testing, and implementation of the project, and specify long term financial plans to own, operate and maintain maglev services.

10. Describe anticipated environmental or historic preservation impacts associated with the proposed project, any environmental or historic preservation analyses that have been prepared, and any ongoing progress toward completing environmental documentation or clearance required for the proposed project under the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), section 4(f) of the DOT Act, the Clean Water Act, or other applicable Federal or State laws, and provide, as available, timeline associated with the process to complete these actions. Applicants and grantees under FRA's financial assistance programs are encouraged to contact FRA and obtain preliminary direction regarding the appropriate NEPA class of action and required environmental documentation. Generally, projects will be ineligible to receive funding if they have begun construction activities prior to the applicant/grantee receiving written approval from FRA that all environmental and historical analyses have been completed.

4.3.2 Statement of Work

Applicants are required to submit a Statement of Work (SOW) that addresses the scope, schedule, and budget for the proposed project if it were to be selected for award. The SOW should contain sufficient detail so that both FRA and the applicant can understand the individual tasks that comprise the project and the expected outcomes of the proposed work to be performed, and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance.

Section 5: Application Review Information

5.1 Application Review and Selection Process

Across all funding programs, FRA awards funds to projects that achieve the maximum public benefit possible given the amount of funding available for that project. Analysis provided by applicants that quantifies the monetary value (whenever possible) of the anticipated or potential public benefits of the project is relevant to FRA when assessing and evaluating applications for funding.

5.2 Selection Criteria

FRA will review applications and assess them against the following selection criteria:

1. The extent to which the project will address at least one or more serious challenges to the feasibility of integrating maglev systems with conventional rail systems.

2. The extent to which funds awarded under this section will result in investments that are beneficial not only to the maglev project, but also to other current or near-term transportation projects. Applicants should keep in mind, however, that—while project eligibility requires three areas of satisfaction, including the project resulting in an operating transportation facility that provides a revenue producing source—Federal funds may not be used for station construction costs or solely for land acquisition pursuant to securing operation right-of-way.

3. The degree to which the project demonstrates the potential for a public-private partnership for the corridor in which the maglev project is involved, and/or for the project independently. Any corridor exhibiting partnership potential must meet at least the following conditions: (a) Once built and paid for, the corridor will stand alone as a complete, self-sustaining operation; (b) the total, fully allocated operating expenses of the maglev service are projected to be offset by revenues attributable to the service; and (c) the total public benefits of a maglev corridor must equal or exceed its total societal costs.

4. The extent of the demonstrated financial commitment to the construction of the proposed project from both non-Federal public sources and private sources, including any financial contributions or commitment the applicant has secured from non-Federal entities that are expected to benefit from the project. If applicable, also include the extent to which the State or private entities exceed the required 20 percent match.

5. The extent to which the project demonstrates the ability to meet all applicable Federal and State statutes, regulations, and environmental requirements—to include coordination and consistency with any ongoing or completed environmental and planning studies for passenger rail on or connecting to the geographic route segment being proposed for maglev investment (*e.g.,* NEC FUTURE Tier 1 EIS and Service Development Plan and Atlanta-Chattanooga High Speed Ground Transportation Tier 1 EIS).

6. The degree to which the project will demonstrate the variety of maglev operating conditions which are to be expected in the United States. For example, these conditions might include a variety of at-grade, elevated and depressed guideway structures, extreme temperatures, and intermodal connections at terminals.

7. The feasibility of the project meeting a top speed of at least 240 miles per hour (MPH). FRA will also consider

favorably the ability to meet higher speeds as well as the duration that speeds of at least 240 MPH can be attained.

Section 6: Award Administration Information

6.1 Award Notices

Applications selected for funding will be announced after the application review period. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. Notification of a selected application is not an authorization to begin proposed project activities.

6.2 Administrative and National Policy Requirements

Applicants selected for funding (and any subrecipient(s)) must comply with all applicable laws and regulations governing the grant agreement. A non-exclusive list of administrative and national policy requirements that grantees must follow includes: Procurement standards, compliance with Federal civil rights laws and regulations, disadvantaged business enterprises (DBE), debarment and suspension, drug-free workplace, FRA's and OMB's Assurances and Certifications, Americans with Disabilities Act (ADA), labor standards, safety oversight, environmental protection, National Environmental Policy Act (NEPA), and environmental justice. In addition, FRA expects applicants to comply with the Buy America standards in 49 U.S.C. 24405(a). FRA expects this to apply to any capital costs funded under this NOFA for steel, iron, or manufactured goods used in construction of the Maglev project.

6.3 General Requirements

The grantee must comply with all post-award implementing, reporting, auditing, monitoring, and close-out requirements, as described in Title 2, CFR (particularly 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), as required by the grant award conditions, and all other applicable Federal and DOT/FRA guidance.

Section 7: Agency Contact

For further information regarding this notice and the grants program, please contact Renee Cooper, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 20, Washington, DC 20590; Email: *FRA-grants@dot.gov;* Phone: (202) 493–0491; Fax: (202) 493–6333.

Authority: The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109–59, August 10, 2005), and the SAFETEA–LU Technical Corrections Act (Pub. L. 110–244, June 6, 2008.)

Issued in Washington, DC, on March 18, 2015.

Corey Hill,

Director, Office of Program Delivery.

[FR Doc. 2015–06542 Filed 3–19–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. EP 670 (Sub-No. 1)]

Notice of Rescheduled Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Rescheduled Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2 10(a)(2). This meeting was originally scheduled for Thursday, March 5, 2015, 80 FR 8760. However, the meeting was cancelled because of inclement weather in Washington, DC, which ultimately led the Federal Government to close that day.

DATES: The rescheduled meeting will be held on Tuesday, April 14, 2015, at 9:00 a.m., E.D.T.

ADDRESSES: The meeting will be held in the Hearing Room on the first floor of the Board's headquarters at 395 E Street SW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Michael Higgins (202) 245–0284; *Michael.Higgins@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339].

SUPPLEMENTARY INFORMATION: RETAC was formed in 2007 to provide advice and guidance to the Board and to serve as a forum for discussion of emerging issues related to the transportation of energy resources by rail, including coal, ethanol, and other biofuels, *Establishment of a Rail Energy Transportation Advisory Committee,* Docket No. EP 670. The purpose of this meeting is to continue discussions regarding issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. Agenda items for this meeting include introduction of new members, a performance measures review, industry segment updates by RETAC members, a presentation on the outlook for U.S. petroleum production, and a roundtable discussion.

The meeting, which is open to the public, will be conducted in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2; Federal Advisory Committee Management regulations, 41 CFR pt. 102–3; RETAC's charter; and Board procedures. Further communications about this meeting may be announced through the Board's Web site at *WWW.STB.DOT.GOV.*

Written Comments: Members of the public may submit written comments to RETAC at any time. Comments should be addressed to RETAC, c/o Michael Higgins, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001 or *Michael.Higgins@stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: March 17, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–06424 Filed 3–19–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held in Seattle, Washington from April 21–23, 2015, at the below times and locations:

On April 21, from 8:00 a.m. to 1:00 p.m., at the VA Puget Sound Health Care System, Building 100, 1660 South Columbian Way, Seattle, Washington; 1:30 p.m. to 3:15 p.m., at the Seattle Regional Benefit Office, Jackson Federal Building, 915 2nd Avenue, Seattle, WA; from 4:00 p.m. to 5:00 p.m., at the Seattle Vet Center, 4735 E. Marginal Way S, Room 1103, Seattle, WA;

On April 22, from 9:00 a.m. to 10:15 a.m., at the Tahoma National Cemetery, 18600 SE 240th St., Kent, WA; from 11:00 a.m. to 3:15 p.m., at the VA Puget Sound HCS-American Lake Campus, 9600 Veterans Dr., Tacoma, WA; 4:30 p.m. to 6:30 p.m., conducting a Town Hall Meeting at Building 9 (Auditorium), VA Puget Sound HCS-American Lake Division, 9600 Veterans Dr., Tacoma, WA; and

On April 23, from 8:00 a.m. to 4:45 p.m., at the VA Puget Sound HCS, 1660 South Columbian Way, Seattle, WA.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans, to assess the needs of minority Veterans and to evaluate whether VA compensation and pension, medical and rehabilitation services, memorial services outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities subsequent to the meeting.

On the morning of April 21 from 8:00 a.m. to 11:00 a.m., the Committee will meet in open session with key staff at the VA Puget Sound Health Care System to discuss services, benefits, delivery challenges, and successes. From 11:00 a.m. to 12:00 p.m., the Committee will convene a closed session in order to protect patient privacy as the Committee tours the VA Medical Center. In the afternoon from 1:30 p.m. to 3:00 p.m., the Committee will reconvene in a closed session in order to protect privacy of claims records as the Committee is briefed by senior Veterans Benefits Administration staff from the Seattle Regional Benefit Office. The Committee will travel to the Seattle Vet Center and will convene a closed session to meet with key staff at the Seattle Vet Center in order to protect patient privacy as the Committee tours the facility.

On the morning of April 22 from 9:00 a.m. to 10:15 a.m., the Committee will convene in open session at the Tahoma National Cemetery followed by a tour of the cemetery. The Committee will meet with key staff to discuss services, benefits, delivery challenges and successes. From 11:00 a.m. to 12:00 p.m., the Committee will tour the VA Puget Sound HCS-American Lake Campus. In the afternoon from 1:45 p.m. to 3:15 p.m., the Committee will reconvene in open session to be briefed and tour the Native American Sweat Lodge—American Lake. In the evening, the Committee will hold a Veterans Town Hall meeting at Building 9 (Auditorium), VA Puget Sound HCS-American Lake Division, beginning at 4:30 p.m.

On the morning of April 23 from 8:00 a.m. to 12:00 p.m., the Committee will convene in open session at the VA Puget Sound HCS to conduct an exit briefing with leadership from the VA Puget Sound HCS, Seattle Regional Benefit Office, and Tahoma National Cemetery. In the afternoon from 1:00 p.m. to 4:30 p.m., the Committee will work on drafting recommendations for the annual report to the Secretary.

Portions of these visits are closed to the public in accordance with 5 U.S.C. 552b(c)(6). Exemption 6 permits to Committee to close those portions of a meeting that are likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. During the closed sessions the Committee will discuss VA beneficiary and patient information in which there is a clear unwarranted invasion of the Veteran or beneficiary privacy.

Time will be allocated for receiving public comments on April 23, at 10 a.m. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come first serve basis. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official record. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority Veterans. Such comments should be sent to Ms. Juanita Mullen, Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email at *Juanita.Mullen@va.gov.* For additional information about the meeting, please contact Ms. Juanita Mullen at (202) 461–6199.

Dated: March 17, 2015.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2015–06423 Filed 3–19–15; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Southwest Pacific Ocean, East of New Zealand, May to June 2015; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD727

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Southwest Pacific Ocean, East of New Zealand, May to June 2015

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the Scripps Institution of Oceanography (SIO), on behalf of SIO and the U.S. National Science Foundation (NSF), for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a low-energy marine geophysical (seismic) survey in the Southwest Pacific Ocean, East of New Zealand, May to June 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to SIO to incidentally harass, by Level B harassment only, 32 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than April 20, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Goldstein@noaa.gov.* Please include 0648–XD727 in the subject line. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to: *http://www.nmfs.noaa.gov/pr/permits/incidental/* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the IHA application may be obtained by writing to the address specified above, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.* Documents cited in this notice may also be viewed by appointment, during regular business hours, at the aforementioned address.

A ''Draft Environmental Analysis of a Low-Energy Marine Geophysical Survey by the R/V *Roger Revelle* in the Southwest Pacific Ocean, East of New Zealand, May to June 2015'' (Draft Environmental Analysis) in accordance with the National Environmental Policy Act (NEPA) and the regulations published by the Council of Environmental Quality (CEQ), has been prepared on behalf of NSF and SIO. It is posted at the foregoing site. NMFS has independently evaluated the Draft Environmental Analysis and has prepared a separate NEPA analysis titled ''Draft Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the Scripps Institution of Oceanography to Take Marine Mammals by Harassment Incidental to a Low-Energy Marine Geophysical Survey in the Southwest Pacific Ocean, East of New Zealand, May to June 2015.'' Information in the SIO's IHA application, Draft Environmental Analysis, Draft EA and this notice of the proposed IHA collectively provide the environmental information related to proposed issuance of the IHA for public review and comment. NMFS will review all comments submitted in response to this notice as we complete the NEPA process, including a decision of whether to sign a Finding of No Significant Impact (FONSI), prior to a final decision on the IHA request.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's review of an application, followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On December 15, 2014, NMFS received an application from SIO, on behalf of SIO and NSF, requesting that NMFS issue an IHA for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a low-energy marine seismic survey as well as heat-flow measurements in the Southwest Pacific Ocean, at three sites off the east coast of New Zealand, during May to June 2015. The sediment coring component of the proposed project, which was described in the IHA application and Draft Environmental Analysis, was not funded and no piston or gravity coring for seafloor samples would be

conducted during the low-energy seismic survey. The low-energy seismic survey would take place within the Exclusive Economic Zone (EEZ) and outside the territorial waters of New Zealand. On behalf of SIO, the U.S. Department of State is seeking authorization from New Zealand for clearance to work within the EEZ.

The research would be conducted by Oregon State University and funded by the U.S. National Science Foundation (NSF). SIO plan to use one source vessel, the R/V *Roger Revelle* (*Revelle*), and a seismic airgun array and hydrophone streamer to collect seismic data in the Southwest Pacific Ocean, East of New Zealand. SIO plans to use conventional low-energy, seismic methodology to perform marine-based studies in the Southwest Pacific Ocean (see Figure 1 of the IHA application). The studies would involve a low-energy seismic survey and heat-flow measurements from the seafloor to meet a number of research goals. In addition to the proposed operations of the seismic airgun array and hydrophone streamer, SIO intends to operate two additional acoustical data acquisition systems—a multi-beam echosounder and sub-bottom profiler continuously throughout the low-energy seismic survey.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array have the potential to cause behavioral disturbance for marine mammals in the proposed study area. This is the principal means of marine mammal taking associated with these activities, and SIO have requested an authorization to take 32 species of marine mammals by Level B harassment. Take is not expected to result from the use of the multi-beam echosounder and sub-bottom profiler, as the brief exposure of marine mammals to one pulse, or small numbers of signals, to be generated by these instruments in this particular case is not likely to result in the harassment of marine mammals. Also, NMFS does not expect take to result from collision with the source vessel because it is a single vessel moving at a relatively slow, constant cruise speed of 5 knots ([kts]; 9.3 kilometers per hour [km/hr]; 5.8 miles per hour [mph]) during seismic acquisition within the study area, for a relatively short period of time (approximately 27 operational days). It is likely that any marine mammal would be able to avoid the vessel.

Description of the Proposed Specified Activity

Overview

SIO proposes to use one source vessel, the *Revelle,* a two GI airgun array and one hydrophone streamer to conduct the conventional seismic survey as part of the NSF-funded research project ''Collaborative Research: The Thermal Regime of the Hikurangi Subduction Zone and Shallow Slow Slip Events, New Zealand.'' In addition to the airguns, SIO intends to conduct a bathymetric survey and heat-flow measurements at three sites off the southwest coast of North Island and northeast coast of South Island, New Zealand from the *Revelle* during the proposed low-energy seismic survey.

Proposed Dates and Duration

The *Revelle* is expected to depart from Auckland, New Zealand on approximately May 18, 2015 and arrive at Napier, New Zealand on approximately June 18, 2015. Airgun operations would take approximately 135 hours in total, and the remainder of the time would be spent in transit and collecting heat-flow measurements and cores. The total distance the *Revelle* would travel in the region to conduct the proposed research activities (*i.e.,* seismic survey, bathymetric survey, and transit to heat-flow measurement locations) represents approximately 2,000 km (1,079.9 nmi). Some minor deviation from this schedule is possible, depending on logistics and weather (*e.g.,* the cruise may depart earlier or be extended due to poor weather; or there could be additional days of airgun operations if collected data are deemed to be of substandard quality).

Proposed Specified Geographic Region

The proposed project and survey sites are located off the southeast coast of North Island and northeast coast of the South Island, New Zealand in selected regions of the Southwest Pacific Ocean. The proposed survey sites are located between approximately 38.5 to 42.5° South and approximately 174 to 180° East off the east coast of New Zealand, in the EEZ of New Zealand and outside of territorial waters (see Figure 1 of the IHA Application). Water depths in the study area are between approximately 200 to 3,000 m (656.2 to 9,842.5 ft). The proposed low-energy seismic survey would be collected in a total of nine grids of intersecting lines of two sizes (see Figure 1 of the IHA application) at exact locations to be determined in the field during May to June 2015. Figure 1 also illustrates the general bathymetry of the proposed study area. The proposed low-energy seismic survey would be within an area of approximately 1,154 km^2 (336.5 nmi^2). This estimate is based on the maximum number of kilometers for the low-energy seismic survey (1,250 km) multiplied by the area ensonified around the planned tracklines (2 x 0.6 km in intermediate water depths and 2 x 0.4 km in deep water depths). The ensonified area is based on the predicted rms radii (m) based on modeling and empirical measurements (assuming 100% use of the two 45 in^3 GI airguns in 100 to 1,000 m or greater than 1,000 m water depths), which was calculated to be 600 m (1,968.5 ft) or 400 m (1,312.3 ft).

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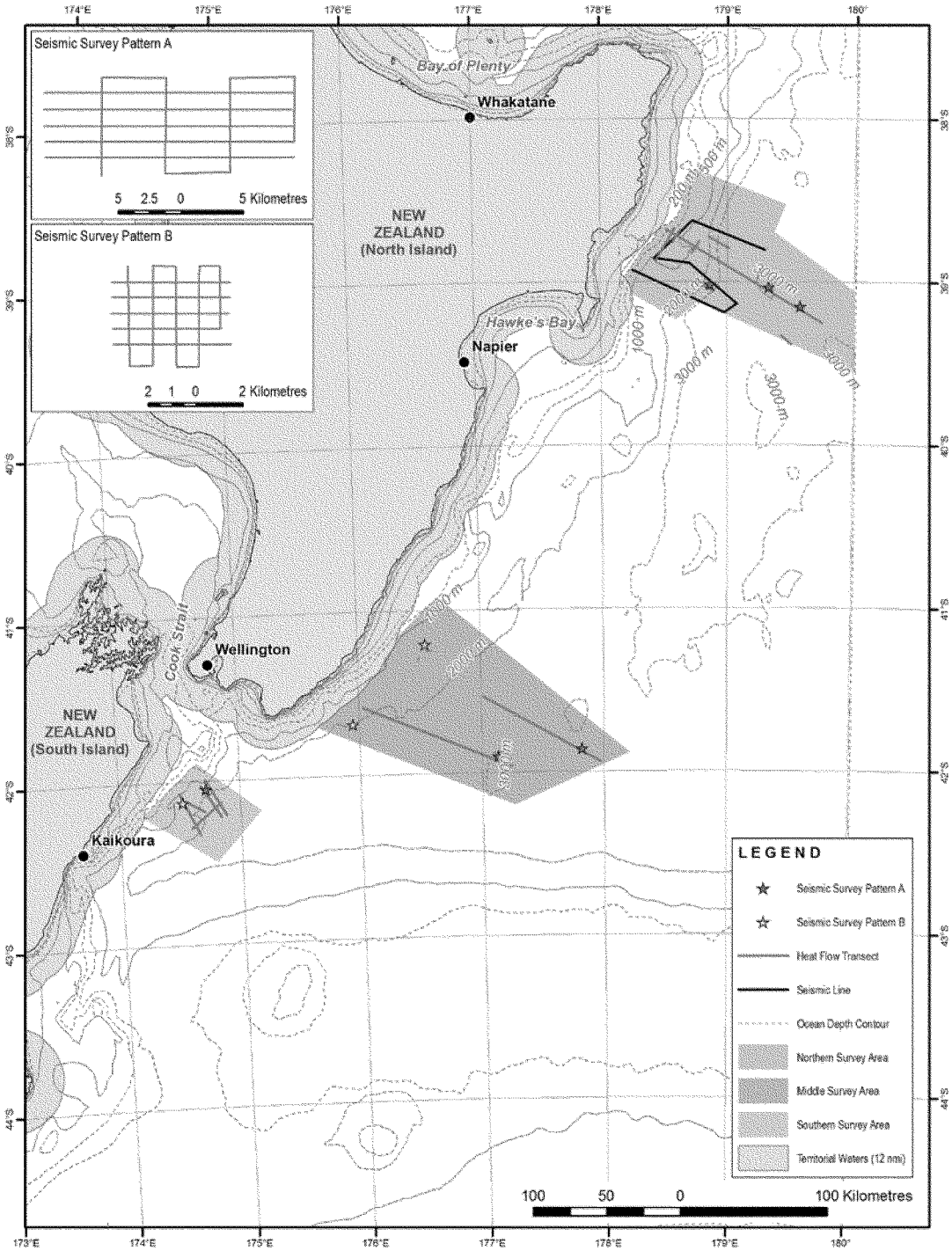
Figure 1. Locations of the proposed low-energy seismic survey and heat-flow probe measurement sites east of New Zealand, May to June 2015.



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Detailed Description of the Proposed Specified Activity

In support of a research project put forward by Oregon State University (OSU) and to be funded by NSF, SIO proposes to conduct a low-energy seismic survey in the Southwest Pacific Ocean, East of New Zealand, from May to June 2015. In addition to the low-energy seismic survey, scientific research activities would include conducting a bathymetric profile survey of the seafloor using transducer-based instruments such as a multi-beam echosounder and sub-bottom profiler; and heat-flow measurements from the seafloor using various methods and equipment at three sites off the southeast coast of North Island and northeast coast of South Island, New Zealand. Water depths in the survey area are approximately 200 to 3,000 meters (m) (656.2 to 9,842.5 feet [ft]).

The proposed low-energy seismic survey is scheduled to occur for a total of approximately 135 hours over the course of the entire cruise, which would be for approximately 27 operational days in May to June 2015. The proposed low-energy seismic survey would be conducted during the day (from nautical twilight-dawn to nautical twilight-dusk) and night, and for up to approximately 72 hours of continuous operations at a time. The operation hours and survey length would include equipment testing, ramp-up, line changes, and repeat coverage. Some minor deviation from these dates would be possible, depending on logistics and weather. The Principal Investigators are Dr. R. N. Harris and Dr. A. Trehu of the OSU.

The proposed surveys would allow the development of a process-based understanding of the thermal structure of the Hikurangi subduction zone, and the expansion of this understanding by using regional observations of gas hydrate-related bottom simulating reflections. To achieve the proposed project's goals, the Principal Investigators propose to collect low-energy, high-resolution multi-channel system profiles, heat-flow measurements, and sediment cores along transects seaward and landward of the Hikurangi deformation front. Heat-flow measurements would be made in well-characterized sites, increasing the number of publicly available heat-flow and thermal conductivity measurements from this continental margin by two orders of magnitude. Seismic survey data would be used to produce sediment structural maps and seismic velocities to achieve the project objectives. Data from sediment cores would detect and estimate the nature and sources of fluid flow through high permeability pathways in the overriding plate and along the subduction thrust; characterize the hydrocarbon and gas hydrate system to assist with estimates of heat flow from Bottom Simulating Reflectors (BSR)s, their role in slope stability, and fluid source; and elucidate the response of microbes involved in carbon cycling to changes in methane flux.

The low-energy seismic survey would be collected in a total of 9 grids of intersecting lines of two sizes (see Figure 1 of the IHA application) at exact locations to be determined in the field. The water depths would be very similar to those at the nominal survey locations shown in Figure 1 of the IHA application. The northern and middle sites off the North Island would be the primary study areas, and the southern site off the South Island would be a contingency area that would only be surveyed if time permits. SIO's calculations assume that 7 grids at the primary areas and two grids at the southern site would be surveyed. The total trackline distance of the low-energy seismic survey would be approximately 1,250 km (including the two South Island contingency sites), almost all in water depths greater than 1,000 m.

The procedures to be used for the survey would be similar to those used during previous low-energy seismic surveys by SIO and NSF and would use conventional seismic methodology. The proposed survey would involve one source vessel, the *Revelle.* SIO would deploy a two Sercel Generator Injector (GI) airgun array (each with a discharge volume of 45 in^3 [290.3 cm^3], in one string, with a total volume of 90 in^3 [580.6 cm^3]) as an energy source, at a tow depth of up to 2 m (6.6 ft) below the surface (more information on the airguns can be found in SIO's IHA application). The airguns in the array would be spaced approximately 8 m (26.2 ft) apart and 21 m (68.9 ft) astern of the vessel. The receiving system would consist of one 600 m (1,968.5 ft) long, 48-channel hydrophone streamer(s) towed behind the vessel. Data acquisition is planned along a series of predetermined lines, almost all (approximately 95%) of which would be in water depths greater than 1,000 m. As the GI airguns are towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals and transfer the data to the onboard processing system. The seismic surveys would be conducted while the heat-flow probe is being recharged. All planned seismic data acquisition activities would be conducted by technicians provided by SIO, with onboard assistance by the scientists who have proposed the study. The vessel would be self-contained, and the crew would live aboard the vessel for the entire cruise.

The planned seismic survey (including equipment testing, start-up, line changes, repeat coverage of any areas, and equipment recovery) would consist of approximately 1,250 kilometers (km) (674.9 nautical miles [nmi]) of transect lines (including turns) in the study area in the Southwest Pacific Ocean (see Figures 1 of the IHA application). Approximately 95% of the low-energy seismic survey would occur in water depths greater than 1,000 m. In addition to the operation of the airgun array and heat-flow measurements, a multi-beam echosounder and a sub-bottom profiler would also likely be operated from the *Revelle* continuously throughout the cruise. There would be additional airgun operations associated with equipment testing, ramp-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In SIO's estimated take calculations, 25% has been added for those additional operations.

TABLE 1—PROPOSED LOW-ENERGY SEISMIC SURVEY ACTIVITIES IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND

Survey length (km)	Total duration (hr) [1]	Airgun array total volume	Time between airgun shots (distance)	Streamer length (m)
1,250 (674.9 nmi)	~135	2 × 45 = 90 in^3 (2 × 1474.8 cm^3)	6 to 10 seconds (18.5 to 31 m or 60.7 to 101.7 ft).	600 (1,968.5 ft)

[1] Airgun operations are planned for no more than approximately 72 continuous hours at a time.

Vessel Specifications

The *Revelle,* a research vessel owned by the U.S. Navy and operated by SIO of the University of California San Diego, would tow the two GI airgun array, as well as the hydrophone streamer. When the *Revelle* is towing the airgun array and the relatively short hydrophone streamer, the turning rate of the vessel while the gear is deployed is approximately 20 degrees per minute, which is much higher than the limit of 5 degrees per minute for a seismic vessel towing a streamer of more typical length (much greater than 1 km [0.5 nmi]). Thus, the maneuverability of the vessel would not be limited much during operations with the streamer.

The U.S.-flagged vessel, built in 1996, has a length of 83 m (272.3 ft); a beam of 16.0 m (52.5 ft); a maximum draft of 5.2 m (19.5 ft); and a gross tonnage of 3,180. The ship is powered by two 3,000

horsepower (hp) Propulsion General Electric motors) and a 1,180 hp azimuthing jet bowthruster. The GI airgun compressor onboard the vessel is manufactured by Price Air Compressors. The *Revelle's* operation speed during seismic acquisition is typically approximately 9.3 km/hr (5 kts) (varying between 7.4 to 11.1 km/hr [4 to 6 kts]). When not towing seismic survey gear, the *Revelle* typically cruises at 22.2 to 23.1 km/hr (12 to 12.5 kts) and has a maximum speed of 27.8 km/hr (15 kts). The *Revelle* has an operating range of approximately 27,780 km (15,000 nmi) (the distance the vessel can travel without refueling), which is approximately 70 to 75 days. The vessel can accommodate 37 scientists and 22 crew members.

The vessel also has two observation station locations from which Protected Species Observers (PSO) would watch for marine mammals before and during the proposed airgun operations on the *Revelle.* Observing stations would be at the 02 level, with a PSO's eye level approximately 10.4 m (34 ft) above sea level—one forward on the 02 deck commanding a forward-centered, approximately 240° view around the vessel, and one atop the aft hangar, with an aft-centered view that includes the radii around the airguns. The eyes on the bridge watch would be at a height of approximately 15 m (49 ft); PSOs would work on the enclosed bridge and adjoining aft steering station during any inclement weather. More details of the *Revelle* can be found in the IHA application and online at: *https://scripps.ucsd.edu/ships/revelle.*

Acoustic Source Specifications—Seismic Airguns

The *Revelle* would deploy an airgun array, consisting of two 45 in^3 Sercel GI airguns as the primary energy source and a 600 m streamer(s) containing hydrophones. The airgun array would have a supply firing pressure of 1,750 pounds per square inch (psi). Seismic pulses for the GI airguns would be emitted at intervals of approximately 6 to 10 seconds. There would be a maximum of approximately 360 shots per hour. The number of shots per hour would vary based upon the vessel speed over ground during the low-energy seismic survey. During firing, a brief (approximately 20 millisecond) pulse sound would be emitted; the airguns would be silent during the intervening periods. The dominant frequency components would range from 0 to 188 Hertz (Hz).

The GI airguns would fire the compressed air volume in unison in ''true GI'' mode. The GI airguns would be used in ''true GI'' mode, that is, the volume of the injector chamber (I) (105 in^3 [1721 cm^3]) of each GI airgun is greater to that of its generator chamber (G) (45 in^3 [737 cm^3]) for each airgun. The generator chamber of each GI airgun (45 in^3) would be the primary source and the one responsible for introducing the sound pulse into the ocean. The larger (105 in^3) injector chamber injects air into the previously-generated bubble to maintain its shape, and would not introduce more sound into the water. The two GI airguns would be spaced approximately 8 m (26.2 ft) apart, side-by-side, 21 m (68.9 ft) behind the *Revelle,* at a depth of up to 2 m during the low-energy seismic survey.

The Nucleus modeling software used at Lamont-Doherty Earth Observatory of Columbia University (L–DEO) does not include GI airguns as part of its airgun library, however signatures and mitigation models have been obtained for two 45 in^3 G airguns that are close approximations. For the two 45 in^3 airgun array, the source output (downward) is 230.6 dB re 1 μPam 0-to-peak and 235.8 dB re 1 μPam for peak-to-peak. The dominant frequency range would be 0 to 188 Hz for a pair of GI airguns towed at 2 m depth.

During the low-energy seismic survey, the vessel would attempt to maintain a constant cruise speed of approximately 5 knots. The airguns would operate continuously for no more than approximately 72 hours at a time based on operational constraints. The total duration of the airgun operations would not exceed 135 hours. The relatively short, 48-channel hydrophone streamer would provide operational flexibility to allow the low-energy seismic survey to proceed along the designated cruise tracklines. The design of the seismic equipment is to achieve high-resolution images with the ability to correlate to the ultra-high frequency sub-bottom profiling data and provide cross-sectional views to pair with the seafloor bathymetry.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re 1 μPa. SPL (in decibels [dB]) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-to-peak (p-p), or the root mean square (rms). Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take the duration of a sound into account.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water, which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor, and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal downward-directed source levels of the airgun arrays used by SIO on the *Revelle* do not represent actual sound levels that can be measured at any location in the water. Rather, they represent the level that would be found 1 m (3.3 ft) from a hypothetical point source emitting the same total amount of sound as is emitted by the combined GI airguns. The actual received level at any location in the water near the GI airguns would not exceed the source level of the strongest individual source. In this case, that would be about 224.6 dB re 1 μPam peak or 229.8 dB re 1 μPam peak-to-peak for the two 45 in^3 airgun array. However, the difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors. Actual levels experienced by any organism more than 1 m from either GI airgun would be significantly lower.

Accordingly, L–DEO has predicted and modeled the received sound levels in relation to distance and direction from the two GI airgun array. These are the nominal source levels applicable to downward propagation. A detailed description of L–DEO's modeling for this survey's marine seismic source arrays for protected species mitigation is provided in the ''Programmatic

Environmental Impact Statement/ Overseas Environmental Impact Statement prepared for Marine Seismic Research that is funded by the National Science Foundation and conducted by the U.S. Geological Survey'' (NSF/USGS PEIS, 2011). The NSF/USGS PEIS discusses the characteristics of the airgun pulses. NMFS refers the reviewers to that document for additional information.

Predicted Sound Levels for the Airguns

To estimate takes and determine mitigation (*i.e.,* buffer and exclusion) zones for the airgun array to be used, received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 in^3 G airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Because the model results are for G airguns, which have more energy than GI airguns of the same size, those distances overestimate (by approximately 10%) the distances for the two 45 in^3 GI airguns. Although the distances are overestimated, no adjustments for this have been made to the radii distances in Table 2 (below). Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received in intermediate and deep water are shown in Table 2 (see Table 1 of the IHA application).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern Gulf of Mexico (GOM) in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010). Results of the 18 and 36 airgun array are not relevant for the two GI airguns to be used in the proposed low-energy seismic survey because the airgun arrays are not the same size or volume. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). For the two G airgun array, measurements were obtained only in shallow water. When compared to measurements in acquired in deep water, mitigation radii provided by the L–DEO model for the proposed airgun operations were found to be conservative. The acoustic verification surveys also showed that distances to given received levels vary with water depth; these are larger in shallow water, while intermediate/slope environments show characteristics intermediate between those of shallow water and those of deep water environments, and documented the influence of a sloping seafloor. The only measurements obtained for intermediate depths during either survey were for the 36-airgun array in 2007 to 2008 (Diebold *et al.,* 2010). Following results obtained at this site and earlier practice, a correction factor of 1.5, irrespective of distance to the airgun array, is used to derive intermediate-water radii from modeled deep-water radii.

Measurements were not made for a two GI airgun array in intermediate and deep water; however, SIO proposes to use the buffer and exclusion zones predicted by L–DEO's model for the proposed GI airgun operations in intermediate and deep water, although they are likely conservative given the empirical results for the other arrays. Using the L–DEO model, Table 2 (below) shows the distances at which three rms sound levels are expected to be received from the two GI airguns. The 160 dB re 1 μPam (rms) isopleth is the threshold specified by NMFS for potential Level B (behavioral) harassment from impulsive noise for both cetaceans and pinnipeds. The 180 and 190 dB re 1 μPam (rms) isopleths are the thresholds currently used to estimate potential Level A harassment as specified by NMFS (2000) and are applicable to cetaceans and pinnipeds, respectively. Table 2 summarizes the predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the two airgun array (each 45 in^3) operating in intermediate water (100 to 1,000 m [328.1 to 3,280 ft]) and deep water (>1,000 m) depths.

TABLE 2—PREDICTED AND MODELED (TWO 45 IN^3 GI AIRGUN ARRAY) DISTANCES TO WHICH SOUND LEVELS ≥160, 180, AND 190 dB RE 1 μPA (rms) COULD BE RECEIVED IN INTERMEDIATE AND DEEP WATER DURING THE PROPOSED LOW-ENERGY SEISMIC SURVEY IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND, MAY TO JUNE 2015

Source and total volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m) for 2 GI airgun array		
			160 dB	180 dB	190 dB
Two 45 in^3 GI Airguns (90 in^3).	2	Intermediate (100 to 1,000).	600 (1,968.5 ft)	100 (328.1 ft)	15 (49.2 ft) *100 would be used for pinnipeds as described in NSF/USGS PEIS*
Two 45 in^3 GI Airguns (90 in^3).	2	Deep (>1,000)	400 (1,312.3 ft)	100 (328.1 m)	10 (32.8 ft) *100 would be used for pinnipeds as described in NSF/USGS PEIS*

Based on the NSF/USGS PEIS and Record of Decision, for situations which incidental take of marine mammals is anticipated, proposed exclusion zones of 100 m for cetaceans and pinnipeds for all low-energy acoustic sources in water depths greater than 100 m would be implemented.

NMFS expects that acoustic stimuli resulting from the proposed operation of the two GI airgun array has the potential to harass marine mammals. NMFS does not expect that the movement of the *Revelle,* during the conduct of the low-energy seismic survey, has the potential to harass marine mammals because the relatively slow operation speed of the vessel (approximately 5 kts; 9.3 km/hr; 5.8 mph) during seismic data acquisition should allow marine mammals to avoid the vessel.

Bathymetric Survey

Along with the low-energy airgun operations, two additional geophysical (detailed swath bathymetry) measurements focused on a specific study area within the Southwest Pacific Ocean would be made using hull-mounted sonar system instruments from the *Revelle* for operational and navigational purposes. The ocean floor would be mapped with the Kongsberg EM 122 multi-beam echosounder and a Knudsen Chirp 3260 sub-bottom profiler. During bathymetric survey operations, when the vessel is not towing seismic equipment, its average speed would be approximately 10.1 kts (18.8 km/hr). In cases where higher resolution bathymetric data is sought, the average speed may be as low as 5 kts (9.3 km/hr). These sound sources would be operated continuously from the *Revelle* throughout the cruise. Operating

characteristics for the instruments to be used are described below.

Multi-Beam Echosounder (Kongsberg EM 122)—The hull-mounted multi-beam sonar would be operated continuously during the cruise to map the ocean floor. This instrument would operate at a frequency of 10.5 to 13 (usually 12) kilohertz (kHz) and would be hull-mounted. The transmitting beamwidth would be 1 or 2° fore to aft and 150° athwartship (cross-track). The estimated maximum source energy level would be 242 dB re 1μPa (rms). Each 'ping' of eight (in water greater than 1,000 m or four (in water less than 1,000 m) successive fan-shaped transmissions, each ensonifying a sector that extends 1° fore to aft. Continuous-wave signals increase from 2 to 15 milliseconds (ms) in water depths up to 2,600 m (8,530 ft), and FM chirp signals up to 100 ms long would be used in water greater than 2,600 m. The successive transmission span an overall cross-track angular extent of about 150°, with 2 ms gaps between the pings for successive sectors.

Sub-Bottom Profiler—The *Revelle* would operate a Knudsen 3260 sub-bottom profiler continuously throughout the cruise simultaneously to map and provide information about the seafloor sedimentary features and bottom topography that is mapped simultaneously with the multi-beam echosounder. The beam of the sub-bottom profiler would be transmitted as a 27° cone, directed downward by a 3.5 kHz transducer in the hull of the *Revelle*. The nominal power output would be 10 kilowatt (kW), but the actual maximum radiated power would be 3 kW or 222 dB (rms). The ping duration would be up to 64 ms, and the ping interval would be 1 second. A common mode of operation is a broadcast five pulses at 1 second intervals followed by a 5 second pause. The sub-bottom profiler would be capable of reaching depths of 10,000 m (32,808.4 ft).

Acoustic Locator (Pinger)—A pinger would be deployed with certain instruments and equipment (*e.g.,* heat-flow probe) so these devices can be located in the event they become detached from their lines. The pinger used in the heat-flow measurement activities would be the Datasonics model BFP–312HP. A pinger typically operates at a frequency of 32.8 kHz, generates a 5 ms pulse per second (10 pulses over a 10 second period), and has an acoustical output of 210 dB re 1 μPa (rms). The pinger would be used during heat-flow measurement operations only. It would operate continuously during each heat-flow probe deployment. Each heat-flow probe measurement would last approximately 24 hours.

Heat-Flow Probe Deployment

Heat-flow measurements would be made using a ''violin-bow'' probe with 11 thermistors that provides real time (analog) telemetry of the thermal gradient and in-situ thermal conductivity. The heat-flow probe that would be used on the Revelle consists of a lance 6 centimeter (cm) (2.4 in) in diameter and 3.5 m (11.5 ft) long, a sensor tube housing thermistors and heater wires, and a 560 kg (1,234.6 lb) weight stand. The probe would be lowered to the bottom, and a 12 kHz pinger attached to the wire approximately 50 m (164 ft) above the instrument would monitor the distance between the probe and bottom. The probe would be driven into the sediment by gravity, and temperatures within the sediment would be measured with equally spaced thermistors. On completion of a measurement, the instrument would be hoisted 100 to 500 m (328.1 to 1,640.4 ft) above the sediment, the ship is maneuvered to a new position, and the process is repeated. Heat-flow measurements can generally be made at a rate of 1 to 2 hours per measurement, approximately 15 minutes for the actual measurement and 45 to 90 minutes to reposition the ship and probe. Internal power allows 20 to 24 measurements during a single lowering of the tool, with profiles lasting as long as 48 hours. Proposed heat-flow measurements would have a nominal spacing of 0.5 to 1 km (0.3 to 0.5 nmi), which would be decreased in areas of significant basement relief or of large changes in gradient. Heat flow transect locations are shown in Figure 1 of the IHA application, and details of the probe and its deployment are given in Section (f) of the IHA application. In total, approximately 200 heat-flow measurements would be made.

Description of the Marine Mammals in the Specified Geographic Area of the Proposed Specified Activity

Few scientific systematic surveys for marine mammals have been conducted in the waters of New Zealand, and these mainly consist of single-species surveys in shallow coastal waters (*e.g.,* Dawson *et al.,* 2004; Slooten *et al.,* 2004, 2006). Large-scale, multi-species marine mammal surveys are lacking. Various sources for data on sightings in the proposed study area were used to describe the occurrence of marine mammals in the waters of New Zealand, such as opportunistic sighting records presented in previous reports (including the New Zealand Department of Conservation marine mammals sighting database) considered in evaluating potential marine mammals in the proposed action area.

New Zealand is considered a ''hotspot'' for marine mammal species richness (Kaschner *et al.,* 2011). The marine mammals that generally occur in the proposed action area belong to three taxonomic groups: Mysticetes (baleen whales), odontocetes (toothed whales), and pinnipeds (seals and sea lions). The marine mammal species that could potentially occur within the Southwest Pacific Ocean in proximity to the proposed action area East of New Zealand include 30 species of cetaceans (21 odontocetes and 9 mysticetes) and 2 species of pinnipeds (32 total species of marine mammals).

Marine mammal species likely to be encountered in the proposed study area that are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), includes the southern right (*Eubalaena australis*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whale. The Maui's dolphin (*Cephalorhynchus hectori maui*) and New Zealand sea lion (*Phocartos hookeri*) are two other species are ranked as ''nationally critical'' in New Zealand (Baker *et al.,* 2010). Maui's dolphin is only found along the west coast of the North Island. The northern range of the New Zealand sea lion is not expected to extend to the proposed study area based on New Zealand's National Aquatic Biodiversity Information System (NABIS, 2014) and is not considered further.

In addition to the marine mammal species known to occur in the Southwest Pacific Ocean off the east coast of New Zealand, there are 18 species of marine mammals (12 cetacean and 6 pinniped species) with ranges that are known to potentially occur in the waters of the proposed study area, but they are categorized as ''vagrant'' under the New Zealand Threat Classification System (Baker *et al.,* 2010). These include: Dwarf sperm whale (*Kogia sima*), Arnoux's beaked whale (*Berardius arnouxi*), ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*), pygmy beaked whale (*Mesoplodon peruvianis*), Type B, C, and D killer whale (*Orcinus orca*), melon-headed whale (*Peponocephala electra*), Risso's dolphin (*Grampus griseus*), Fraser's dolphin (*Lagenodelphis hosei*), pantropical spotted dolphin (*Stenella attenuata*), striped dolphin (*Stenella coeruleoalba*), rough-toothed dolphin (*Steno bredanensis*), spectacled

porpoise (*Phocoena dioptrica*), Antarctic fur seal (*Arctocephalus gazelle*), Subantarctic fur seal (*Arctocephalus tropicalis*), crabeater seal (*Lobodon carcinophagus*), leopard seal (*Hydrurga leptonyx*), Ross seal (*Ommatophoca rossi*), and Weddell seal (*Leptonychotes weddellii*). According to Jefferson *et al.* (2008), the distributional range of Hubb's beaked whale (*Mesoplodon carlhubbsi*) and True's beaked whale (*Mesoplodon mirus*) may also include New Zealand waters. There are no records of Hubb's beaked whale in New Zealand, and only a single record of True's beaked whale, which stranded on the west coast of South Island in November 2011 (Constantine *et al.,* 2014). The spinner dolphin's (*Stenella longirostris*) range includes tropical and subtropical zones 40° North to 40° South, but would be considered vagrant as well. However, these species are not expected to occur where the proposed activities would take place. These species are not considered further in this document. Table 3 (below) presents information on the habitat, occurrence, distribution, abundance, population, and conservation status of the species of marine mammals that may occur in the proposed study area during May to June 2015.

TABLE 3—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND

[See text and tables 2 in SIO's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Mysticetes						
Southern right whale (*Eubalaena australis*).	Coastal, shelf, pelagic.	Common	Circumpolar 20 to 55° South.	8,000 [3] to 15,000 [4]—Worldwide 12,000 [12]—Southern Hemisphere 2,700 [12]—Sub-Antarctic New Zealand.	EN	D
Pygmy right whale (*Caperea marginata*).	Pelagic and coastal.	Rare	Circumpolar 30 to 55° South.	NA	NL	NC
Humpback whale (*Megaptera novaeangliae*).	Pelagic, nearshore waters, and banks.	Common	Cosmopolitan Migratory	35,000 to 42,000 [3 12]—Southern Hemisphere.	EN	D
Minke whale (*Balaenoptera acutorostrata* including dwarf sub-species).	Pelagic and coastal.	Uncommon ..	Circumpolar—Southern Hemisphere to 65° South.	720,0000 to 750,000 [12 14 15]—Southern Hemisphere.	NL	NC
Antarctic minke whale (*Balaenoptera bonaerensis*).	Pelagic, ice floes, coastal.	Uncommon ..	7° South to ice edge (usually 20 to 65° South).	720,000 to 750,000 [12 14 15]—Southern Hemisphere.	NL	NC
Bryde's whale (*Balaenoptera edeni*).	Pelagic and coastal.	Rare	Circumglobal—Tropical and Subtropical Zones.	At least 30,000 to 40,000 [3]—Worldwide 21,000 [12]—Northwestern Pacific Ocean 48,109 [13].	NL	NC
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic.	Uncommon ..	Migratory, Feeding Concentration 40 to 50° South.	80,000 [3]—Worldwide 10,000 [14]—South of Antarctic Convergence.	EN	D
Fin whale (*Balaenoptera physalus*).	Continental slope, pelagic.	Uncommon ..	Cosmopolitan, Migratory ..	140,000 [3]—Worldwide 15,000 [14]—South of Antarctic Convergence.	EN	D
Blue whale (*Balaenoptera musculus;* including pygmy blue whale [*Balaenoptera musculus brevicauda*]).	Pelagic, shelf, coastal.	Uncommon ..	Migratory Pygmy blue whale—North of Antarctic Convergence 55° South.	8,000 to 9,000 [3]—Worldwide 2,300 [12]—True Southern Hemisphere 1,500 [14]—Pygmy.	EN	D
Odontocetes						
Sperm whale (*Physeter macrocephalus*).	Pelagic, deep sea	Common	Cosmopolitan, Migratory ...	360,000 [3]—Worldwide 30,000 [13]—South of Antarctic Convergence.	EN	D
Dwarf sperm whale (*Kogia sima*).	Shelf, Pelagic	Vagrant	Circumglobal—Tropical and Temperate Zones.	NA	NL	NC
Pygmy sperm whale (*Kogia breviceps*).	Shelf, Pelagic	Uncommon ..	Circumglobal—Temperate Zones.	NA	NL	NC
Arnoux's beaked whale (*Berardius arnuxii*).	Pelagic	Vagrant	Circumpolar in Southern Hemisphere, 24 to 78° South.	NA	NL	NC
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic	Uncommon ..	Cosmopolitan	600,000 [14 16]	NL	NC
Southern bottlenose whale (*Hyperoodon planifrons*).	Pelagic	Rare	Circumpolar—30° South to ice edge.	500,000 [3]—South of Antarctic Convergence 600,000 [14 16].	NL	NC
Shepherd's beaked whale (*Tasmacetus shepherdi*).	Pelagic	Rare	Circumpolar—Cold temperate waters Southern Hemisphere.	600,000 [14 16]	NL	NC

TABLE 3—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND—Continued

[See text and tables 2 in SIO's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Andrew's beaked whale (*Mesoplodon bowdoini*).	Pelagic	Rare	Circumpolar—temperate waters of Southern Hemisphere, 32 to 55° South.	600,000 [14 16]	NL	NC
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic	Rare	Circumglobal—tropical and temperate waters.	600,000 [14 16]	NL	NC
Ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*).	Pelagic	Vagrant	Tropical and Temperate waters—Indo-Pacific Ocean.	NA	NL	NC
Gray's beaked whale (*Mesoplodon grayi*).	Pelagic	Common	30° South to Antarctic waters.	600,000 [14 16]	NL	NC
Hector's beaked whale (*Mesoplodon hectori*).	Pelagic	Rare	Circumpolar—cool temperate waters of Southern Hemisphere.	600,000 [14 16]	NL	NC
Hubb's beaked whale (*Mesoplodon carlhubbsi*).	Pelagic	Vagrant	North Pacific Ocean	NA	NL	NC
Pygmy beaked whale (*Mesoplodon peruvianis*).	Pelagic	Vagrant	28° North to 30° South in Pacific Ocean.	NA	NL	NC
Spade-toothed beaked whale (*Mesoplodon traversii*).	Pelagic	Rare	Circumantarctic	600,000 [14 16]	NL	NC
Strap-toothed beaked whale (*Mesoplodon layardii*).	Pelagic	Uncommon	30° South to Antarctic Convergence.	600,000 [14 16]	NL	NC
True's beaked whale (*Mesoplodon mirus*).	Pelagic	Vagrant	Anti-tropical in Northern and Southern Hemisphere.	NA	NL	NC
Killer whale (*Orcinus orca*)	Pelagic, shelf, coastal, pack ice.	Common	Cosmopolitan	80,000 [3]—South of Antarctic Convergence.	NL	NC
False killer whale (*Pseudorca crassidens*).	Pelagic, shelf, coastal.	Uncommon	Circumglobal—tropical and warmer temperate water.	NA	NL	NC
Long-finned pilot whale (*Globicephala melas*).	Pelagic, shelf, coastal.	Common	Circumpolar—19 to 68° South in Southern Hemisphere.	200,000 [3 5 14]—South of Antarctic Convergence.	NL	NC
Short-finned pilot whale (*Globicephala macrocephalus*).	Pelagic, shelf, coastal.	Uncommon	Circumglobal—50° North to 40° South.	At least 600,000 [3]—Worldwide.	NL	NC
Melon-headed whale (*Peponocephala electra*).	Pelagic, shelf, coastal.	Vagrant	Circumglocal—40° North to 35° South.	45,000 [3]—Eastern Tropical Pacific Ocean.	NL	NC
Bottlenose dolphin (*Tursiops truncatus*).	Coastal, shelf, offshore.	Common	45° North to 45° South	At least 614,000 [3]—Worldwide.	NL, *C	NC
Dusky dolphin (*Lagenorhynchus obscurus*).	Shelf, slope	Common	Temperate waters—Southern Hemisphere.	12,000 to 20,000 [17]—New Zealand.	NL	NC
Fraser's dolphin (*Lagenodelphis hosei*).	Pelagic	Vagrant	Pantropical—30° North to 30° South.	289,000 [3]—Eastern Tropical Pacific Ocean.	NL	NC
Hector's dolphin (*Cephalorhynchus hectori;* including Maui's dolphin subspecies [*C. h. maui*]).	Nearshore	Rare	Shallow coastal waters—New Zealand (Maui's dolpin—west North Island).	7,400 [17]	C	NC
Hourglass dolphin (*Lagenorhynchus cruciger*).	Pelagic, ice edge	Uncommon	33° South to pack ice	144,000 [3] to 150,000 [14]—South of Antarctic Convergence.	NL	NC
Pantropical spotted dolphin (*Stenella attenuata*).	Coastal, shelf, slope.	Vagrant	Circumglobal—40° North to 40° South.	At least 2,000,000 [3]—Worldwide.	NL	NC
Spinner dolphin (*Stenella longirostris*).	Mainly nearshore	Vagrant	Circumglobal—40° North to 40° South.	At least 1,200,000 [3]—Worldwide.	NL	NC
Striped dolphin (*Stenella coeruleoalba*).	Off continental shelf, convergence zones, upwelling.	Vagrant	Circumglobal—50 to 40 South.	At least 1,100,000 [3]—Worldwide.	NL	NC
Risso's dolphin (*Grampus griseus*).	Slope, Pelagic	Vagrant	Circumglobal—Tropical and Temperate waters.	At least 330,000 [3]—Worldwide.	NL	NC
Rough-toothed dolphin (*Steno bredanensis*).	Pelagic	Vagrant	Circumglobal—40° North to 35° South.	NA	NL	NC

TABLE 3—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND—Continued

[See text and tables 2 in SIO's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Short-beaked common dolphin (*Delphinus delphis*).	Pelagic	Common	Circumglobal—tropical and warm temperate waters.	At least 3,500,000 [3]—Worldwide.	NL	NC
Southern right whale dolphin (*Lissodelphis peronii*).	Pelagic	Uncommon	12 to 65° South	NA	NL	NC
Spectacled porpoise (*Phocoena dioptrica*).	Coastal, pelagic	Vagrant	Circumpolar—Southern Hemisphere.	NA	NL	NC
Pinnipeds						
Crabeater seal (*Lobodon carcinophaga*).	Coastal, pack ice	Vagrant	Circumpolar—Antarctic	5,000,000 to 15,000,000 [3 6]—Worldwide.	NL	NC
Leopard seal (*Hydrurga leptonyx*).	Pack ice, sub-Antarctic islands.	Vagrant	Sub-Antarctic islands to pack ice.	220,000 to 440,000 [3 7]—Worldwide.	NL	NC
Ross seal (*Ommatophoca rossii*).	Pack ice, smooth ice floes, pelagic.	Vagrant	Circumpolar—Antarctic	130,000 [3] 20,000 to 220,000 [11]—Worldwide.	NL	NC
Weddell seal (*Leptonychotes weddellii*).	Fast ice, pack ice, sub-Antarctic islands.	Vagrant	Circumpolar—Southern Hemisphere.	500,000 to 1,000,000 [3 8]—Worldwide.	NL	NC
Southern elephant seal (*Mirounga leonina*).	Coastal, pelagic, sub-Antarctic waters.	Uncommon	Circumpolar—Antarctic Convergence to pack ice.	640,000 [9] to 650,000 [3]—Worldwide 470,000—South Georgia Island [11] 607,000 [17].	NL	NC
Antarctic fur seal (*Arctocephalus gazella*).	Shelf, rocky habitats.	Vagrant	Sub-Antarctic islands to pack ice edge.	1,600,000 [10] to 3,000,000 [3]—Worldwide.	NL	NC
New Zealand fur seal (*Arctocephalus forsteri*).	Rocky habitats, sub-Antarctic islands.	Common	North and South Islands, New Zealand Southern and Western Australia.	135,000 [3]—Worldwide 50,000 to 100,000 [18]—New Zealand.	NL	NC
Subantarctic fur seal (*Arctocephalus tropicalis*).	Shelf, rocky habitats.	Vagrant	Subtropical front to sub-Antarctic islands and Antarctica.	Greater than 310,000 [3]—Worldwide.	NL	NC
New Zealand sea lion (*Phocarctos hookeri*).	Shelf, rocky habitats.	Rare	Sub-Antarctic islands south of New Zealand.	12,500 [3]	NL	NC

NA = Not available or not assessed.
* Fjordland population.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed, C = Candidate.
[2] U.S. Marine Mammal Protection Act: D = Depleted, S = Strategic, NC = Not Classified.
[3] Jefferson *et al.,* 2008.
[4] Kenney, 2009.
[5] Olson, 2009.
[6] Bengston, 2009.
[7] Rogers, 2009.
[8] Thomas and Terhune, 2009.
[9] Hindell and Perrin, 2009.
[10] Arnould, 2009.
[11] Academic Press, 2009.
[12] IWC, 2014.
[13] IWC, 1981.
[14] Boyd, 2002.
[15] Dwarf and Antarctic minke whale combined.
[16] All Antarctic beaked whales combined.
[17] New Zealand Department of Conservation.
[18] Suisted and Neale, 2004.

Refer to sections 3 and 4 of SIO's IHA application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these marine mammal species and their occurrence in the proposed action area. The IHA application also presents how SIO calculated the estimated densities for the marine mammals in the proposed study area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA.

Potential Effects of the Proposed Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.,* seismic airgun operation, vessel movement, and gear deployment) have been thought to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable avoidance). This section is intended as a background of potential effects and

does not consider either the specific manner in which this activity would be carried out or the mitigation that would be implemented, and how either of those would shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document would include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana [*Pontoporia blainvillei*], and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz;
- Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 32 marine mammal species (30 cetacean and 2 pinniped species) are likely to occur in the proposed low-energy seismic survey area. Of the 30 cetacean species likely to occur in SIO's proposed action area, 9 are classified as low-frequency cetaceans (southern right, pygmy right, humpback, minke, Antarctic minke, Bryde's, sei, fin, and blue whale), 20 are classified as mid-frequency cetaceans (sperm, Cuvier's beaked, Shepherd's beaked, southern bottlenose, Andrew's beaked, Blainville's beaked, Gray's beaked, Hector's beaked, spade-toothed beaked, strap-toothed beaked, killer, false killer, long-finned pilot, and short-finned pilot whale, and bottlenose, dusky, Hector's, hourglass, short-beaked common, and southern right whale dolphin), and 1 is classified as high-frequency cetaceans (pygmy sperm whale) (Southall *et al.,* 2007). Of the 2 pinniped species likely to occur in SIO's proposed action area, 1 is classified as phocid (southern elephant seal) and 1 is classified as otariid (New Zealand fur seal) (Southall *et al.,* 2007). A species functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, have the potential to cause Level B harassment of marine mammals in the proposed study area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007; Le Prell, 2012). Although the possibility cannot be entirely excluded, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected. A more comprehensive review of these issues can be found in the NSF/USGS PEIS (2011) and L–DEO's ''Final Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Atlantic Ocean off Cape Hatteras, September to October 2014.''

Tolerance

Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson *et al.,* 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers (Nieukirk *et al.,* 2012). Several studies have shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response. That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the marine mammal group. Although various baleen whales and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses under some conditions, at other times marine mammals of all three types have shown no overt reactions. The relative responsiveness of baleen and toothed whales are quite variable.

Masking

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.,* 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

The airguns for the proposed low-energy seismic survey have dominant frequency components of 0 to 188 Hz. This frequency range fully overlaps the lower part of the frequency range of odontocete calls and/or functional hearing (full range about 150 Hz to 180 kHz). Airguns also produce a small portion of their sound at mid and high

frequencies that overlap most, if not all, frequencies produced by odontocetes. While it is assumed that mysticetes can detect acoustic impulses from airguns and vessel sounds (Richardson *et al.,* 1995a), sub-bottom profilers, and most of the multi-beam echosounders would likely be detectable by some mysticetes based on presumed mysticete hearing sensitivity. Odontocetes are presumably more sensitive to mid to high frequencies produced by the multi-beam echosounders and sub-bottom profilers than to the dominant low frequencies produced by the airguns and vessel. A more comprehensive review of the relevant background information for odontocetes appears in Section 3.6.4.3, Section 3.7.4.3 and Appendix E of the NSF/USGS PEIS (2011).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (*e.g.,* Simard *et al.,* 2005; Clark and Gagnon, 2006) which could mask calls. Situations with prolonged strong reverberation are infrequent. However, it is common for reverberation to cause some lesser degree of elevation of the background level between airgun pulses (Gedamke, 2011; Guerra *et al.,* 2011, 2013), and this weaker reverberation presumably reduces the detection range of calls and other natural sound to some degree. Guerra *et al.* (2013) reported that ambient noise levels between seismic pulses were elevated because of reverberation at ranges of 50 km (27 nmi) from the seismic source. Based on measurements in deep water of the Southern Ocean, Gedamke (2011) estimated that the slight elevation of background levels during intervals between pulses reduced blue and fin whale communication space by as much as 36 to 51% when a seismic survey was operating 450 to 2,800 km (243 to 1,511.9 nmi) away. Based on preliminary modeling, Wittekind *et al.* (2013) reported that airgun sounds could reduce the communication range of blue and fin whales 2,000 km (1,079.9 nmi) from the seismic source. Klinck *et al.* (2012) also found reverberation effects between pulses. Nieukirk *et al.* (2012) and Blackwell *et al.* (2013) noted the potential for masking effects from seismic surveys on large whales.

Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (*e.g.,* Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004, 2012; Smultea *et al.,* 2004; Holst *et al.,* 2005a,b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the North Atlantic Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008). Cerchio *et al.* (2014) suggested that the breeding display of humpback whales off Angola could have been disrupted by seismic sounds, as singing activity declined with increasing received levels. In addition, some cetaceans are known to change their calling rates, shift their peak frequencies, or otherwise modify their vocal behavior in response to airgun sounds (Di Iorio and Clark, 2010; Castellote *et al.,* 2012; Blackwell *et al.,* 2013). Di Iorio and Clark (2009) found evidence of increased calling by blue whales during operations by a lower-energy seismic source (*i.e.,* sparker). The hearing systems of baleen whales are undoubtedly more sensitive to low-frequency sounds than are the ears of small odontocetes that have been studied directly (MacGillivary *et al.,* 2013). Dolphins and porpoises commonly are heard calling while airguns are operating (*e.g.,* Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

Pinnipeds have the most sensitive hearing and/or produce most of their sounds in frequencies higher than the dominant components of airgun sound, but there is some overlap in the frequencies of the airgun pulses and the calls. However, the intermittent nature of airgun pules presumably reduces the potential for masking.

Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior through shifting call frequencies, increasing call volume, and increasing vocalization rates. For example blue whales are found to increase call rates when exposed to noise from seismic surveys in the St. Lawrence Estuary (Di Iorio and Clark, 2009). The North Atlantic right whales (*Eubalaena glacialis*) exposed to high shipping noise increased call frequency (Parks *et al.,* 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *et al.,* 2000). In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses.

Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007; Ellison *et al.,* 2012). These behavioral reactions are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into the water from haul-outs or rookeries). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population (New *et al.,* 2013). However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, and/or reproduction. Some of these significant behavioral modifications include:

- Change in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);

• Habitat abandonment due to loss of desirable acoustic environment; and

• Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson *et al.,* 1995; Southall *et al.,* 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.,* 1995; Gordon *et al.,* 2004). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray (*Eschrichtius robustus*) and bowhead (*Balaena mysticetus*) whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson *et al.,* 1995). They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors (Malme *et al.,* 1984; Malme and Miles, 1985; Richardson *et al.,* 1995).

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re 1 μPa (rms) seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.,* 1986, 1988; Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4 to 15 km (2.2 to 8.1 nmi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies have shown that some species of baleen whales, notably bowhead, gray, and humpback whales, at times, show strong avoidance at received levels lower than 160 to 170 dB re 1 μPa (rms).

Researchers have studied the responses of humpback whales to seismic surveys during migration, feeding during the summer months, breeding while offshore from Angola, and wintering offshore from Brazil. McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16 airgun array (2,678 in^3) and to a single airgun (20 in^3) with source level of 227 dB re 1 μPa (p-p). In the 1998 study, they documented that avoidance reactions began at 5 to 8 km (2.7 to 4.3 nmi) from the array, and that those reactions kept most pods approximately 3 to 4 km (1.6 to 2.2 nmi) from the operating seismic boat. In the 2000 study, they noted localized displacement during migration of 4 to 5 km (2.2 to 2.7 nmi) by traveling pods and 7 to 12 km (3.8 to 6.5 nmi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μPa (rms) for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of 5 to 8 km (2.7 to 4.3 nmi) from the airgun array and 2 km (1.1 nmi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re 1 μPa (rms). Studies examining the behavioral responses of humpback whales to airguns are currently underway off eastern Australia (Cato *et al.,* 2011, 2012, 2013).

Data collected by observers during several seismic surveys in the Northwest Atlantic showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic vs. non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100 in^3) airgun (Malme *et al.,* 1985). Some humpbacks seemed ''startled'' at received levels of 150 to 169 dB re 1 μPa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB re 1 μPa (rms). However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the Northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Studies have suggested that South Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was ''no observable direct correlation'' between strandings and seismic surveys (IWC, 2007: 236).

There are no reactions of right whales to seismic surveys. However, Rolland *et al.* (2012) suggested that ship noise causes increased stress in right whales; they showed that baseline levels of stress-related fecal hormone metabolites decreased in North Atlantic right whales with a 6 dB decrease in underwater noise from vessels. Wright *et al.* (2011) also reported that sound could be a potential source of stress for marine mammals.

Results from bowhead whales show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20 to 30 km (10.8 to 16.2 nmi) from a medium-sized airgun source (Miller *et al.,* 1999; Richardson *et al.,* 1999). However, more recent research on bowhead whales corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources (Miller *et al.,* 2005). Nonetheless, Robertson *et al.* (2013) showed that bowheads on their summer feeding grounds showed subtle but statistically significant changes in surfacing-respiration-dive cycles during exposure to seismic sounds, including

shorter surfacing intervals, shorter dives, and decreased number of blows per surface interval.

Bowhead whale calls detected in the presence and absence of airgun sounds have been studied extensively in the Beaufort Sea. Bowheads continue to produce calls of the usual types when exposed to airgun sounds on their summering grounds, although number of calls detected are significantly lower in the presence than in the absence of airgun pulses; Blackwell *et al.* (2013) reported that calling rates in 2007 declined significantly where received SPLs from airgun sounds were 116 to 129 dB re 1 μPa. Thus, bowhead whales in the Beaufort Sea apparently decrease their calling rates in response to seismic operations, although movement out of the area could also contribute to the lower call detection rate (Blackwell *et al.,* 2013).

A multivariate analysis of factors affecting the distribution of calling bowhead whales during their fall migration in 2009 noted that the southern edge of the distribution of calling whales was significantly closer to shore with increasing levels of airgun sound from a seismic survey a few hundred kms to the east of the study area (*i.e.,* behind the westward-migrating whales; McDonald *et al.,* 2010, 2011). It was not known whether this statistical effect represented a stronger tendency for quieting of the whales farther offshore in deeper water upon exposure to airgun sound, or an actual inshore displacement of whales.

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (*e.g.,* McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting versus silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010, 2012) reported that singing fin whales in the Mediterranean moved away from an operating airgun array, and their song notes had low bandwidths during periods with versus without airgun sounds.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the Northwest Atlantic found that overall, this group had lower sighting rates during seismic vs. non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.,* 1984; Richardson *et al.,* 1995; Allen and Angliss, 2010). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.,* 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Allen and Angliss, 2010).

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above have been reported for toothed whales. However, there are recent systematic studies on sperm whales (*e.g.,* Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010).

Seismic operators and PSOs on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.,* Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010; Barry *et al.,* 2012). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (*e.g.,* Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (*e.g.,* Stone and Tasker, 2006; Weir, 2008; Barry *et al.,* 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance. Captive bottlenose dolphins (*Tursiops truncatus*) and beluga whales (*Delphinapterus leucas*) exhibited changes in behavior when exposed to

strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Preliminary findings of a monitoring study of narwhals (*Monodon monoceros*) in Melville Bay, Greenland (summer and fall 2012) showed no short-term effects of seismic survey activity on narwhal distribution, abundance, migration timing, and feeding habits (Heide-Jorgensen *et al.,* 2013a). In addition, there were no reported effects on narwhal hunting. These findings do not seemingly support a suggestion by Heide-Jorgensen *et al.* (2013b) that seismic surveys in Baffin Bay may have delayed the migration timing of narwhals, thereby increasing the risk of narwhals to ice entrapment.

Results of porpoises depend on species. The limited available data suggest that harbor porpoises (*Phocoena phocoena*) show stronger avoidance of seismic operations than do Dall's porpoises (*Phocoenoides dalli*) (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Thompson *et al.* (2013) reported decreased densities and reduced acoustic detections of harbor porpoise in response to a seismic survey in Moray Firth, Scotland, at ranges of 5 to 10 km (2.7 to 5.4 nmi) (SPLs of 165 to 172 dB re 1 μPa; sound exposure levels (SELs) of 145 to 151 dB $\mu Pa^2 s$); however, animals returned to the area within a few hours. Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (*e.g.,* Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call. However, controlled exposure experiments in the Gulf of Mexico indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009). There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales tend to avoid approaching vessels of other types (*e.g.,* Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (*e.g.,* Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the Northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating. There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (*e.g.,* Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.,* 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the ''Stranding and Mortality'' section in this notice). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for the more responsive of some mysticetes. However, other data suggest that some odontocete species, including harbor porpoises, may be more responsive than might be expected given their poor low-frequency hearing. Reactions at longer distances may be particularly likely when sound propagation conditions are conducive to transmission of the higher frequency components of airgun sound to the animals' location (DeRuiter *et al.,* 2006; Goold and Coates, 2006; Tyack *et al.,* 2006; Potter *et al.,* 2007).

Pinnipeds—Pinnipeds are not likely to show a strong avoidance reaction to the airgun array. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior. In the Beaufort Sea, some ringed seals avoided an area of 100 m to (at most) a few hundred meters around seismic vessels, but many seals remained within 100 to 200 m (328 to 656 ft) of the trackline as the operating airgun array passed by (*e.g.,* Harris *et al.,* 2001; Moulton and Lawson, 2002; Miller *et al.,* 2005.). Ringed seal (*Pusa hispida*) sightings averaged somewhat farther away from the seismic vessel when the airguns were operating than when they were not, but the difference was small (Moulton and Lawson, 2002). Similarly, in Puget Sound, sighting distances for harbor seals (*Phoca vitulina*) and California sea lions (*Zalophus californianus*) tended to be larger when airguns were operating (Calambokidis and Osmek, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may be stronger than evident to date from visual studies of pinnipeds reactions to airguns (Thompson *et al.,* 1998).

During seismic exploration off Nova Scotia, gray seals (*Halichoerus grypus*) exposed to noise from airguns and linear explosive charges did not react strongly (J. Parsons in Greene *et al.,* 1985). Pinnipeds in both water and air, sometimes tolerate strong noise pulses from non-explosive and explosive scaring devices, especially if attracted to the area for feeding and reproduction (Mate and Harvey, 1987; Reeves *et al.,* 1996). Thus pinnipeds are expected to be rather tolerant of, or habituate to, repeated underwater sounds from distant seismic sources, at least when the animals are strongly attracted to the area.

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency

content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007). Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS, let alone permanent hearing damage, *i.e.,* permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). Table 2 (above) presents the estimated distances from the *Revelle's* airguns at which the received energy level (per pulse, flat-weighted) would be expected to be greater than or equal to 180 and 190 dB re 1 μPa (rms).

The established 180 and 190 dB (rms) criteria are not considered to be the levels above which TTS might occur. Rather, they are the received levels above which, in the view of a panel of bioacoustics specialists convened by NMFS before TTS measurements for marine mammals started to become available, one could not be certain that there would be no injurious effects, auditory or otherwise, to marine mammals. NMFS also assumes that cetaceans and pinnipeds exposed to levels exceeding 160 dB re 1 μPa (rms) may experience Level B harassment.

For toothed whales, researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. The experiments show that exposure to a single impulse at a received level of 207 kPa (or 30 psi, peak-to-peak), which is equivalent to 228 dB re 1 Pa (peak-to-peak), resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.,* 2002). For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales than those of odontocetes (Southall *et al.,* 2007).

In pinnipeds, researchers have not measured TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.,* 1999, 2005; Ketten *et al.,* 2001). The TTS threshold for pulsed sounds has been indirectly estimated as being an SEL of approximately 171 dB re 1 $\mu Pa^2 \cdot s$ (Southall *et al.,* 2007) which would be equivalent to a single pulse with a received level of approximately 181 to 186 dB re 1 μPa (rms), or a series of pulses for which the highest rms values are a few dB lower. Corresponding values for California sea lions and northern elephant seals (*Mirounga angustirostris*) are likely to be higher (Kastak *et al.,* 2005).

Additional data are needed to determine the received levels at which small odontocetes would start to incur TTS upon exposure to repeated, low-frequency pulses of airgun sounds with variable received levels. To determine how close an airgun array would need to approach in order to elicit TTS, one would (as a minimum) need to allow for the sequence of distances at which airgun pulses would occur, and for the dependence of received SEL on distance in the region of the airgun operation (Breitzke and Bohlen, 2010; Laws, 2012). At the present state of knowledge, it can be assumed that the effect is directly related to total receive energy, although there is recent evidence that auditory effects in a given animal are not a simple function of received acoustic energy. Frequency, duration of the exposure and occurrence of gaps within the exposure can also influence the auditory effect (Finneran and Schlundt, 2010, 2011, 2013; Finneran *et al.,* 2010a,b; Finneran 2012; Ketten, 2012; Kastelein *et al.,* 2013a).

The assumption that, in marine mammals, the occurrence and magnitude of TTS is a function of cumulative acoustic energy (SEL) is probably an oversimplification (Finneran, 2012). Popov *et al.* (2011) examined the effects of fatiguing noise on the hearing threshold of Yangtze finless porpoises (*Neophocaena phocaenoides*) when exposed to frequencies of 32 to 128 kHz at 140 to 160 dB re 1 μPa for 1 to 30 minutes. They found that an exposure of higher level and shorter duration produced a higher TTS than an exposure of equal SEL but of lower level and longer duration. Kastelein *et al.* (2012a,b; 2013b) also reported that the equal-energy model is not valid for predicting TTS in harbor porpoises or harbor seals.

Recent data have shown that the SEL required for TTS onset to occur increases with intermittent exposures, with some auditory recovery during silent periods between (Finneran *et al.,* 2010b; Finneran and Schlundt, 2011). Schlundt *et al.* (2013) reported that the potential for seismic surveys using airguns to cause auditory effects on dolphins could be lower than previously thought. Based on behavioral tests, Finneran *et al.* (2011) and Schlundt *et al.* (2013) reported no measurable TTS in bottlenose dolphins after exposure to 10 impulses from a seismic airgun with a cumulative SEL of approximately 195 dB re 1 $\mu Pa^2 s$; results from auditory evoked potential measurements were more variable (Schlundt *et al.,* 2013).

Recent studies have also shown that the SEL necessary to elicit TTS can depend substantially on frequency, with susceptibility to TTS increasing with increasing frequency above 3 kHz (Finneran and Schlundt, 2010, 2011; Finneran, 2012). When beluga whales

were exposed to fatiguing noise with sound levels of 165 dB re 1 μPa for durations of 1 to 30 minutes at frequencies of 11.2 to 90 kHz, the highest TTS with the longest recovery time was produced by lower frequencies (11.2 and 22.5 kHz); TTS effects also gradually increased with prolonged exposure time (Popov *et al.,* 2013a). Popov *et al.* (2013b) also reported that TTS produced by exposure to a fatiguing noise was larger during the first session (or naïve subject state) with a beluga whale than TTS that resulted from the same sound in subsequent sessions (experienced subject state). Therefore, Supin *et al.* (2013) reported that SEL may not be a valid metric for examining fatiguing sounds on beluga whales. Similarly, Nachtigall and Supin (2013) reported that false killer whales are able to change their hearing sensation levels when exposed to loud sounds, such as warning signals or echolocation sounds.

It is inappropriate to assume that onset of TTS occurs at similar received levels in all cetaceans (Southall *et al.,* 2007). Some cetaceans could incur TTS at lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin. Based on the best available information, Southall *et al.* (2007) recommended a TTS threshold for exposure to a single or multiple pulses of 183 dB re 1 μPa^2s. Tougaard *et al.* (2013) proposed a TTS criterion of 165 dB re 1 μPa^2s for porpoises based on data from two recent studies. Gedamke *et al.* (2011), based on preliminary simulation modeling that attempted to allow for various uncertainties in assumptions and variability around population means, suggested that some baleen whales whose closest point of approach to a seismic vessel is 1 km or more could experience TTS.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (*e.g.,* Richardson *et al.,* 1995, p. 372*ff;* Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals but are assumed to be similar to those in humans and other terrestrial mammals (Southall *et al.,* 2007). PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise times. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than 6 dB (Southall *et al.,* 2007). Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes, and some pinnipeds, are especially unlikely to incur non-auditory physical effects.

There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large airgun arrays. However, Gray and Van Waerebeek (2011) have suggested a cause-effect relationship between a seismic survey off Liberia in 2009 and the erratic movement, postural instability, and akinesia in a pantropical spotted dolphin based on spatially and temporally close association with the airgun array. Additionally, a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings (Castellote and Llorens, 2013).

Stranding and Mortality—When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is termed a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that ''(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.''

Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or

dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a, 2005b; Romero, 2004; Sih *et al.,* 2004).

Strandings Associated With Military Active Sonar—The proposed action is not a military readiness activity or using military active sonar (non-pulse). Several sources have published lists of mass stranding events of cetaceans in an attempt to identify relationships between those stranding events and military active sonar (Hildebrand, 2004; IWC, 2005; Taylor *et al.,* 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (2005) identified ten mass stranding events and concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been coincident with the use of mid-frequency active sonar and most involved beaked whales.

Over the past 12 years, there have been five stranding events coincident with military mid-frequency active sonar use in which exposure to sonar is believed to have been a contributing factor to strandings: Greece (1996); the Bahamas (2000); Madeira (2000); Canary Islands (2002); and Spain (2006). Refer to Cox *et al.* (2006) for a summary of common features shared by the strandings events in Greece (1996), Bahamas (2000), Madeira (2000), and Canary Islands (2002); and Fernandez *et al.,* (2005) for an additional summary of the Canary Islands 2002 stranding event.

Potential for Stranding From Seismic Surveys—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used in marine waters for commercial seismic surveys or (with rare exceptions) for seismic research. These methods have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar (non-pulse sound) and, in one case, the regional co-occurrence of an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006), has raised the possibility that beaked whales exposed to strong ''pulsed'' sounds could also be susceptible to injury and/or behavioral reactions that can lead to stranding (*e.g.,* Hildebrand, 2005; Southall *et al.,* 2007).

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

(1) Swimming in avoidance of a sound into shallow water;

(2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

(3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

(4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues.

Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are indications that gas-bubble disease (analogous to ''the bends''), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. The evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of 2 to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to expect that the same effects to marine mammals would result from military sonar and seismic surveys. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (*e.g.,* Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernández *et al.,* 2004, 2005; Hildebrand 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20 airgun (8,490 in^3) array in the general region. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and

(2) Differences between the sound sources to be used in the proposed study and operated by SIO and those involved in the naval exercises associated with strandings.

Potential Effects of Other Acoustic Devices and Sources

Multi-Beam Echosounder

SIO would operate the Kongsberg EM 122 multi-beam echosounder from the source vessel during the planned study. Sounds from the multi-beam echosounder are very short pulses, occurring for approximately 2 to 15 ms once every 5 to 20 seconds, depending on water depth. Most of the energy in the sound pulses emitted by the multi-beam echosounder is at frequencies near 12 kHz (10.5 to 13), and the maximum source level is 242 dB re 1 μPa (rms). The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (in water less than 1,000 m) consecutive successive fan-shaped transmissions (segments) at different cross-track angles. Any given marine mammal at depth near the trackline would be in the

main beam for only one or two of the eight segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore–aft width of the beam and would receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2 to 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a multi-beam echosounder emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Kongsberg EM 122; and (2) are often directed close to horizontally, as well as omnidirectional, versus more downward and narrowly for the multi-beam echosounder. The area of possible influence of the multi-beam echosounder is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During SIO's operations, the individual pulses would be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of a multi-beam echosounder on marine mammals are described below.

Stranding—In 2013, an International Scientific Review Panel investigated a 2008 mass stranding of approximately 100 melon-headed whales in a Madagascar lagoon system (Southall *et al.,* 2013) associated with the use of a high-frequency mapping system. The report indicated that the use of a 12 kHz multi-beam echosounder was the most plausible and likely initial behavioral trigger of the mass stranding event. This was the first time that a relatively high-frequency mapping sonar system has been associated with a stranding event. However, the report also notes that there were several site- and situation-specific secondary factors that may have contributed to the avoidance responses that lead to the eventual entrapment and mortality of the whales within the Loza Lagoon system (*e.g.,* the survey vessel transiting in a north-south direction on the shelf break parallel to the shore may have trapped the animals between the sound source and the shore driving them towards the Loza Lagoon). The report concluded that for odontocete cetaceans that hear well in the 10 to 50 kHz range, where ambient noise is typically quite low, high-power active sonars operating in this range may be more easily audible and have potential effects over larger areas than low-frequency systems that have more typically been considered in terms of anthropogenic noise impacts (Southall *et al.,* 2013). However, the risk may be very low given the extensive use of these systems worldwide on a daily basis and the lack of direct evidence of such responses previously (Southall *et al.,* 2013). It is noted that leading scientific experts on multi-beam echosounders have expressed concerns about the independent scientific review panel analyses and findings (Bernstein, 2013).

Masking—Marine mammal communications would not be masked appreciably by the multi-beam echosounder signals, given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the multi-beam echosounder signals (12 kHz) generally do not overlap with the predominant frequencies in the calls (16 Hz to less than 12 kHz), which would avoid any significant masking (Richardson *et al.,* 1995).

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.,* 1985), increased vocalizations and no dispersal by pilot whales (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz ''whale-finding'' sonar with a source level of 215 dB re 1 μPa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (656.2 ft) (Frankel, 2005). When a 38 kHz echosounder and a 150 kHz ADCP were transmitting during studies in the Eastern Tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1 second tonal signals at frequencies similar to those that would be emitted by the multi-beam echosounder used by SIO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.,* 2000; Finneran *et al.,* 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from a multi-beam echosounder.

Risch *et al.* (2012) found a reduction in humpback whale song in the Stellwagen Bank National Marine Sanctuary during Ocean Acoustic Waveguide Remote Sensing (OAWRS) activities that were carried out approximately 200 km (108 nmi) away. The OAWRS used three frequency-modulated pulses centered at frequencies of 415, 734, and 949 Hz with received levels in the sanctuary of 88 to 110 dB re 1 μPa. Deng *et al.* (2014) measured the spectral properties of pulses transmitted by three 200 kHz echosounders, and found that they generated weaker sounds at frequencies below the center frequency (90 to 130 kHz). These sounds are within the hearing range of some marine mammals, and the authors suggested that they could be strong enough to elicit behavioral responses within close proximity to the sources, although they would be well below potentially harmful levels.

Hearing Impairment and Other Physical Effects—Given several stranding events that have been associated with the operation of naval sonar in specific circumstances, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the multi-beam echosounder proposed for use by SIO is quite different than sonar used for Navy operations. Pulse duration of the multi-beam echosounder is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the multi-beam echosounder for much less time, given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often uses near-horizontally-directed sound and have higher duty cycles. Those factors would all reduce the sound energy received from the multi-beam echosounder rather drastically relative to that from naval sonar. NMFS believes that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the multi-beam echosounder in this particular case is not likely to result in the harassment of marine mammals.

Sub-Bottom Profiler

SIO would operate a sub-bottom profiler (Knudsen 3260) from the source vessel during the proposed study. Sounds from the sub-bottom profiler are very short pulses, occurring for 1 to 4 ms once ever second. Most of the energy in the sound pulses emitted by the sub-bottom profiler is at frequencies 3.5 kHz, and the beam is directed downward. The sub-bottom profiler that may be used on the *Revelle* has a maximum source level of 204 dB re 1 μPa. The sonar emits energy in a 27° beam from the bottom of the ship. Marine mammals that encounter the Knudsen 3260 are unlikely to be subjected to repeated pulses because of the relatively narrow fore–aft width of the beam and would receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—even for a sub-bottom profiler more powerful than that that may be on the *Revelle.* The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Knudsen 3260; and (2) are often directed close to horizontally versus more downward for the sub-bottom profiler. The area of possible influence of the single-beam echosounder is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During SIO's operations, the individual pulses would be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of a sub-bottom profiler on marine mammals are described below.

Masking—Marine mammal communications would not be masked appreciably by the sub-bottom profiler signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the sub-bottom profiler signals do not overlap with the predominant frequencies in the calls (16 Hz to less than 12 kHz), which would avoid any significant masking (Richardson *et al.,* 1995).

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the sub-bottom profiler are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the sub-bottom profiler are considerably weaker than those from the multi-beam echosounder. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the sub-bottom profiler produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The sub-bottom profiler is usually operated simultaneously with other higher-power acoustic sources, including airguns. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the sub-bottom profiler.

Heat-Flow Probe Deployment

During heat-flow measurements using a probe, the probe is a passive instrument and no noise is created by the mechanical action of the devices on the seafloor is not expected to be perceived by nearby fish and other marine organisms. Heat-flow measurement activities would be highly localized and short-term in duration and would not be expected to significantly interfere with marine mammal behavior. The potential direct effects include temporary localized disturbance or displacement from associated physical movement/actions of the operations. Additionally, the potential indirect effects may consist of very localized and transitory/short-term disturbance of bottom habitat and associated prey in shallow-water areas as a result of heat-flow probe measurements. NMFS believes that the since the heat-flow probe is a passive instrument and has no mechanical action, it would not likely result in the harassment of marine mammals.

A maximum total of 200 heat-flow measurements would be obtained using these devices and ranging from 1 to 2 hours per measurement (for a total of approximately 320 hours of operations) and it is estimated that the pinger would operate continuously during each heat-flow probe deployment. The vessel would be stationary during heat-flow probe deployment and repositioned to repeat the process, so the likelihood of a collision or entanglement with a marine mammal is very low. For the heat-flow measurements, the lance is 4.5 m and would disturb an area approximately 8 cm x 20 cm (3.1 in x 7.9 in). Assuming approximately 200 heat-flow measurements, the cumulative area of seafloor that could be disturbed during the proposed study would be approximately 32,000 cm^2 (4,960 in^2).

Vessel Movement and Collisions

Vessel movement in the vicinity of marine mammals has the potential to result in either a behavioral response or a direct physical interaction. Both scenarios are discussed below in this section.

Behavioral Responses to Vessel Movement—There are limited data concerning marine mammal behavioral responses to vessel traffic and vessel noise, and a lack of consensus among scientists with respect to what these responses mean or whether they result in short-term or long-term adverse effects. In those cases where there is a busy shipping lane or where there is a large amount of vessel traffic, marine mammals (especially low frequency specialists) may experience acoustic masking (Hildebrand, 2005) if they are present in the area (*e.g.,* killer whales in Puget Sound; Foote *et al.,* 2004; Holt *et al.,* 2008). In cases where vessels actively approach marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Bursk, 1983; Acevedo, 1991; Baker and MacGibbon, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval (Ritcher *et al.,* 2003), disruption of normal social behaviors (Lusseau, 2003, 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.,* 2003, 2004). A detailed review of marine mammal reactions to ships and boats is available in Richardson *et al.,* (1995). For each of the marine mammal taxonomy groups, Richardson *et al.,* (1995) provides the following assessment regarding reactions to vessel traffic:

Toothed whales—''In summary, toothed whales sometimes show no avoidance reaction to vessels, or even approach them. However, avoidance can occur, especially in response to vessels of types used to chase or hunt the animals. This may cause temporary displacement, but we know of no clear evidence that toothed whales have

abandoned significant parts of their range because of vessel traffic.''

Baleen whales—''When baleen whales receive low-level sounds from distant or stationary vessels, the sounds often seem to be ignored. Some whales approach the sources of these sounds. When vessels approach whales slowly and non-aggressively, whales often exhibit slow and inconspicuous avoidance maneuvers. In response to strong or rapidly changing vessel noise, baleen whales often interrupt their normal behavior and swim rapidly away. Avoidance is especially strong when a boat heads directly toward the whale.''

Behavioral responses to stimuli are complex and influenced to varying degrees by a number of factors, such as species, behavioral contexts, geographical regions, source characteristics (moving or stationary, speed, direction, etc.), prior experience of the animal and physical status of the animal. For example, studies have shown that beluga whales' reaction varied when exposed to vessel noise and traffic. In some cases, beluga whales exhibited rapid swimming from ice-breaking vessels up to 80 km (43.2 nmi) away and showed changes in surfacing, breathing, diving, and group composition in the Canadian high Arctic where vessel traffic is rare (Finley *et al.,* 1990). In other cases, beluga whales were more tolerant of vessels, but responded differentially to certain vessels and operating characteristics by reducing their calling rates (especially older animals) in the St. Lawrence River where vessel traffic is common (Blane and Jaakson, 1994). In Bristol Bay, Alaska, beluga whales continued to feed when surrounded by fishing vessels and resisted dispersal even when purposefully harassed (Fish and Vania, 1971).

In reviewing more than 25 years of whale observation data, Watkins (1986) concluded that whale reactions to vessel traffic were ''modified by their previous experience and current activity: Habituation often occurred rapidly, attention to other stimuli or preoccupation with other activities sometimes overcame their interest or wariness of stimuli.'' Watkins noticed that over the years of exposure to ships in the Cape Cod area, minke whales changed from frequent positive interest (*e.g.,* approaching vessels) to generally uninterested reactions; fin whales changed from mostly negative (*e.g.,* avoidance) to uninterested reactions; fin whales changed from mostly negative (*e.g.,* avoidance) to uninterested reactions; right whales apparently continued the same variety of responses (negative, uninterested, and positive responses) with little change; and humpbacks dramatically changed from mixed responses that were often negative to reactions that were often strongly positive. Watkins (1986) summarized that ''whales near shore, even in regions with low vessel traffic, generally have become less wary of boats and their noises, and they have appeared to be less easily disturbed than previously. In particular locations with intense shipping and repeated approaches by boats (such as the whale-watching areas of Stellwagen Bank), more and more whales had positive reactions to familiar vessels, and they also occasionally approached other boats and yachts in the same ways.''

Although the radiated sound from the *Revelle* would be audible to marine mammals over a large distance, it is unlikely that marine mammals would respond behaviorally (in a manner that NMFS would consider harassment under the MMPA) to low-level distant shipping noise as the animals in the area are likely to be habituated to such noises (Nowacek *et al.,* 2004). In light of these facts, NMFS does not expect the *Revelle*'s movements to result in Level B harassment.

Vessel Strike—Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or an animal just below the surface could be cut by a vessel's propeller. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphins) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records in which vessel speed was known, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 13 kts (24.1 km/hr, 14.9 mph).

SIO's proposed operation of one source vessel for the proposed low-energy seismic survey is relatively small in scale (*i.e.,* a one vessel operation) compared to the number of other ships (*e.g.,* fishing, tourist, and other vessels) transiting at higher speeds in the same areas on an annual basis. The probability of vessel and marine mammal interactions occurring during the proposed low-energy seismic survey is unlikely due to the *Revelle's* slow operational speed, which is typically 5 kts. Outside of seismic operations, the *Revelle's* cruising speed would be approximately 10.1 to 14.5 kts, which is generally below the speed at which studies have noted reported increases of marine mammal injury or death (Laist *et al.,* 2001).

As a final point, the *Revelle* has a number of other advantages for avoiding ship strikes as compared to most commercial merchant vessels, including the following: The *Revelle's* bridge and other observing stations offer good visibility to visually monitor for marine mammal presence; PSOs posted during operations scan the ocean for marine mammals and must report visual alerts of marine mammal presence to crew; and the PSOs receive extensive training that covers the fundamentals of visual observing for marine mammals and information about marine mammals and their identification at sea.

Entanglement

Entanglement can occur if wildlife becomes immobilized in survey lines, cables, nets, or other equipment that is moving through the water column. The proposed low-energy seismic survey would require towing approximately one 600 m cable streamers. While towing this size of an array carries some level of risk of entanglement for marine mammals due to the operational nature of the activity, entanglement is unlikely. Wildlife, especially slow moving individuals, such as large whales, have a low probability of becoming entangled due to slow speed of the survey vessel and onboard monitoring efforts. In May 2011, there was one recorded entrapment of an olive ridley sea turtle (*Lepidochelys olivacea*) in the R/V *Marcus G. Langseth's* barovanes after the conclusion of a seismic survey off

Costa Rica. There have been cases of baleen whales, mostly gray whales (Heyning, 1990), becoming entangled in fishing lines. The probability for entanglement of marine mammals is considered very low because of the vessel speed and the monitoring efforts onboard the survey vessel. Furthermore, there has been no history of marine mammal entanglement with seismic equipment used by the U.S. academic research fleet.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections) which, as noted are designed to effect the least practicable impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed low-energy seismic survey is not anticipated to have any permanent impact on habitats used by the marine mammals in the proposed study area, including the food sources they use (*i.e.* fish and invertebrates). Additionally, no physical damage to any habitat is anticipated as a result of conducting airgun operations during the proposed low-energy seismic survey. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to brief, temporary ensonification, this impact to habitat is temporary and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals in any particular area of the approximately 1,154 km^2 proposed study area, previously discussed in this notice.

The next section discusses the potential impacts of anthropogenic sound sources on common marine mammal prey in the proposed study area (*i.e.,* fish and invertebrates).

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish and invertebrate populations is limited. There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.,* startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (*i.e.,* mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because, ultimately, the most important issues concern effects on marine fish populations, their viability, and their availability to fisheries.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (*e.g.,* predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. There are only two known papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns (less than 400 Hz in the study by McCauley *et al.* [2003] and less than approximately 200 Hz in Popper *et al.* [2005]) likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that would propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure, and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.*

(2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.,* 1987; La Bella *et al.,* 1996; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.,* 2003; Popper *et al.,* 2005; Boeger *et al.,* 2006).

An experiment of the effects of a single 700 in^3 airgun was conducted in Lake Meade, Nevada (USGS, 1999). The data were used in an Environmental Assessment of the effects of a marine reflection survey of the Lake Meade fault system by the National Park Service (Paulson *et al.,* 1993, in USGS, 1999). The airgun was suspended 3.5 m (11.5 ft) above a school of threadfin shad in Lake Meade and was fired three successive times at a 30 second interval. Neither surface inspection nor diver observations of the water column and bottom found any dead fish.

For a proposed seismic survey in Southern California, USGS (1999) conducted a review of the literature on the effects of airguns on fish and fisheries. They reported a 1991 study of the Bay Area Fault system from the continental shelf to the Sacramento River, using a 10 airgun (5,828 in^3) array. Brezzina and Associates were hired by USGS to monitor the effects of the surveys and concluded that airgun operations were not responsible for the death of any of the fish carcasses observed. They also concluded that the airgun profiling did not appear to alter the feeding behavior of sea lions, seals, or pelicans observed feeding during the seismic surveys.

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.,* 1996; Dalen *et al.,* 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a 'worst-case scenario' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.,* 1994; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (*e.g.,* Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Santulli *et al.,* 1999; Wardle *et al.,* 2001; Hassel *et al.,* 2003). Typically, in these studies fish exhibited a sharp startle response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

The former Minerals Management Service (MMS, 2005) assessed the effects of a proposed seismic survey in Cook Inlet. The seismic survey proposed using three vessels, each towing two four-airgun arrays ranging from 24,580.6 to 40,967.7 cm^3 (1,500 to 2,500 in^3). MMS noted that the impact to fish populations in the survey area and adjacent waters would likely be very low and temporary. MMS also concluded that seismic surveys may displace the pelagic fishes from the area temporarily when airguns are in use. However, fishes displaced and avoiding the airgun noise are likely to backfill the survey area in minutes to hours after cessation of seismic testing. Fishes not dispersing from the airgun noise (*e.g.,* demersal species) may startle and move short distances to avoid airgun emissions.

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is provided in Appendix D of NSF/USGS's PEIS (2011).

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is

expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.,* 1994; Christian *et al.,* 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.,* 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.,* 2004), but the article provides little evidence to support this claim. Tenera Environmental (2011b) reported that Norris and Mohl (1983, summarized in Mariyasu *et al.,* 2004) observed lethal effects in squid (*Loligo vulgaris*) at levels of 246 to 252 dB after 3 to 11 minutes.

Andre *et al.* (2011) exposed four species of cephalopods (*Loligo vulgaris, Sepia officinalis, Octopus vulgaris,* and *Ilex coindetii*), primarily cuttlefish, to two hours of continuous 50 to 400 Hz sinusoidal wave sweeps at 157+/–5 dB re 1 μPa while captive in relatively small tanks. They reported morphological and ultrastructural evidence of massive acoustic trauma (*i.e.,* permanent and substantial alterations [lesions] of statocyst sensory hair cells) to the exposed animals that increased in severity with time, suggesting that cephalopods are particularly sensitive to low frequency sound. The received SPL was reported as 157+/–5 dB re 1 μPa, with peak levels at 175 dB re 1 μPa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (*i.e.,* changes in haemolymph levels of enzymes, proteins, etc.) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.,* 2007). It was noted however, that no behavioral impacts were exhibited by crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (*e.g.,* squid in McCauley *et al.,* 2000a,b). In other cases, no behavioral impacts were noted (*e.g.,* crustaceans in Christian *et al.,* 2003, 2004; DFO 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.,* 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method). More information on the potential effects of airguns on fish and invertebrates are reviewed in section 3.2.4.3, section 3.3.4.3, and Appendix D of the NSF/USGS PEIS (2011).

Proposed Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

SIO reviewed the following source documents and incorporated a suite of appropriate mitigation measures into the project description.

(1) Protocols used during previous NSF and USGS-funded seismic research cruises as approved by NMFS and detailed in the ''Final Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey;''

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, SIO proposed to implement the following mitigation measures for marine mammals:

(1) Proposed exclusion zones around the sound source;

(2) Speed and course alterations;

(3) Shut-down procedures; and

(4) Ramp-up procedures.

Proposed Exclusion Zones—During pre-planning of the cruise, the smallest airgun array was identified that could be used and still meet the geophysical scientific objectives. SIO use radii to designate exclusion and buffer zones and to estimate take for marine mammals. Table 2 (presented earlier in this document) shows the distances at which one would expect to receive three sound levels (160, 180, and 190 dB) from the two GI airgun array. The 180 and 190 dB level shut-down criteria are applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000) and would be used to establish the exclusion and buffer zones.

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 in^3 Nucleus G airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). In addition, propagation measurements of pulses from two GI airguns have been reported for shallow water (approximately 30 m [98.4 ft] depth) in the Gulf of Mexico (Tolstoy *et al.,* 2004). However, measurements were not made for the two GI airguns in deep water. The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels are predicted to be 190,

180, and 160 dB re 1 μPa (rms) in intermediate and deep water were determined (see Table 2 above).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern Gulf of Mexico in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 18 and 36 airgun arrays are not relevant for the two GI airguns to be used in the proposed low-energy seismic survey because the airgun arrays are not the same size or volume. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water; however, SIO proposes to use the safety radii predicted by L–DEO's model for the proposed GI airgun operations in intermediate and deep water, although they are likely conservative given the empirical results for the other arrays.

Based on the modeling data, the outputs from the pair of 45 in ^{3} GI airguns proposed to be used during the low-energy seismic survey are considered a low-energy acoustic source in the NSF/USGS PEIS (2011) for marine seismic research. A low-energy seismic source was defined in the NSF/USGS PEIS as an acoustic source whose received level is less than or equal to180 dB at 100 m (including any single or any two GI airguns and a single pair of clustered airguns with individual volumes of less than or equal to 250 in ^{3}). The NSF/USGS PEIS also established for these low-energy sources a standard exclusion zone of 100 m for all low-energy sources in water depths greater than 100 m. This standard 100 m exclusion zone would be used during the proposed low-energy seismic survey using the pair of 45 in ^{3} GI airguns. The 180 and 190 dB (rms) radii are the current Level A harassment shut-down criteria applicable to cetaceans and pinnipeds, respectively; these levels were used to establish exclusion zones. Therefore, the assumed 180 and 190 dB radii are 100 m for intermediate and deep water. If the PSO detects a marine mammal within or about to enter the appropriate exclusion zone, the airguns would be shut down immediately.

Speed and Course Alterations—If a marine mammal is detected outside the exclusion zone and, based on its position and direction of travel (relative motion), is likely to enter the exclusion zone, changes of the vessel's speed and/or direct course would be considered if this does not compromise operational safety or damage the deployed equipment. This would be done if operationally practicable while minimizing the effect on the planned science objectives. For marine seismic surveys towing large streamer arrays, course alterations are not typically implemented due to the vessel's limited maneuverability. However, the *Revelle* would be towing a relatively short hydrophone streamer, so its maneuverability during operations with the hydrophone streamer would not be limited as vessels towing long streamers, thus increasing the potential to implement course alterations, if necessary. After any such speed and/or course alteration is begun, the marine mammal activities and movements relative to the seismic vessel would be closely monitored to ensure that the marine mammal does not approach within the applicable exclusion zone. If the marine mammal appears likely to enter the exclusion zone, further mitigation actions would be taken, including further speed and/or course alterations, and/or shut-down of the airgun(s). Typically, during airgun operations, the source vessel is unable to change speed or course, and one or more alternative mitigation measures would need to be implemented.

Shut-Down Procedures—If a marine mammal is detected outside the exclusion zone for the airgun(s) but is likely to enter the exclusion zone, and the vessel's speed and/or course cannot be changed to avoid having the animal enter the exclusion zone, SIO would shut-down the operating airgun(s) before the animal is within the exclusion zone. Likewise, if a marine mammal is already within the exclusion zone when first detected, the airguns would be shut-down immediately.

Following a shut-down, SIO would not resume airgun activity until the marine mammal has cleared the exclusion zone, or until the PSO is confident that the animal has left the vicinity of the vessel. SIO would consider the animal to have cleared the exclusion zone if:

- A PSO has visually observed the animal leave the exclusion zone, or
- A PSO has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (*i.e.,* small odontocetes and pinnipeds), or 30 minutes for species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, dwarf and pygmy sperm, killer, and beaked whales).

Although power-down procedures are often standard operating practice for seismic surveys, they are not proposed to be used during this planned low-energy seismic survey because powering down from two airguns to one airgun would make only a small difference in the exclusion zone(s) that probably would not be enough to allow continued one-airgun operations if a marine mammal came within the exclusion zone for two airguns.

Ramp-Up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns and to provide the time for them to leave the area, avoiding any potential injury or impairment of their hearing abilities. SIO would follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a shut-down has exceeded that period. SIO proposes that, for the present cruise, this period would be approximately 15 minutes. SIO, L–DEO, USGS, NSF, and ASC have used similar periods (approximately 15 minutes) during previous low-energy seismic surveys.

Ramp-up would begin with a single GI airgun (45 in ^{3}). The second GI airgun (45 in ^{3}) would be added after 5 minutes. During ramp-up, the PSOs would monitor the exclusion zone, and if marine mammals are sighted, a shut-down would be implemented as though both GI airguns were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, SIO would not commence the ramp-up. Given these provisions, it is likely that the airgun array would not be ramped-up from a complete shut-down during low light conditions, at night, or in thick fog, (*i.e.,* poor visibility conditions) because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has been operating, ramp-up to full power would be permissible during low light, at night, or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. SIO would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones during day or night. NMFS refers the reader to Figure 2, which presents a flowchart representing the ramp-up and shut-down protocols described in this notice.

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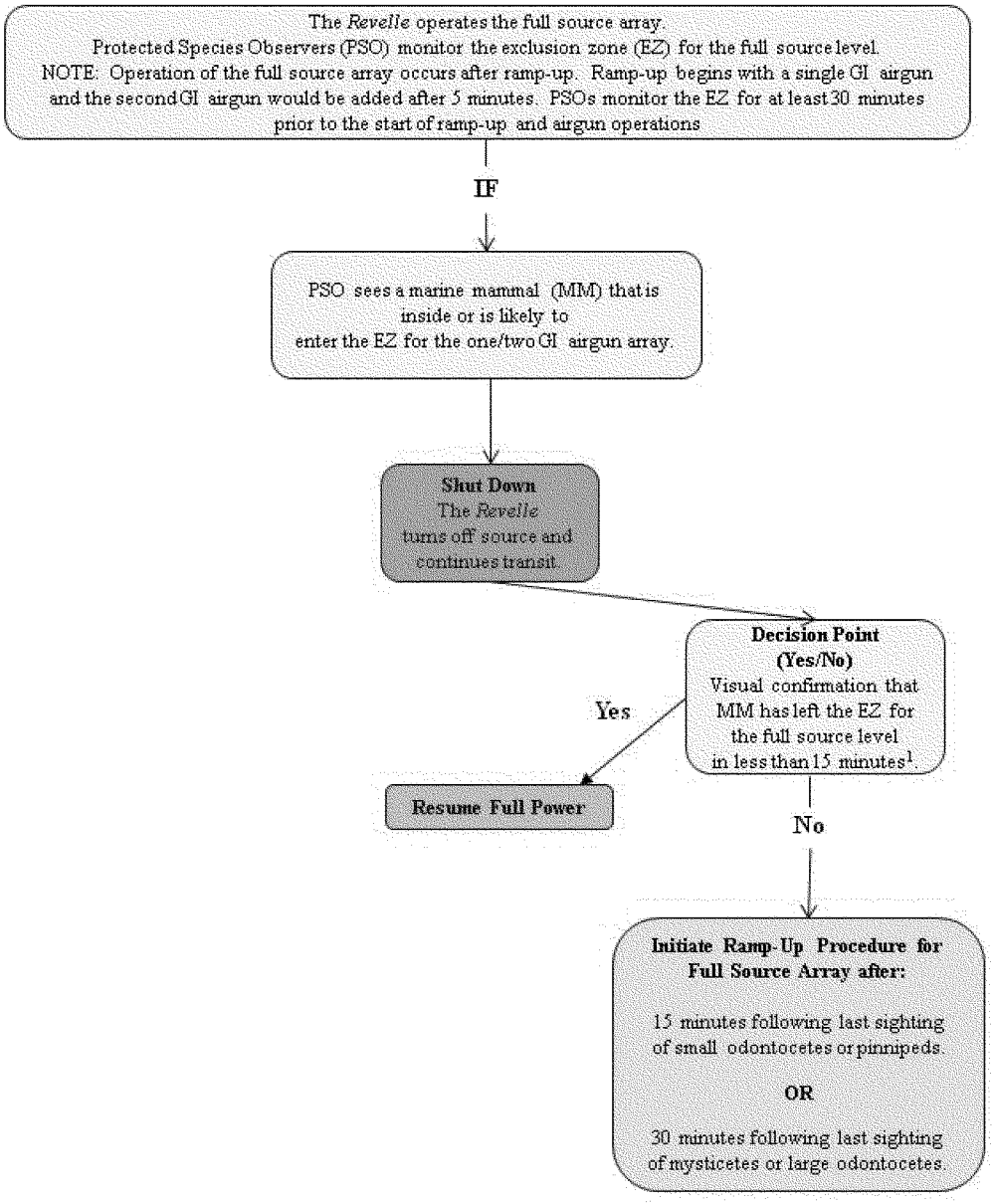
Figure 2. Current mitigation procedures for low-energy seismic surveys.



[1] Ramp-Up Procedures
SIO has used similar periods (15 minutes) for previous low-energy seismic surveys. Ramp-up would not occur if a marine mammal has not cleared the exclusion zone for the full airgun array.

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Proposed Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance of minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or

number at biologically important time or location) exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of time (total number or number at biologically important time or location) individuals would be exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of airguns, or other activities, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. SIO submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the IHA application. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of sound (airguns) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information); and
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Proposed Monitoring

SIO proposes to sponsor marine mammal monitoring during the proposed project, in order to implement the proposed mitigation measures that require real-time monitoring and to satisfy the anticipated monitoring requirements of the IHA. SIO's proposed ''Monitoring Plan'' is described below this section. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. SIO is prepared to discuss coordination of their monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

PSOs would be based aboard the seismic source vessel and would watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups of the airguns at night. PSOs would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations and after an extended shut-down (*i.e.,* greater than approximately 15 minutes for this proposed low-energy seismic survey). When feasible, PSOs would conduct observations during daytime periods when the seismic system is not operating (such as during transits) for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSO observations, the airguns would be shut-down when marine mammals are observed within or about to enter a designated exclusion zone.

During airgun operations in the Southwest Pacific Ocean, East of New Zealand, at least three PSOs would be based aboard the *Revelle.* At least one PSO would stand watch at all times while the *Revelle* is operating airguns during the proposed low-energy seismic survey; this procedure would also be followed when the vessel is in transit. SIO would appoint the PSOs with NMFS's concurrence. The lead PSO would be experienced with marine mammal species in the Pacific Ocean and/or off the east coast of New Zealand, the second and third PSOs would receive additional specialized training from the lead PSO to ensure that they can identify marine mammal species commonly found in the Southwest Pacific Ocean. Observations would take place during ongoing daytime operations and ramp-ups of the airguns. During the majority of seismic operations, at least one PSO would be on duty from observation platforms (*i.e.,* the best available vantage point on the source vessel) to monitor marine mammals near the seismic vessel. PSO(s) would be on duty in shifts no longer than 4 hours in duration. Other crew would also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the low-energy seismic survey, the crew would be given additional instruction on how to do so.

The *Revelle* is a suitable platform for marine mammal observations and

would serve as the platform from which PSOs would watch for marine mammals before and during airgun operations. The *Revelle* has been used for marine mammal observations during the routine California Cooperative Oceanic Fisheries Investigations (CalCOFI). Two locations are likely as observation stations onboard the *Revelle.* Observing stations are located at the 02 level, with PSO eye level at approximately 10.4 m (34 ft) above the waterline and the PSO would have a good view around the entire vessel. At a forward-centered position on the 02 deck, the view is approximately 240° around the vessel; and one atop the aft hangar, with an aft-centered view includes the 100 m radius around the GI airguns. The PSO eye level on the bridge is approximately 15 m (49.2 ft) above sea level. PSOs would work on the enclosed bridge and adjoining aft steering station during any inclement weather.

Standard equipment for PSOs would be reticle binoculars and optical range finders. Night-vision equipment would be available at night and low-light conditions during the cruise. The PSOs would be in communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut-down. During daylight, the PSO(s) would scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7 x 50 Fujinon FMTRC–SX), Big-eye binoculars (*e.g.,* 25 x 150 Fujinon MT), optical range-finders (to assist with distance estimation), and the naked eye. These binoculars would have a built-in daylight compass. Estimating distances is done primarily with the reticles in the binoculars. The optical range-finders are useful in training PSOs to estimate distances visually, but are generally not useful in measuring distances to animals directly. At night, night-vision equipment would be available. The PSO(s) would be in direct (radio) wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory during seismic operations, so they can advise the vessel operator, science support personnel, and the science party promptly of the need for avoidance maneuvers or a shut-down of the seismic source.

When a marine mammal is detected within or about to enter the designated exclusion zone, the airguns would immediately be shut-down, unless the vessel's speed and/or course can be changed to avoid having the animal enter the exclusion zone. The PSO(s) would continue to maintain watch to determine when the animal is outside the exclusion zone by visual confirmation. Airgun operations would not resume until the animal is confirmed to have left the exclusion zone, or is not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, dwarf and pygmy sperm, killer, and beaked whales).

PSO Data and Documentation

PSOs would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data would be used to estimate numbers of animals potentially ''taken'' by harassment. They would also provide information needed to order a shut-down of the airguns when a marine mammal is within or near the exclusion zone. Observations would also be made during daylight periods when the *Revelle* is underway without seismic airgun operations (*i.e.,* transits to, from, and through the study area) to collect baseline biological data.

When a sighting is made, the following information about the sighting would be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the seismic source or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or shut-down), sea state, wind force, visibility, cloud cover, and sun glare.

The data listed under (2) would also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding ramp-ups or shut-downs, would be recorded in a standardized format. Data would be entered into an electronic database. The data accuracy would be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database by the PSOs at sea. These procedures would allow initial summaries of data to be prepared during and shortly after the field program, and would facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations would provide the following information:

1. The basis for real-time mitigation (airgun shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without airgun operations.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without airgun operations.

Proposed Reporting

SIO would submit a comprehensive report to NMFS and NSF within 90 days after the end of the cruise. The report would describe the operations that were conducted and sightings of marine mammals near the operations. The report submitted to NMFS and NSF would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of airgun operations and all marine mammal sightings (*i.e.,* dates, times, locations, activities, and associated seismic survey activities). The report would include, at a minimum:

- Summaries of monitoring effort—total hours, total distances, and distribution of marine mammals through the study period accounting for Beaufort sea state and other factors affecting visibility and detectability of marine mammals;
- Analyses of the effects of various factors influencing detectability of marine mammals including Beaufort sea state, number of PSOs, and fog/glare;
- Species composition, occurrence, and distribution of marine mammals sightings including date, water depth, numbers, age/size/gender, and group sizes, and analyses of the effects of airgun operations;
- Sighting rates of marine mammals during periods with and without airgun operations (and other variables that could affect detectability);
- Initial sighting distances versus airgun operations state;
- Closest point of approach versus airgun operations state;

• Observed behaviors and types of movements versus airgun operations activity state;
• Numbers of sightings/individuals seen versus airgun operations state; and
• Distribution around the source vessel versus airgun operations state.

The report would also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways. NMFS would review the draft report and provide any comments it may have, and SIO would incorporate NMFS's comments and prepare a final report. After the report is considered final, it would be publicly available on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Reporting Prohibited Take—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), SIO would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the following information:
• Time, date, and location (latitude/longitude) of the incident;
• Name and type of vessel involved;
• Vessel's speed during and leading up to the incident;
• Description of the incident;
• Status of all sound source use in the 24 hours preceding the incident;
• Water depth;
• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
• Description of all marine mammal observations in the 24 hours preceding the incident;
• Species identification or description of the animal(s) involved;
• Fate of the animal(s); and
• Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SIO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO may not resume their activities until notified by NMFS via letter or email, or telephone.

Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death—In the event that SIO discover an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), SIO shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS shall work with SIO to determine whether modifications in the activities are appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities—In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate or advanced decomposition, or scavenger damage), SIO shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* within 24 hours of discovery. SIO shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

TABLE 4—NMFS'S CURRENT UNDERWATER ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion definition	Threshold
Impulsive (non-explosive) sound		
Level A harassment (injury).	Permanent threshold shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa-m (root means square [rms]) (cetaceans) 190 dB re 1 μPa-m (rms) (pinnipeds)
Level B harassment.	Behavioral disruption (for impulsive noise).	160 dB re 1 μPa-m (rms)
Level B harassment.	Behavioral disruption (for continuous noise).	120 dB re 1 μPa-m (rms)

Level B harassment is anticipated and proposed to be authorized as a result of the proposed low-energy seismic survey in the Southwest Pacific Ocean, East of New Zealand. Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array are expected to result in the behavioral disturbance of some marine mammals. NMFS's current underwater exposure criteria for impulsive sound are detailed in Table 4 (above). There is no evidence that the planned activities for which SIO seek the IHA could result in injury, serious injury, or mortality. The required mitigation and monitoring measures would minimize any potential risk for injury, serious injury, or mortality.

The following sections describe SIO's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected. The estimates are based on a consideration of the number of marine mammals that could be harassed during the approximately 135 hours and 1,250 km of seismic airgun operations with the two GI airgun array to be used.

There are no known systematic aircraft- or ship-based surveys conducted for marine mammals stock assessments and very limited population information available for marine mammals in offshore waters of the Southwest Pacific Ocean off the east coast of New Zealand. For most cetacean species, SIO and NMFS used densities from extensive NMFS Southwest Fisheries Science Center (SWFSC) cruises (Ferguson and Barlow, 2001, 2003; Barlow, 2003, 2010; Forney, 2007) in one province of Longhurst's

(2006) pelagic biogeography, the California Current Province (CALC). That province is similar to the South Subtropical Convergence Province (SSTC) in which the proposed low-energy seismic survey is located, in that productivity is high and large pelagic fish such as tuna occur. Specifically, SIO and NMFS used the 1986 to 1996 data from blocks 35, 36, 47, 48, 59, and 60 of Ferguson and Barlow (2001, 2003), the 2001 data from Barlow (2003) for the Oregon, Washington, and California strata, and the 2005 and 2008 data from Forney (2007) and Barlow (2010), respectively, for the two strata combined. The densities used were effort-weighted means for the 10 locations (blocks or States). The surveys off California, Oregon, and Washington were conducted up to approximately 556 km (300.2 nmi) offshore, and most of those data were from offshore areas that overlap with the above blocks selected from Ferguson and Barlow (2001, 2003).

For pinnipeds, SIO and NMFS used the densities in Bonnell *et al.* (1992) of northern fur seals (*Callorhinus ursinus*) and northern elephant seals in offshore areas of the western U.S. (the only species regularly present in offshore areas there) to estimate the numbers of pinnipeds that might be present off New Zealand.

The marine mammal species that would be encountered during the proposed low-energy seismic survey would be different from those sighted during surveys off the western U.S. and in the Eastern Tropical Pacific Ocean. However, the overall abundances of species groups with generally similar habitat requirements are expected to be roughly similar. Thus, SIO and NMFS used the data described above to estimate the group densities of beaked whales, delphinids, small whales, and mysticetes in the proposed study area. SIO and NMFS then estimated the relative abundance of individual southern species within the species groups using various surveys and other information from areas near the study area, and general information on species' distributions such as latitudinal ranges and group sizes. Group densities from northern species were multiplied by their estimated relative abundance off New Zealand divided by the relative abundance for all species in the species group to derive estimates for the southern species (see Table 3 of the IHA application).

Densities for several cetacean species are available for the Southern Ocean (Butterworth *et al.,* 1994), as follows: (1) For humpback, sei, fin, blue, sperm, killer, and pilot whales in Antarctic Management areas I to VI south of 60° South, based on the 1978/1979 to 1984 and 1985/1986 to 1990/1991 IWC/IDCR circumpolar sighting survey cruises, and (2) for humpback, sei, fin, blue, and sperm whales extrapolated to latitudes 30 to 40° South, 40 to 50° South, 50 to 60° South based on Japanese scouting vessel data from 1965/1966 to 1977/1978 and 1978/1979 to 1987/1988. SIO and NMFS calculated densities based on abundance and surface areas given in Butterworth *et al.* (1994) and used the weighted or mean density for the Regions V and/or VI (whichever is available) due to locations that represent foraging areas or distributions for animals that are likely to move past New Zealand during northerly migrations or breed in New Zealand waters.

The densities used for purposes of estimating potential take do not take into account the patchy distributions of marine mammals in an ecosystem, at least on the moderate to fine scales over which they are known to occur. Instead, animals are considered evenly distributed throughout the assessed study area and seasonal movement patterns are not taken into account, as none are available. Although there is some uncertainty about the representativeness of the data and the assumptions used in the calculations below, the approach used here is believed to be the best available approach, using the best available science.

TABLE 5—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (AIRGUN OPERATIONS) DURING SIO'S PROPOSED LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 1,250 km OF TRACKLINES/APPROXIMATELY 1,154 km^2 ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND, MAY TO JUNE 2015

Species	Density U.S. West Coast/ Southern Ocean/estimate used (number of animals/1,000 km^2) [1]	Calculated take from seismic airgun operations (*i.e.,* estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2]	Proposed take authorization [3]	Abundance [4]	Approximate percentage of population estimate (proposed take) [5]	Population trend [6]
Mysticetes						
Southern right whale.	0.98/NA/0.98	1.13	2	8,000 to 15,000—Worldwide. 12,000—Southern Hemisphere. 2,700—Sub-Antarctic New Zealand.	0.03—Worldwide. 0.02—Southern Hemisphere. 0.07—Sub-Antarctic New Zealand.	Increasing at 7 to 8% per year.
Pygmy right whale.	0.39/NA/0.39	0.45	2	NA	NA	NA.
Humpback whale	0.98/0.25/0.25	0.29	2	35,000 to 42,000—Southern Hemisphere.	<0.01—Southern Hemisphere.	Increasing.
Antarctic minke whale.	0.59/NA/0.59	0.68	2	720,000 to 750,000—Southern Hemisphere.	<0.01—Southern Hemisphere.	Stable.

TABLE 5—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (AIRGUN OPERATIONS) DURING SIO'S PROPOSED LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 1,250 km OF TRACKLINES/APPROXIMATELY 1,154 km^2 ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND, MAY TO JUNE 2015—Continued

Species	Density U.S. West Coast/Southern Ocean/estimate used (number of animals/1,000 km^2) [1]	Calculated take from seismic airgun operations (*i.e.,* estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2]	Proposed take authorization [3]	Abundance [4]	Approximate percentage of population estimate (proposed take) [5]	Population trend [6]
Minke whale (including dwarf minke whale sub-species).	0.59/NA/0.59	0.68	2	720,000 to 750,000—Southern Hemisphere.	<0.01—Southern Hemisphere.	NA.
Bryde's whale	0.20/NA/0.20	0.23	2	At least 30,000 to 40,000—Worldwide. 21,000—Northwestern Pacific Ocean 48,109.	<0.01—Worldwide. <0.01—Northwestern Pacific Ocean <0.01.	NA.
Sei whale	0.59/0.08/0.08	0.09	2	80,000—Worldwide. 10,000—South of Antarctic Convergence.	<0.01—Worldwide. 0.02—South of Antarctic Convergence.	NA.
Fin whale	0.59/0.13/0.13	0.15	2	140,000—Worldwide. 15,000—South of Antarctic Convergence.	<0.01—Worldwide. 0.01—South of Antarctic Convergence.	NA.
Blue whale	0.59/0.05/0.05	0.06	2	8,000 to 9,000—Worldwide. 2,300—True Southern Hemisphere. 1,500—Pygmy.	0.03—Worldwide. 0.09—True Southern Hemisphere. 0.13—Pygmy.	NA.
Odontocetes						
Sperm whale	1.62/1.16/1.16	1.34	10	360,000—Worldwide. 30,000—South of Antarctic Convergence.	<0.01—Worldwide. 0.03—South of Antarctic Convergence.	NA.
Pygmy sperm whale.	0.97/NA/0.97	1.12	5	NA	NA	NA.
Cuvier's beaked whale.	0.69/NA/0.69	0.80	2	600,000	<0.01	NA
Shepherd's beaked whale.	0.46/NA/0.46	0.53	3	600,000	<0.01	NA.
Southern bottlenose whale.	0.46/NA/0.46	0.53	2	50,000—South of Antarctic Convergence 600,000.	<0.01—South of Antarctic Convergence <0.01.	NA.
Andrew's beaked whale.	0.46/NA/0.46	0.53	2	600,000	<0.01	NA.
Blainville's beaked whale.	0.23/NA/0.23	0.27	2	600,000	<0.01	NA.
Gray's beaked whale.	0.92/NA/0.92	1.06	2	600,000	<0.01	NA.
Hector's beaked whale.	0.46/NA/0.46	0.53	2	600,000	<0.01	NA.
Spade-toothed beaked whale.	0.23/NA/0.23	0.27	2	600,000	<0.01	NA.
Strap-toothed beaked whale.	0.69/NA/0.69	0.80	3	600,000	<0.01	NA.
Killer whale	0.45/5.70/5.70	6.58	12	80,000—South of Antarctic Convergence.	0.02—South of Antarctic Convergence.	NA.
False killer whale	0.27/NA/0.27	0.31	10	NA	NA	NA.

TABLE 5—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (AIRGUN OPERATIONS) DURING SIO'S PROPOSED LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 1,250 km OF TRACKLINES/APPROXIMATELY 1,154 km[2] ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE SOUTHWEST PACIFIC OCEAN, EAST OF NEW ZEALAND, MAY TO JUNE 2015—Continued

Species	Density U.S. West Coast/ Southern Ocean/estimate used (number of animals/1,000 km2) [1]	Calculated take from seismic airgun operations (*i.e.,* estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2]	Proposed take authorization [3]	Abundance [4]	Approximate percentage of population estimate (proposed take) [5]	Population trend [6]
Long-finned pilot whale.	0.27/6.41/6.41	7.40	20	200,000—South of Antarctic Convergence.	0.01—South of Antarctic Convergence.	NA.
Short-finned pilot whale.	0.45/NA/0.45	0.52	20	At least 600,000—Worldwide	<0.01—Worldwide.	NA.
Bottlenose dolphin.	81.55/NA/81.55	94.11	95	At least 614,000—Worldwide	0.02—Worldwide	NA.
Dusky dolphin	81.55/NA/81.55	94.11	95	12,000 to 20,000—New Zealand	0.79—New Zealand.	NA.
Hector's dolphin	32.62/NA/32.62	37.64	38	7,400	0.51	Declining.
Hourglass dolphin.	48.93/NA/48.93	56.47	57	144,000 to 150,000—South of Antarctic Convergence.	0.04—South of Antarctic Convergence.	NA.
Short-beaked common dolphin.	163.10/NA/163.10	188.22	189	At least 3,500,000—Worldwide	<0.01—Worldwide.	NA.
Southern right whale dolphin.	48.93/NA/48.93	56.46	57	NA	NA	NA.
Pinnipeds						
Southern elephant seal.	5.11/NA/5.11	5.90	6	640,000 to 650,000—Worldwide. 470,000—South Georgia Island 607,000.	<0.01—Worldwide or South Georgia Island.	Increasing, decreasing, or stable depending on breeding population.
New Zealand fur seal.	12.79/NA/12.79	14.76	15	135,000—Worldwide. 50,000 to 100,000—New Zealand.	0.01—Worldwide. 0.03—New Zealand.	Increasing.

NA = Not available or not assessed.
[1] Densities based on sightings from NMFS SWFSC, IWC, and Bonnell *et al.* (2012) data.
[2] Calculated take is estimated density multiplied by the area ensonified to 160 dB (rms) around the proposed seismic tracklines, increased by 25% for contingency.
[3] Adjusted to account for average group size.
[4] See population estimates for marine mammal species in Table 3 (above).
[5] Total proposed authorized takes expressed as percentages of the species or regional populations.
[6] Jefferson *et al.* (2008).

Numbers of marine mammals that might be present and potentially disturbed are estimated based on the available data about marine mammal distribution and densities in the U.S. west coast and Southern Ocean as a proxy for the proposed study area off the east coast of New Zealand. SIO estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion and the expected density of marine mammals in the area (in the absence of the low-energy seismic survey). The number of possible exposures can be estimated by considering the total marine area that would be within the 160 dB radius (the diameter is 400 m multiplied by 2 for deep water depths, the diameter is 600 m multiplied by 2 for intermediate water depths) around the operating airguns, including areas of overlap. The spacing of tracklines is 500 m (1,640.4 ft) in the smaller grids and 1,250 m (4,101.1 ft) in the larger grids. Overlap was measured using GIS and was minimal (area with overlap is equal to 1.13 multiplied by the area without overlap). The take estimates were calculated without overlap. The 160 dB radii are based on acoustic modeling data for the airguns that may be used during the proposed action (see SIO's IHA application). During the proposed low-energy seismic survey, the transect lines are widely spaced relative to the 160 dB distance. As summarized in Table 2 (see Table 1 and Figure 2 of the IHA application), the modeling results for the proposed low-energy seismic airgun array indicate the received levels are dependent on water depth. Since the majority of the proposed airgun operations would be conducted in

waters 100 to 1,000 m deep or greater than 1,000 m deep, the buffer zone of 600 m or 400 m, respectively, for the two 45 in^3 GI airguns was used.

The number of different individuals potentially exposed to received levels greater than or equal to 160 dB re 1 μPa (rms) from seismic airgun operations was calculated by multiplying:

(1) The expected species density (in number/km^2), times.

(2) The anticipated area to be ensonified to that level during airgun operations (excluding overlap).

The area expected to be ensonified was determined by entering the planned tracklines into MapInfo GIS using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB (rms) isopleth around each trackline, and then calculating the total area within the isopleth. Applying the approach described above, approximately 1,153.6 km^2 (including the 25% contingency [approximately 923 km^2 without contingency]) would be ensonified within the 160 dB isopleth for seismic airgun operations on one or more occasions during the proposed low-energy seismic survey. The total ensonified area (1,154 km^2 [336.5 nmi^2]) was calculated by adding 847 km^2 (246.9 nmi^2) in deep water, 76 km^2 (22.2 nmi^2), and 230.8 km^2 (67.3 nmi^2) for the 25% contingency. The take calculations within the study sites do not explicitly add animals to account for the fact that new animals (*i.e.,* turnover) not accounted for in the initial density snapshot could also approach and enter the area ensonified above 160 dB for seismic airgun operations. However, studies suggest that many marine mammals would avoid exposing themselves to sounds at this level, which suggests that there would not necessarily be a large number of new animals entering the area once the seismic survey started. Because this approach for calculating take estimates does not account for turnover in the marine mammal populations in the area during the course of the proposed low-energy seismic survey, the actual number of individuals exposed may be underestimated. However, any underestimation is likely offset by the conservative (*i.e.,* probably overestimated) line-kilometer distances (including the 25% contingency) used to calculate the survey area, and the fact the approach assumes that no cetaceans or pinnipeds would move away or toward the tracklines as the *Revelle* approaches in response to increasing sound levels before the levels reach 160 dB for seismic airgun operations, which is likely to occur and which would decrease the density of marine mammals in the survey area. Another way of interpreting the estimates in Table 6 is that they represent the number of individuals that would be expected (in absence of a seismic program) to occur in the waters that would be exposed to greater than or equal to 160 dB (rms) for seismic airgun operations.

SIO's estimates of exposures to various sound levels assume that the proposed low-energy seismic survey would be carried out in full; however, the ensonified areas calculated using the planned number of line-kilometers has been increased by 25% to accommodate lines that may need to be repeated, equipment testing, etc. As is typical during offshore seismic surveys, inclement weather and equipment malfunctions would be likely to cause delays and may limit the number of useful line-kilometers of airgun operations that can be undertaken. The estimates of the numbers of marine mammals potentially exposed to 160 dB (rms) received levels are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. These estimates assume that there would be no weather, equipment, or mitigation delays that limit the airgun operations, which is highly unlikely.

Table 5 shows the estimates of the number of different individual marine mammals anticipated to be exposed to greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations during the low-energy seismic survey if no animals moved away from the survey vessel. The total proposed take authorization is given in the column that is fourth from the left of Table 5.

Encouraging and Coordinating Research

SIO and NSF would coordinate the planned marine mammal monitoring program associated with the proposed low-energy seismic survey with other parties that express interest in this activity and area. SIO and NSF would coordinate with applicable U.S. agencies (*e.g.,* NMFS) and the government of New Zealand, and would comply with their requirements. The proposed low-energy seismic survey falls under Level 3 of the ''Code of Conduct for minimizing acoustic disturbance to marine mammals from seismic survey operations'' issued by New Zealand. Level 3 seismic surveys are exempt from the provisions of the Code of Conduct.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires NMFS to determine that the authorization would not have an unmitigable adverse impact on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals implicated by this action (in the Southwest Pacific Ocean, East of New Zealand study area). Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.) and the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated serious injuries and or mortalities;

(2) The number and nature of anticipated injuries;

(3) The number, nature, intensity, and duration of takes by Level B harassment (all of which are relatively limited in this case);

(4) The context in which the takes occur (*e.g.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(5) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(6) Impacts on habitat affecting rates of recruitment/survival; and

(7) The effectiveness of monitoring and mitigation measures.

NMFS has preliminarily determined that the specified activities associated with the marine seismic survey are not likely to cause PTS, or other (non-auditory) injury, serious injury, or death, based on the analysis above and the following factors:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;

(3) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the implementation of the required monitoring and mitigation measures (including shut-down measures); and

(4) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of the SIO's planned low-energy seismic survey, and none are proposed to be authorized by NMFS. Table 5 of this document outlines the number of requested Level B harassment takes that are anticipated as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described in this notice (see ''Potential Effects on Marine Mammals'' section above), the activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given NMFS's and the applicant's proposed mitigation, monitoring, and reporting measures to minimize impacts to marine mammals. Additionally, the low-energy seismic survey would not adversely impact marine mammal habitat.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While airgun operations are anticipated to occur on consecutive days, the estimated duration of the survey would not last more than a total of approximately 27 operational days. Additionally, the low-energy seismic survey would be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, so individual animals likely would only be exposed to and harassed by sound for less than a day.

As mentioned previously, NMFS estimates that 32 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Table 3 and 5 of this document. As shown in those tables, the proposed takes represent small proportions of the overall populations of these marine mammal species where abundance estimates are available (*i.e.,* less than 1%).

Of the 32 marine mammal species under NMFS jurisdiction that may or are known to likely occur in the study area, six are listed as threatened or endangered under the ESA: Southern right, humpback, sei, fin, blue, and sperm whales. These species are also considered depleted under the MMPA. None of the other marine mammal species that may be taken are listed as depleted under the MMPA. Of the ESA-listed species, incidental take has been requested to be authorized for six species. As mitigation to reduce impacts to the affected species or stocks, SIO would be required to cease airgun operations if any marine mammal enters designated exclusion zones. No injury, serious injury, or mortality is expected to occur for any of these species, and due to the nature, degree, and context of the Level B harassment anticipated, and the activity is not expected to impact rates of recruitment or survival for any of these species.

NMFS has preliminarily determined that, provided that the aforementioned mitigation and monitoring measures are implemented, the impact of conducting a low-energy marine seismic survey in the Southwest Pacific Ocean, May to June 2015, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas for species to move to and the short and sporadic duration of the research activities, have led NMFS to preliminary determine that the taking by Level B harassment from the specified activity would have a negligible impact on the affected species in the specified geographic region. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, the proposed activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given the NMFS and applicant's proposal to implement mitigation and monitoring measures would minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from SIO's proposed low-energy seismic survey would have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that 32 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Tables 3 and 5 of this document.

The estimated numbers of individual cetaceans and pinnipeds that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the proposed low-energy seismic survey (including a 25% contingency) are in Table 5 of this document. Of the cetaceans, 2 southern right, 2 pygmy right, 2 humpback, 2 Antarctic minke, 2 minke, 2 Bryde's, 2 sei, 2 fin, 2 blue, and 10 sperm whales could be taken by Level B harassment during the proposed low-energy seismic survey, which would represent 0.03, unknown, 0.1, less than 0.01, less than 0.01, less than 0.01, less than 0.01, less than 0.01, 0.03, and 0.03% of the affected worldwide or regional populations, respectively. In addition, 5 pygmy sperm, 2 Cuvier's beaked, 3 Shepherd's beaked, 2 southern bottlenose, 2 Andrew's beaked, 2 Blainville's beaked, 2 Gray's beaked,

2 Hector's beaked, 2 spade-toothed beaked, and 3 strap-toothed beaked could be taken be Level B harassment during the proposed low-energy seismic survey, which would represent unknown, less than 0.01, less than 0.01, less than 0.01, less than 0.01, less than 0.01, less than 0.01, less than 0.01, less than 0.01, and less than 0.01% of the affected worldwide or regional populations, respectively. Of the delphinids, 12 killer whales, 10 false killer whales, 20 long-finned pilot whales, 20 short-finned pilot whales, 95 bottlenose dolphins, 95 dusky dolphins, 38 Hector's dolphins, 57 hourglass dolphins, 189 short-beaked common dolphins, and 57 southern right whale dolphins could be taken by Level B harassment during the proposed low-energy seismic survey, which would represent 0.02, unknown, 0.01, less than 0.01, 0.02, 0.79, 0.51, 0.04, less than 0.01, and unknown of the affected worldwide or regional populations, respectively. Of the pinnipeds, 15 New Zealand fur seals and 6 southern elephant seals could be taken by Level B harassment during the proposed low-energy seismic survey, which would represent 0.01 and less than 0.01 of the affected worldwide or regional population, respectively.

No known current worldwide or regional population estimates are available for 4 species under NMFS's jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. These species are the pygmy right, pygmy sperm, and false killer whales and southern right whale dolphins. Pygmy right whales have a circumglobal distribution and occur throughout coastal and oceanic waters in the Southern Hemisphere (between 30 to 55° South) (Jefferson *et al.,* 2008). Pygmy sperm whales occur in deep waters on the outer continental shelf and slope in tropical to temperate waters of the Atlantic, Indian, and Pacific Oceans. False killer whales generally occur in deep offshore tropical to temperate waters (between 50° North to 50° South) of the Atlantic, Indian, and Pacific Oceans (Jefferson *et al.,* 2008). Southern right whale dolphins have a circumpolar distribution and generally occur in deep temperate to sub-Antarctic waters in the Southern Hemisphere (between 30 to 65° South) (Jefferson *et al.,* 2008). Based on these distributions and preferences of these species, NMFS concludes that the requested take of these species likely represent small numbers relative to the affected species' overall population sizes.

NMFS makes its small numbers determination based on the numbers of marine mammals that would be taken relative to the populations of the affected species or stocks. The proposed take estimates all represent small numbers relative to the affected species or stock size (*i.e.,* all are less than 1%), with the exception of the four species (*i.e.,* pygmy right, pygmy sperm, and false killer whales and southern right whale dolphins) for which a qualitative rationale was provided.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, six are listed as endangered under the ESA: The southern right, humpback, sei, fin, blue, and sperm whales. Under section 7 of the ESA, NSF, on behalf of SIO, has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed low-energy seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, has initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS would conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, in addition to the mitigation and monitoring requirements included in the IHA, NSF and SIO would be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS's Biological Opinion issued to both NSF and SIO, and NMFS's Office of Protected Resources.

National Environmental Policy Act

With SIO's complete IHA application, NSF and SIO provided NMFS a ''Draft Environmental Analysis of a Low-Energy Marine Geophysical Survey by the R/V *Roger Revelle* in the Southwest Pacific Ocean, East of New Zealand, May to June 2015,'' (Draft Environmental Analysis), prepared by LGL Limited, Environmental Research Associates, on behalf of NSF and SIO. The Draft Environmental Analysis analyzes the direct, indirect, and cumulative environmental impacts of the proposed specified activities on marine mammals, including those listed as threatened or endangered under the ESA. NMFS, after independently reviewing and evaluating the document for sufficiency and compliance with Council on Environmental Quality (CEQ) NEPA regulations and NOAA Administrative Order 216–6 § 5.09(d), will conduct a separate NEPA analysis and prepare a ''Draft Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the Scripps Institution of Oceanography to Take Marine Mammals by Harassment Incidental to a Low-Energy Marine Geophysical Survey in the Southwest Pacific Ocean, East of New Zealand, May to June 2015,'' and decide whether to sign a Finding of No Significant Impact (FONSI), prior to making a determination on the issuance of the IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to SIO for conducting the low-energy seismic survey in the Southwest Pacific Ocean, East of New Zealand, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued). The proposed IHA language is provided below:

The NMFS hereby authorizes the Scripps Institution of Oceanography, 8602 La Jolla Shores Drive, La Jolla, California 92037, under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to a low-energy marine geophysical (seismic) survey conducted by the R/V *Roger Revelle* (*Revelle*) in the Southwest Pacific Ocean, East of New Zealand, May to June 2015:

1. *Effective Dates*

This Authorization is valid from May 18, 2015 through July 30, 2015.

2. *Specified Activity and Geographic Region*

This Authorization is valid only for SIO's activities associated with low-energy seismic survey, bathymetric profile, and heat-flow probe measurements conducted aboard the *Revelle* that shall occur in the following specified geographic area:

(a) In selected regions of the Southwest Pacific Ocean off the east coast of New Zealand. The survey sites are located in the Exclusive Economic Zone, outside of territorial waters (located between approximately 38.5 and 42.5° South, and between 174 and 180° East). Water depths in the survey area are expected to be approximately 200 to 3,000 m. No airgun operations would occur in shallow (less than 100

m) water depths. Airgun operations would take approximately 135 hours in total and 1,250 km, and the remainder of the time would be spent in transit and collecting heat-flow measurements and sediment core samples. The low-energy seismic survey would be conducted as specified in SIO's IHA application and the associated NSF and SIO Environmental Analysis.

3. This Authorization does not permit incidental takes of marine mammals in the territorial sea of foreign nations, as the MMPA does not apply in those waters. The territorial sea extends at the most 22.2 kilometers (km) (12 nautical miles [nmi]) from the baseline of a coastal State.

4. *Species Authorized and Level of Takes*

(a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of the Southwest Pacific Ocean, East of New Zealand:

(i) *Mysticetes*—see Table 5 (above) for authorized species and take numbers.

(ii) *Odontocetes*—see Table 5 (above) for authorized species and take numbers.

(iii) *Pinnipeds*—see Table 5 (above) for authorized species and take numbers.

(iv) If any marine mammal species are encountered during seismic activities that are not listed in Table 5 (above) for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations, then the SIO must alter speed or course or shut-down the airguns to prevent take.

(b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Condition 4(a) above or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

5. The sources authorized for taking by Level B harassment are limited to the following acoustic sources, absent an amendment to this Authorization:

A two Generator Injector (GI) airgun array (each with a discharge volume of 45 cubic inches [in^3]) with a total volume of 90 in^3 (or smaller).

6. *Prohibited Take*

The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Office of Protected Resources, National Marine Fisheries Service (NMFS), at 301–427–8401.

7. *Mitigation and Monitoring Requirements*

The SIO is required to implement the following mitigation and related monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

Protected Species Observers and Visual Monitoring

(a) Utilize at least one NMFS-qualified, vessel-based Protected Species Observer (PSO) to visually watch for and monitor marine mammals near the seismic source vessel during daylight airgun operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during ramp-ups of airguns day or night. Three PSOs shall be based onboard the vessel.

(i) The *Revelle's* vessel crew shall also assist in detecting marine mammals, when practicable.

(ii) PSOs shall have access to reticle binoculars (7 x 50 Fujinon) equipped with a built-in daylight compass and range reticles, big-eye binoculars (25 x 150), optical range finders, and night-vision devices.

(iii) PSO shifts shall last no longer than 4 hours at a time.

(iv) PSO(s) shall also make observations during daylight periods when the seismic airguns are not operating, when feasible, for comparison of animal abundance and behavior.

(v) PSO(s) shall conduct monitoring while the airgun array and streamer(s) are being deployed or recovered from the water.

(b) PSO(s) shall record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or shut-down), Beaufort sea state and wind force, visibility, and sun glare; and

(iii) The data listed under Condition 7(b)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

Buffer and Exclusion Zones

(c) Establish a 160 dB re 1 μPa (rms) buffer zone, as well as a180 dB re 1 μPa (rms) exclusion zone for cetaceans and a 190 dB re 1 μPa (rms) exclusion zone for pinnipeds before the two GI airgun array (90 in^3 total volume) is in operation. See Table 2 (above) for distances and buffer and exclusion zones.

Visual Monitoring at the Start of the Airgun Operations

(d) Visually observe the entire extent of the exclusion zone (180 dB re 1 μPa [rms] for cetaceans and 190 dB re 1 μPa [rms] for pinnipeds; see Table 2 [above] for distances) using two NMFS-qualified PSOs, for at least 30 minutes prior to starting the airgun array (day or night).

(i) If the PSO(s) sees a marine mammal within the exclusion zone, SIO must delay the seismic survey until the marine mammal(s) has left the area. If the PSO(s) sees a marine mammal that surfaces, then dives below the surface, the PSO(s) shall continue to observe the exclusion zone for 30 minutes, and if the PSO sees no marine mammals during that time, the PSO should assume that the animal has moved beyond the exclusion zone.

(ii) If for any reason the entire radius cannot be seen for the entire 30 minutes (*i.e.,* rough seas, fog, darkness), or if marine mammals are near, approaching, or in the exclusion zone, the airguns may not be ramped-up. If one airgun is already running at a source level of at least 180 dB re 1 μPa (rms), SIO may start the second airgun without observing the entire exclusion zone for 30 minutes prior, provided no marine mammals are known to be near the exclusion zone (in accordance with Condition 7[e] below).

Ramp-Up Procedures

(e) Implement a ''ramp-up'' procedure, which means starting with a single GI airgun and adding a second GI airgun after five minutes, when starting up at the beginning of seismic operations or anytime after the entire array has been shut-down for more than 15 minutes. During ramp-up, the two PSOs shall monitor the exclusion zone, and if marine mammals are sighted, a shut-down shall be implemented as though the full array (both GI airguns) were operational. Therefore, initiation of ramp-up procedures from shut-down requires that the two PSOs be able to view the full exclusion zone as described in Condition 7(d) (above).

Shut-Down Procedures

(f) Shut-down the airgun(s) if a marine mammal is detected within, approaches, or enters the relevant exclusion zone (as defined in Table 2, above). A shut-down means all operating airguns are shut-down (*i.e.,* turned off).

(g) Following a shut-down, the airgun activity shall not resume until the PSO(s) has visually observed the marine mammal(s) exiting the exclusion zone and determined it is not likely to return, or has not seen the marine mammal within the exclusion zone for 15 minutes, for species with shorter dive durations (small odontocetes and pinnipeds), or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, dwarf and pygmy sperm, killer, and beaked whales).

(h) Following a shut-down and subsequent animal departure, airgun operations may resume, following the ramp-up procedures described in Condition 7(e).

Speed or Course Alteration

(i) Alter speed or course during seismic operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant exclusion zone. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the exclusion zone, further mitigation measures, such as a shut-down, shall be taken.

Survey Operations During Low-Light Hours

(j) Marine seismic surveying may continue into low-light hours if such segment(s) of the survey is initiated when the entire relevant exclusion zones are visible and can be effectively monitored.

(k) No initiation of airgun array operations is permitted from a shut-down position during low-light hours (such as in dense fog or heavy rain) when the entire relevant exclusion zone cannot be effectively monitored by the PSO(s) on duty.

(l) To the maximum extent practicable, schedule seismic operations (*i.e.,* shooting airguns) during daylight hours, and heat-flow measurements at nighttime hours.

8. *Reporting Requirements*

SIO are required to:

(a) Submit a draft report on all activities and monitoring results to the Office of Protected Resources, NMFS, within 90 days of the completion of the *Revelle's* Southwest Pacific Ocean, East of New Zealand cruise. This report must contain and summarize the following information:

(i) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all seismic operations and marine mammal sightings;

(ii) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated seismic activity (*e.g.,* number of shut-downs), observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that: (A) Are known to have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) (for seismic airgun operations), and/or 180 dB re 1 μPa (rms) for cetaceans and 190 dB re 1 μPa (rms) for pinnipeds, with a discussion of any specific behaviors those individuals exhibited; and (B) may have been exposed (based on modeled values for the two GI airgun array) to the seismic activity at received levels greater than or equal to 160 dB re 1 μPa (rms) (for seismic airgun operations), and/or 180 dB re 1 μPa (rms) for cetaceans and 190 dB re 1 μPa (rms) for pinnipeds, with a discussion of the nature of the probable consequences of that exposure on the individuals that have been exposed.

(iv) A description of the implementation and effectiveness of the: (A) Terms and Conditions of the Biological Opinion's Incidental Take Statement (ITS) (attached); and (B) mitigation measures of the IHA. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

(b) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

8. *Reporting Prohibited Take*

(a) (i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* through ship-strike, gear interaction, and/or entanglement), SIO shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the following information:

(ii) Time, date, and location (latitude/longitude) of the incident; the name and type of vessel involved; the vessel's speed during and leading up to the incident; description of the incident; status of all sound source use in the 24 hours preceding the incident; water depth; environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility); description of marine mammal observations in the 24 hours preceding the incident; species identification or description of the animal(s) involved; the fate of the animal(s); and photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SIO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO may not resume their activities until notified by NMFS via letter, email, or telephone.

Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death

(b) In the event that SIO discover an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), SIO shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the same information identified in Condition 8(c)(i) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS shall work with SIO to determine whether modifications in the activities are appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities

(c) In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SIO shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* within 24 hours of the discovery. SIO shall provide photographs or video footage (if available) or other documentation of the

stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

9. *Endangered Species Act Biological Opinion and Incidental Take Statement*

(a) SIO is required to comply with the Terms and Conditions of the ITS corresponding to NMFS's Biological Opinion issued to both NSF and SIO, and NMFS's Office of Protected Resources.

(b) A copy of this Authorization and the ITS must be in the possession of all contractors and PSO(s) operating under the authority of this Incidental Harassment Authorization.

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the notice of the proposed IHA for SIO's low-energy seismic survey. Please include with your comments any supporting data or literature citations to help inform our final decision on SIO's request for an MMPA authorization. Concurrent with the publication of this notice in the **FEDERAL REGISTER,** NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 12, 2015.

Perry Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–06261 Filed 3–19–15; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 60

Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2009–0174; FRL–9919–60–OAR]

RIN 2060–AP63

Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; amendments.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the part 60 General Provisions and various new source performance standards (NSPS) subparts in our regulations to require affected facilities to submit specified air emissions data reports to the EPA electronically and to allow affected facilities to maintain electronic records of these reports.

The EPA believes that the electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. Electronic submittal of the reports addressed in this proposed rulemaking will facilitate more accurate and timely development of numerous efforts, including regulation development, emissions factors, emissions inventories, trends analysis, regional and local scale air quality modeling, regulatory impact assessments and human exposure modeling.

DATES: *Comments.* Comments must be received on or before May 19, 2015. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before May 19, 2015.

Public Hearing. If anyone contacts the EPA requesting a public hearing by March 25, 2015, the EPA will hold a public hearing on April 6, 2015 from 1:00 p.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Park, NC 27711. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2009–0174, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID Number EPA–HQ–OAR–2009–0174 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2009–0174.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode: 28221T, Attention Docket ID Number EPA–HQ–OAR–2009–0174, 1200 Pennsylvania Ave. NW., Washington, DC 20460. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.
- *Hand/Courier Delivery:* Environmental Protection Agency, EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Ave. NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2009–0174. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m. on all federal government work days), and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA–HQ–OAR–2009–0174. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. (See section I.C. below for instructions on submitting information claimed as CBI.) The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment through *www.regulations.gov*, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Electronic files should avoid the use of special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *www.epa.gov/epahome/dockets.htm.*

Docket. The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2009–0174. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in regulations.gov or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Public Hearing. If requested by March 25, 2015, we will hold a public hearing on April 6, 2015, from 1:00 p.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Park, NC 27711. Please contact Ms. Pamela Garrett of the Sector Policies and Programs Division via email at *garrett.pamela@epa.gov* or phone at (919) 541–7966 to request a hearing, register to speak at the hearing or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be April 1, 2015. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, we ask that you pre-register

for the hearing, as we may not be able to arrange such accommodations without advance notice. The hearing will provide interested parties the opportunity to present data, views or arguments concerning the proposed rule. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing is held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Again, a hearing will not be held on this rulemaking unless requested. A hearing needs to be requested by March 25, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Gerri Garwood, Measurement Policy Group (MPG), Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2406; fax number: (919) 541–1039; and email address: *garwood.gerri@epa.gov*.

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations. Several acronyms and abbreviations are included in this preamble. To ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined here:

AAPCA Association of Air Pollution Control Agencies
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CHIEF Clearinghouse for Inventories and Emissions Factors
CMS Continuous Monitoring System
COR Copy of Record
CROMERR Cross-Media Electronic Reporting Rule
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FR Federal Register
FRS Facility Registration System
ICR Information Collection Request
IPT Integrated Project Team
MPG Measurement Policy Group
NACAA National Association of Clean Air Agencies
NATA National Air Toxics Assessment
NEI National Emissions Inventory
NESCAUM Northeast States for Coordinated Air Use Management
NSPS New Source Performance Standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
RATA Relative Accuracy Test Audit
RFA Regulatory Flexibility Act
SBA Small Business Administration
TRI Toxics Release Inventory
TSCA Toxic Substances Control Act
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
VCS Voluntary Consensus Standards
XML Extensible Markup Language

Organization of this Document. The information in this preamble is organized as follows:

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I. General Information

A. Does this proposed action apply to me?

Entities affected by this proposed rule include facilities in all industry groups that are subject to NSPS in part 60 of title 40 of the CFR that require submission of the reports addressed in this rulemaking.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this proposed rule is available on the Internet through the Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, the EPA will post a copy of this proposed rule at the following Web site: *http://www.epa.gov/ttn/atw/eparules.html*.

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI contained on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, clearly mark the outside of the disk or CD–ROM as not containing CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2009–0174.

II. Proposed Action

A. What are the current part 60 reporting and recordkeeping requirements?

Section 111(b) of the Clean Air Act (CAA) directs the EPA to develop technology based standards which apply to specific categories of stationary sources. Additionally, section 129 of the CAA requires that the EPA establish performance standards for solid waste combustors under the CAA section 111 requirements. The CAA section 111 standards, or NSPS, apply to new, modified and reconstructed facilities in specific source categories, and they are codified in 40 CFR part 60. The NSPS typically include source category specific emissions standards and monitoring, reporting, recordkeeping and testing requirements. In addition, the General Provisions of 40 CFR part 60 (subpart A) include regulatory requirements that automatically apply to all NSPS unless a particular subpart contains specific requirements that replace or augment the General Provisions requirements. Under current part 60 requirements, most facilities must routinely keep records and submit air emissions data reports such as summary reports, excess emission reports, performance test reports and performance evaluation reports in paper format to the EPA and delegated state, local and tribal air agencies (air agencies).

B. What revisions are we proposing with this action?

This proposal would require you (the owner or operator or responsible official [as defined in 40 CFR 63.2]) to submit specified reports required under 40 CFR part 60 electronically to the EPA's Central Data Exchange (CDX) (*http://www.epa.gov/cdx/*), the point of entry for electronic environmental data submissions to the EPA, rather than submitting them in paper format. This proposed rule would not require you to submit any information that is not already required to be submitted under the current NSPS that are proposed to be revised by this rule nor would this rule change the way in which you submit these reports to your relevant air agency.

While the NSPS require several different types of reports, this proposed rule focuses on the submission of electronic reports to the EPA that provide direct measures of air emissions data such as summary reports, excess emission reports, performance test reports and performance evaluation reports. Later in this section, we provide further explanation of reports we are not proposing to include in this rule, although we may require electronic submittal of these reports at a later time. Again, we are not adding new reporting requirements; these reports are already required to be submitted in current 40 CFR part 60 regulations. The part 60 General Provisions specify the timing for submittal and content of the reports. The General Provisions' reporting and recordkeeping requirements apply to all NSPS without change unless a particular NSPS supplements or revises some or all of them to address source category specific needs.

Following is a brief summary of the basic air emissions data reports codified in the 40 CFR part 60 General Provisions that we have included in this proposed rule:

- Summary reports and/or excess emissions and monitoring systems performance reports (excess emission reports) are required by 40 CFR 60.7(c) of the General Provisions when an owner or operator is required to install a continuous monitoring system (CMS). The summary report form may be submitted in lieu of the excess emission report when the downtime and excess emissions durations are sufficiently low, meeting thresholds defined in 40 CFR 60.7(d). Section 60.7(d) of the General Provisions specifies the content required in a summary report, which consists of basic excess emissions data (excess emissions duration and causes) and CMS performance data (CMS downtime duration and causes) in summary form.
- Excess emission reports are required by 40 CFR 60.7(c) of the General Provisions if an owner or operator is required to install a CMS and (1) the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period, or (2) the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period. Section 60.7(c) specifies the content required, which consists of detailed excess emissions data (magnitude of excess emissions; identification of periods of excess emissions that occur during startups, shutdowns and malfunctions; cause of any malfunction; and the corrective action taken or preventive measures adopted) and CMS performance data (date and time identifying each period when the CMS was inoperative except for zero and span checks and the nature of the system repairs or adjustments).
- Performance test reports required by 40 CFR 60.8(a) of the General Provisions must be submitted after an owner or operator conducts a required performance test to demonstrate compliance with the emissions standard(s) and/or to establish control device operating parameters.
- Performance evaluation reports (also referred to as relative accuracy test audit [RATA] reports) required by 40 CFR 60.13(c) of the General Provisions must be submitted after an owner or operator conducts a required performance evaluation of a CMS to demonstrate the accuracy of the CMS.

Many NSPS require the submission of specific air emissions data reports that are similar to the summary reports and excess emission reports required under the 40 CFR part 60 General Provisions. Although similar in purpose and required content, they are called by different names (*e.g.,* annual reports, semi-annual reports). The EPA reviewed each NSPS to ensure that we require these reports be submitted to the EPA electronically, since they provide essentially the same information as required by summary reports and excess emission reports.

The majority of NSPS are potentially affected by this proposed rulemaking either because the specified General Provisions requirements apply or because they are being individually

amended by this proposed rulemaking. There are, however, some NSPS that are being excluded from this proposed rulemaking. For example, NSPS that do not require the submission of any of the air emissions data reports that are subject to the proposed electronic reporting are excluded from this proposed rulemaking. In addition, a few NSPS are being addressed under separate rulemakings that would require electronic reporting. See Table 1 (in section VI of this preamble) for subparts that are not being addressed in this proposed rulemaking.

In addition to the NSPS, 40 CFR part 60 includes several subparts that contain requirements for state emission guidelines. In addition to requiring the EPA to establish NSPS for new units, section 129 of the CAA also requires the agency to establish emission guidelines for existing units. Additionally, section 111(d) of the CAA requires the agency to establish emission guidelines for existing units for any pollutant for which air quality criteria have not been issued or which is not included on a list published under section 7408(a) of Title 42 of the U.S. Code or emitted from a source category which is regulated under CAA section 112, but to which a standard of performance would apply if such existing source were a new source.

Unlike NSPS, which are federal regulations that apply directly to new, modified or reconstructed sources, emission guidelines do not directly regulate sources. Instead, emission guidelines establish requirements for state plans, which are the vehicle by which states implement the emission guidelines.[1] Because air agencies have already submitted implementation plans for the majority of the emission guidelines, and it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. In the future, when an emission guideline is opened for other revisions or a new emission guideline is proposed, we will address electronic reporting in those rulemakings.[2] Even though we are not updating the emission guidelines at this time, if an air agency has an approved plan that already incorporates electronic reporting and recordkeeping, it may be possible for the air agency to start implementing the requirements proposed in the NSPS for the emission guidelines, if the air agency wishes to do so. Air agencies may also choose to revise state plans to incorporate the electronic reporting and recordkeeping requirements proposed in the NSPS and submit the plans to the EPA for approval.

Table 2 (in section VI of this preamble) presents the subparts in 40 CFR part 60 that are affected by this proposed rulemaking. We note that not all affected NSPS are specifically amended in this proposed rulemaking. The NSPS that rely solely on the 40 CFR part 60 General Provisions are not being specifically amended, but are affected by this proposed rulemaking due to the amendments to the General Provisions. Table 1 presents the subparts in 40 CFR part 60 that are not affected by this proposed rulemaking and the reasons why they are unaffected. The support document in the docket to this proposed rule details the rationale for each of the proposed amendments to 40 CFR part 60.[3]

In reviewing each NSPS, we purposefully excluded air emissions data that we did not prioritize for reporting to the EPA electronically at this time. While information such as leak detection and repair program reports and individual parametric system performance monitoring data (*e.g.,* temperature, pressure and flow rate) reports are useful air emissions data, we chose to focus on reports of air emissions data used by the EPA and other stakeholders to evaluate the emissions and performance of affected facilities for which we could develop the platform to provide user access to upload and review the reports by the time this proposed rule is finalized. In the future, we may propose to expand the number and type of air emissions reports that we collect electronically.

Some of the NSPS require owners and operators of affected facilities to submit the results of their performance tests and performance evaluations with their summary and other similar semi-annual or annual air emission reports. In instances where we are requiring owners and operators to submit the results of those performance tests and/or performance evaluations to the EPA's CDX, we have excluded the need to submit these results with the air emission reports because these reports will be readily available and searchable through the EPA's WebFIRE database. Instead, we have revised the applicable air emission report requirements to require identifying information (*i.e.,* the process unit and pollutant tested) and the date of the applicable performance test and/or performance evaluation. This change streamlines reporting by eliminating redundant submittals of performance test and performance evaluation results. We want to note that all of the information that is currently required to be submitted in these reports will still be submitted.

Some of the proposed amendments include changes necessary to make the existing NSPS requirements consistent with the proposed electronic reporting requirements. For example, some of the NSPS that currently include requirements to submit electronic reports to the EPA's CDX would be revised to be consistent with today's proposal. Also, in order to streamline requirements to submit information to the EPA, NSPS addressed by today's proposed rulemaking that currently require the submittal of reports to the EPA Regional Offices would be revised so that electronic submittal to the EPA's CDX would suffice. In addition, the General Provisions currently provide for exceptions to certain federal or state reporting requirements in delegation agreements between the EPA and air agencies. We are proposing that information required to be reported to the EPA electronically cannot be exempted in delegation agreements. We do not believe that this proposed change will require submission to the EPA of information beyond what is currently specified by 40 CFR 60.4(b) to be submitted to the EPA. However, we are soliciting comment on whether this assumption is correct, and, if not, how we should factor that into this rulemaking. Finally, in addition to proposing to revise reporting requirements, we are proposing to amend some of the 40 CFR part 60 rules to allow affected facilities to maintain the reports that have been submitted electronically to the EPA in electronic form rather than in hardcopy form. However, any records and reports that are not submitted electronically must continue to be retained in hardcopy form, unless the specific NSPS already allows electronic recordkeeping.

We are not proposing any changes to how facilities interact with their air agencies. Air agencies will continue to receive reports in the format that they currently require unless they specify otherwise to facilities; however, the proposal allows air agencies to elect to opt in to receiving reports electronically using the EPA's system in lieu of continuing to receive them in the format

[1] See *http://www.epa.gov/reg5oair/toxics/delegation/111d-129/.*

[2] We also plan to address electronic reporting in the Federal Plans that implement the emission guidelines.

[3] Support for the Proposed Revisions for the Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards. December 11, 2014.

that they currently require. Even if an air agency elects not to receive reports through the EPA's system, the air agency may still use the EPA's system by accepting copies of electronically submitted reports either in hardcopy form or by electronic mail. Whether an air agency chooses to use the EPA's system or not, all air agencies will have access to reports as soon as they are submitted to the EPA's CDX. In order to access the report, the air agency reviewer must be registered in the Compliance and Emissions Data Reporting Interface (CEDRI). This is the interface on the CDX that allows facilities to submit required electronic reports under 40 CFR part 60 to the EPA. To register, the reviewer must send a request for registration to *cedri@epa.gov*. The registration request must include the name, government email address, phone number and street address for the reviewer. To facilitate air agency access, air agency personnel who register for access to CEDRI will receive notifications when reports and associated data are submitted to the EPA's CEDRI by affected facilities in their delegated areas.

The proposed rule would be implemented upon the effective date of the final rule, which is 90 days after the date that the final rule is published in the **Federal Register**. We recognize that it may take some time to transition from paper reporting to electronic reporting. We understand that some reports may be due soon after the final rule is published and that you may have already compiled the majority of data in hardcopy form, with little time left to enter data into electronic reporting forms. Therefore, we are delaying the effective date of the rule until 90 days after it is published. We believe that 90 days is an adequate amount of time for this transition, as it is slightly longer than the 60-day reporting timeframe for most performance tests. Additionally, as some reports are on a quarterly schedule, a 90-day timeframe will allow enough time for the completion of quarterly reports currently in progress and start the electronic reporting process with the next quarterly report. Starting 90 days after the date that this rule is published, you would be required to submit all subsequent specified reports electronically to the EPA on the date that the specified report would next be due. These provisions would apply to all affected facilities, including those currently subject to the applicable NSPS, as well as any new, modified or reconstructed sources. Please note that the proposed 90-day delay in the effective date of this rule would not affect a facility's obligation to timely submit air emissions reports in hardcopy form to the delegated air agency and the EPA. Any such reports that are due during the 90-day period must be submitted timely.

C. What steps do you need to take to electronically submit reports to the EPA?

1. Overview of Data Flow Process

This proposal would require you (the owner or operator or responsible official) to submit specified reports currently required under 40 CFR part 60 electronically to the EPA's CDX, the point of entry for submission of electronic data to the agency. The CDX provides access to the CEDRI. This is the interface on the CDX that allows you to submit your required electronic reports under 40 CFR part 60 to the EPA.

The EPA's Electronic Reporting Tool (ERT) creates electronic versions of stationary source sampling test plans and reports of test results that can be submitted to the EPA and air agencies. Note that the proposed requirement to submit performance test reports and performance evaluation reports electronically for the affected NSPS is limited to those reports involving test methods and performance specifications that are supported by the EPA's ERT. For performance tests and evaluations that involve test methods and pollutants that are not supported by the ERT, you must continue to submit the required reports in hardcopy format to your delegated air agency and the EPA Regional Office, as applicable. The test methods and performance specifications currently supported by the ERT are listed in Table 3 (in section VI of this preamble) and on the ERT Web site (*http://www.epa.gov/ttn/chief/ert/ert_info.html*). We expect this list to expand over time. When we add new methods and performance specifications to the ERT, a notice will be sent out through the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv (*http://www.epa.gov/ttn/chief/listserv.html#chief*) and a notice of availability will be added to the ERT Web site. We encourage you to check the Web site regularly for up-to-date information on methods and performance specifications supported by the ERT.

The existing version of CEDRI can accept submissions of performance test reports generated by the ERT, performance evaluation reports generated by the ERT and a limited number of other air emissions reports to the EPA. Facilities can submit reports for multiple NSPS at the same time. This may be desirable for facilities subject to more than one NSPS. We plan to expand CEDRI to allow submittal of additional 40 CFR part 60 summary reports, excess emission reports and other similar reports as described above. In the event CEDRI development does not yet support electronic submittal of reports for a particular NSPS or a specified report on the required submittal date, you would submit the report or reports as otherwise required by the EPA and the delegated air agency. When CEDRI is updated to support electronic submittal of the required report, you would have 90 days from the date of the reporting form's availability in CEDRI to commence electronic reporting to the EPA. Any reports that are required to be submitted prior to the date 90 days from the date the reporting form becomes available must be submitted timely and can be submitted either in hard copy or using the electronic reporting form. Notice will be sent out through the CHIEF Listserv and a notice of availability will be added to the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*) when CEDRI is updated to include these reports.

The CEDRI will also have the ability to automatically import available facility identification information so that the user will not be required to input this information on every form. In most cases, the facility identification information is already part of the EPA Facility Registration System (FRS) and will be obtained from FRS through a Web service using the FRS ID. The FRS is a centrally managed EPA database that identifies facilities, sites or places subject to environmental regulations or of environmental interest. Sources without an FRS number will be able to obtain an FRS number when signing on to CEDRI and sources with an FRS number that find that some of the FRS-generated information is incorrect will be able to correct the errors in CEDRI. Finally, the CEDRI reporting tools will include additional fields and an upload area for PDF files to allow you to add information to address state, local or tribal reporting requirements that may be required in addition to the federal requirements. You are only required to submit this additional information if your air agency (1) opts into accepting reports through the EPA's system, (2) allows facilities to submit files of electronically submitted reports by electronic mail or (3) allows facilities to submit hard copies of the files submitted electronically.

The WebFIRE database (WebFIRE) (*http://www.epa.gov/ttn/chief/webfire/*

index.html) houses the information submitted to the EPA electronically through CEDRI and is the public access site for this information. WebFIRE is also the EPA's online emissions factor repository, retrieval and development tool. Public access to the electronic data submitted to the EPA through CEDRI would be available in WebFIRE within 60 days after the package is electronically submitted. During this processing period, the EPA or air agency reviewer will have access to the submitted report if the reviewer registers for access to CEDRI through CDX, and the facility preparer may submit corrections to the report to CEDRI based on the air agency's review. We believe that this processing period is necessary to ensure that the data in WebFIRE are as complete and accurate as possible. All users will benefit from higher quality data. Since the information in the submitted package must be certified as accurate, we do not anticipate frequent changes. If, however, changes are made to the submission package prior to the end of the processing period and the package's release to WebFIRE, the processing period will start over to allow air agency reviewers time to review the new submission package. While only the corrected package will be available in WebFIRE, all versions of submitted reports will remain as part of the official record and be available to the EPA and air agency reviewers through CDX.

2. CDX CEDRI User Registration and Electronic Signature

If you are a new user, in order to electronically submit the reports subject to this proposed rule, you would first need to visit the CDX homepage (*https://cdx.epa.gov/*) and register in CDX. Once you have successfully registered in CDX, you will receive confirmation of successful registration, and you will be able to log in to CDX by navigating to the CDX home page and entering your user ID and password. Once in CDX, you can select CEDRI from the Active Program Service List. Detailed instructions for registering and accessing CDX and CEDRI are outlined in the *CEDRI CDX User Guide* available on the CEDRI Web site.[4]

Once you have selected CEDRI from the Active Program Service List, you must then select a registration role. You may register either as a ''preparer'' or a ''certifier.'' The preparer (*e.g.,* a performance test contractor or support person at the facility) compiles the data and assembles the submission packages. The preparer can upload files and complete electronic forms. However, the preparer may not submit or sign packages, unless the preparer is also a registered certifier for the facility. As part of the registration process, preparers are required to identify the certifier(s) for whom they are preparing reports. The certifier will be able to assemble submission packages (and, therefore, may also be the preparer) and will be able to modify submission packages that a preparer has assembled. The key difference between the preparer and the certifier is that the certifier can submit and sign a package using an electronic signature. The certifier is generally referred to as the ''owner or operator'' or ''responsible official'' of the facility as defined in the NSPS. To submit a report, there must be either a separate preparer and certifier or one registered certifier who acts as both the preparer and certifier.

The EPA has designed this process to be compliant with the Cross-Media Electronic Reporting Rule (CROMERR). The CROMERR (under 40 CFR part 3) provides the legal framework for electronic reporting under all of the EPA's environmental regulations and includes criteria for assuring that the electronic signature is legally associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document. In other words, the electronic signature is as equally enforceable as a paper signature. For more information on CROMERR, see the Web site: *http://www.epa.gov/cromerr/*.

3. Data Flow for Electronic Reports

The electronic data flow process begins with the report preparation step. In the case of performance test reports and performance evaluation reports, the EPA's ERT would be used to generate electronic performance test report and performance evaluation report files which would then be uploaded to CEDRI. Only the results of performance tests and performance evaluations which use test methods and performance specifications supported by the ERT are required to be submitted electronically to the EPA. Those performance test reports or performance evaluation reports which use test methods and performance specifications not supported by the ERT must continue to be submitted to the Administrator and/or delegated authority as currently required under the affected 40 CFR part 60 rules. The current version of the ERT and test methods and performance specifications supported by the ERT are available at: *http://www.epa.gov/ttn/chief/ert/index.html*. The test methods and performance specifications currently included in the ERT are listed in Table 3. We expect this list to expand over time. When we add new methods to the ERT, a notice will be sent out through the CHIEF Listserv and a notice of availability will be added to the ERT Web site. We encourage you to check the Web site regularly for up-to-date information on test methods and performance specifications supported by the ERT.

Prior to promulgation of this rulemaking, we plan to release an XML (extensible markup language) schema of data elements contained in the ERT to allow the development of alternative report options for performance test reports and performance evaluation reports. Third party software must contain all of the same data elements required by the ERT and must be CROMERR compliant. We will not preapprove third party software. Third party software will be validated through CEDRI submittal; only software that meets the requirements of the XML schema located on the ERT Web site will be accepted by CEDRI. Files developed with software that does meet the requirements of the XML schema located on the ERT Web site will be rejected by CEDRI. If you choose to use third party software, it is your responsibility to ensure that the third party software is acceptable. Use of a third party software that does not meet the requirements of the EPA's XML schema does not relieve you of your responsibility to submit the report by the submittal deadline.

If you choose to use a third party software, you would gather the necessary information required to be input for the performance test report or performance evaluation report and upload the file generated by the third party software to CEDRI. Third party software could be software developed by a third-party for the sole purpose of report submittals. It could also be a delegated air agency's electronic reporting system. We are aware that some air agencies have already developed electronic reporting systems. If the air agency's reporting system can be developed or amended such that it can upload all required data elements to the EPA's CEDRI, the delegated air agency's reporting system could serve as third-party software. In this case, you would submit your performance test or performance evaluation report to the delegated air agency through the delegated air agency's software, and the air agency's system would allow you to

[4] U.S. Environmental Protection Agency. *Central Data Exchange. CEDRI CDX User Guide. Version 5.0.* October 4, 2013, *http://www.epa.gov/ttn/chief/cedri/CDX%20CEDRI%20User%20Guide%20v5%200.pdf*.

also submit the report to the EPA's CEDRI through the air agency's system.

Currently, the EPA's ERT is a Microsoft Access® application, and it is the only available tool to use in preparing performance test reports and performance evaluation reports for submittal to CEDRI. We are evaluating options for the development of a Web-based version of the ERT. We are, therefore, soliciting comment on whether we should develop this alternative ERT format as a reporting tool for performance test reports and performance evaluation reports.

Package preparation for summary reports, excess emission reports and subpart-specific reports that are similar to the summary reports and excess emission reports required by the 40 CFR part 60 General Provisions begins when you gather the necessary information required to be input and/or uploaded into the applicable report forms. For subpart-specific reports, we intend to build in the capability for an alternative electronic file to be submitted in lieu of filling in the CEDRI-provided subpart-specific report form. We plan to release the XML schema that is required for third-parties to develop alternative report options for air emissions reports in CEDRI prior to promulgation of this rulemaking. Third party software must contain all of the same data elements required by the report forms in CEDRI and must be CROMERR compliant. We are not approving third party software. Third party software will be validated through CEDRI submittal; only software that meets the requirements of the XML schema located on the CEDRI Web site will be accepted by CEDRI. If you choose to use third party software, it is your responsibility to ensure that the third party software is acceptable. Use of a third party software that does not meet the requirements of the EPA's XML schema does not relieve you of your responsibility to submit the report by the submittal deadline.

Once you prepare your report package in CEDRI, the registered certifier reviews the report(s) and may modify the file(s) or return the file(s) to the preparer to make modifications. When the certifier determines that the files are ready for submission, the certifier will certify the submission with a CROMERR electronic signature and submit the files through CEDRI. Following submission, the certified signature file will be stored with each report contained in the submission package as the CROMERR Copy of Record (COR) in CDX. Within 60 days of submission to CDX,[5] each file will be sent to the EPA's WebFIRE database where it will be available for public access. Ultimately, each submission is stored in two places. The CROMERR COR is retained in CDX. The same file without the CROMERR signature is available publicly through WebFIRE.

Figure 1 illustrates an overview of the proposed data flow process for electronic report submissions.

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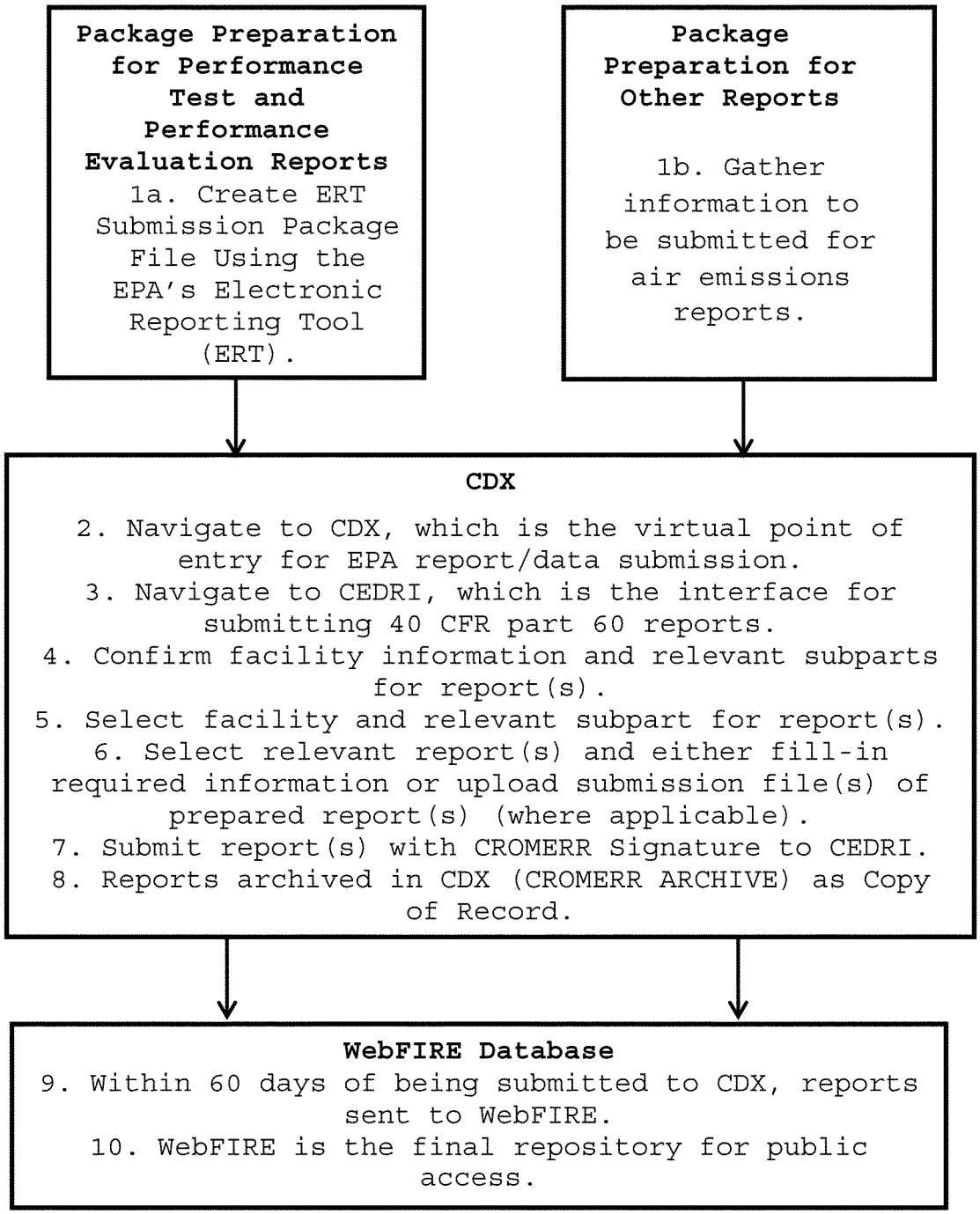
[5] If changes are made to the submission package prior to the end of the processing period and the package's release to WebFIRE, the processing period will start over to allow air agency reviewers time to review the new submission package. While only the corrected package will be available in WebFIRE, all versions of submitted reports will remain as part of the official record and be available to EPA and air agency reviewers through CDX.

Figure 1. Proposed Data Flow Process for Direct Facility to the EPA Transmission of Reports Included in this Proposed Rulemaking



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D. Recordkeeping

Most of the NSPS require affected facilities to keep records, such as raw data and reports of emissions monitoring and testing, on site. Many of the NSPS require that this information be maintained in hardcopy form. Because those records, data and reports that would be required to be submitted to the EPA electronically would be stored safely and available to all stakeholders at all times, we propose that industry should be allowed to maintain electronic copies of these records, data and reports to satisfy federal recordkeeping requirements. Thus, in this rulemaking, we are proposing to eliminate the requirement to maintain hard copies of records, data and reports when these records, data and reports are submitted electronically to the EPA's CDX. This provision will benefit industry facilities that currently maintain these reports in hardcopy form; the amount of space required to store the reports will be minimized, but

the information will remain accessible at the facility. We note, however, that air agencies that require submission of reports in hardcopy form may also require the maintenance of hardcopy records, data and reports.

We plan to store records, data and reports submitted to the EPA's CDX electronically in two sites (CDX and WebFIRE), with frequent backups. Upon submission of each report, CEDRI will archive a copy of each submitted report in CDX (this copy becomes the official copy of record). Both WebFIRE and CDX back up their files on a daily basis. The EPA's National Computer Center (where the WebFIRE files are stored) maintains a dual back-up file (one kept on site and the other stored off site). The CDX also employs a dual back-up system to avoid problems in the event of a catastrophe at the location of the servers storing the files. Thus, the EPA has established redundancy into the electronic reporting and storage system to ensure submitted records, data and reports are retained and available.

As noted above, we believe that electronic recordkeeping is an adequate method of record retention that will improve record accessibility and will provide reduced storage benefits to facilities, resulting in a cost savings for industry. The EPA specifically solicits comment on the proposed amendment to allow electronic recordkeeping in lieu of hardcopy records.

III. Rationale for Requiring the Electronic Submission of Specified Reports

A. Why is this proposed action needed?

The EPA believes that the electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment and will ultimately result in less burden on the regulated community. Electronic reporting is in ever-increasing use and is universally considered to be faster, more efficient and more accurate for all parties once the initial systems have been established and start-up costs completed. Under current requirements, paper reports are often stored in filing cabinets or boxes, which make the reports more difficult to obtain and use for data analysis and sharing. Electronic storage of such reports would make data more accessible for review, analyses and sharing. Electronic reporting can eliminate paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors and providing data quickly and accurately to the affected facilities, air agencies, the EPA and the public.

By making data readily available, electronic reporting increases the amount of data that can be used for many purposes. One example is the development of emissions factors. An emissions factor is a representative value that attempts to relate the quantity of a pollutant released to the atmosphere with an activity associated with the release of that pollutant (*e.g.,* kilograms of particulate emitted per megagram of coal burned). Such factors facilitate the estimation of emissions from various sources of air pollution and are an important tool in developing emissions inventories, which in turn are the basis for numerous efforts, including trends analysis, regional and local scale air quality modeling, regulatory impact assessments and human exposure modeling. Emissions factors are also widely used in regulatory applicability determinations and in permitting decisions. In most cases, emissions factors are simply averages of all available data, and they are generally assumed to be representative of long-term averages for all facilities in the source category (*i.e.,* a population average).[6]

The EPA has received feedback from stakeholders asserting that many of the EPA's emissions factors are outdated or not representative of a particular industry emission source. While the EPA believes that the emissions factors are suitable for their intended purpose, we recognize that the quality of emissions factors varies based on the extent and quality of underlying data. We also recognize that emissions profiles on different pieces of equipment can change over time due to a number of factors (fuel changes, equipment improvements, industry work practices), and it is important for emissions factors to be updated to keep up with these changes. The EPA has received feedback from stakeholders asserting that many of the EPA's emissions factors are outdated or not representative of a particular industry emission source. The EPA is currently pursuing emissions factor development improvements that include procedures to incorporate the source test data that we are proposing be submitted electronically. By requiring the electronic submission of the reports identified in this proposed rule, the EPA would be able to access and use the submitted data to update emissions factors more quickly and efficiently, creating factors that are characteristic of what is currently representative of the relevant industry sector. Likewise, an increase in the number of test reports used to develop the emissions factors will provide more confidence that the factor is of higher quality and representative of the whole industry sector. In the EPA's new emissions factor development procedures (*http://www.epa.gov/ttn/chief/efpac/procedures/index.html*) that incorporate the use of electronic test data, WebFIRE automatically performs routines to determine when the incorporation of new data causes a factor to statistically differ from the existing factor and calculates an updated factor. Because these routines are run automatically,[7] the process is quicker than the manual review and calculation process, and we are able to provide representative factors sooner.

Emissions factors are used in the development of emissions inventories. Improved emissions factors means that higher quality inventories will be developed on a much quicker scale as a result of electronic reporting than they would under the current paper reporting requirements. Emissions inventories are used for tracking emission trends and identifying potential sources of emissions for reduction. For example, the EPA's National Air Toxics Assessment (NATA) uses the EPA's National Emissions Inventory (NEI) in its screening level assessments to characterize the nationwide chronic cancer risk estimates and noncancer hazards from inhaling air toxics. The NATA is used as a screening tool for air agencies to prioritize pollutants, emission sources and locations of interest for further study to gain a better understanding of risks. Therefore, improving the quality of these inventories and providing updated inventories more quickly are on-going goals for the agency and a benefit to the public, air agencies and the regulated community. Consistent with the goal of improving inventories, the EPA has determined that long-term activity data (*e.g.,* production rates, heat rate) is an important data element. This data could also be used in rule development to develop emission limits for emission standards with long averaging times. Having this data submitted electronically would reduce the burden

[6] For more information on emissions factors and their uses, see: *http://www.epa.gov/ttnchie1/ap42/.*

[7] Although WebFIRE will automatically run the routines to develop new emissions factors, we will still solicit public comment on draft factors prior to finalizing factors. Notices that draft factors are available for review are sent out via the CHIEF Listserv.

of asking for this data in the future, during inventory and rulemaking activities. In lieu of activity data, collecting long-term emissions data would also provide useful data for inventory and rule development purposes. We are specifically requesting comment on whether and how long-term activity or emissions data should be submitted electronically.

Additionally, by making the records, data and reports addressed in this proposed rulemaking readily available, the EPA, the regulated community and the public may benefit when the EPA conducts its CAA-required technology and risk-based reviews. Because we will already have access to these reports, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time. While the regulated community may benefit from a reduced burden of information collection requests (ICRs), the general public benefits from the agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

For example, under section 112 of the CAA, the EPA establishes technology-based standards for listed source categories. Section 112(d)(6) of the CAA contains provisions requiring that the EPA periodically revisit these standards every 8 years. As a result of having performance test reports and air emission reports readily accessible, the EPA will have comprehensive data on which to base its review. These data will provide useful information on control efficiencies being achieved and maintained in practice within a source category and across source categories for regulated sources and pollutants. These reports can also be used to inform the technology-review process by providing information on improvements to add-on control technology and new control technology.

Under an electronic reporting system, the EPA's Office of Air Quality Planning and Standards (OAQPS) would have air emissions and performance test data in hand; OAQPS would not have to collect these data from the EPA Regional Offices or from delegated air agencies or industry sources in cases where these reports are not submitted to the EPA Regional Offices, *e.g.,* when a delegation agreement creates an exception for facilities in their jurisdiction to refrain from submitting reports to the EPA Regional Offices as otherwise required by 40 CFR 60.4(a). Thus, we anticipate fewer or less substantial ICRs in conjunction with prospective CAA-required technology and risk-based reviews may be needed. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly, as OAQPS will not have to include the ICR collection time in the process or spend time collecting reports from the EPA Regional Offices.

Affected facilities could also see reduced costs as a result of the standardization of the electronic reporting system NSPS reporting forms. The forms will contain the data elements specified by the regulations in a step-by-step process. Additionally, the EPA's electronic reporting system will be able to access existing information in previously submitted reports and data stored in other EPA databases. These data can be incorporated into new reports, which will lead to reporting burden reduction through labor savings. Electronic reporting could minimize submission of unnecessary or duplicative reports in cases where facilities report to multiple government agencies and the agencies opt to rely on the EPA's electronic reporting system to view report submissions. Where air agencies continue to require a paper copy of these reports and will accept a hard copy of the electronic report, facilities will have the option to print paper copies of the electronic reporting forms to submit to the air agencies, and, thus, minimize the time spent reporting to multiple agencies. Additionally, maintenance and storage costs associated with retaining paper records could likewise be minimized by replacing those records with electronic records of electronically submitted data and reports.

There are other benefits to standardizing the format of information. Standardizing the reporting format will require the reporting of specific data elements, thereby helping to ensure completeness of the data and allowing for accurate assessment of data quality. In the past, incomplete test reports have resulted in lower quality emissions factors because the data could not be adequately reviewed to determine representativeness. Imbedded quality assurance checks will perform some of the required method calculations, reducing errors in test reports. The system will perform statistical analyses routines to evaluate below detection limit data and outliers prior to performing the emissions factor calculations. The result will be a factor of the highest quality rating which is most representative for the source category. In addition, because the system relies upon electronically submitted data, it eliminates transcription errors in moving data from paper reports to data systems for analysis. These quality assurance checks and procedures will increase the accuracy of test report data, improve the overall quality of test data and lead to more accurate emissions factors and higher quality emissions inventories. These features benefit all users of the data.

Air agencies could benefit from more streamlined and automated review of the electronically submitted data. For example, because the performance test data would be readily-available in a standard electronic format, air agencies would be able to review reports and data electronically rather than having to conduct a review of the reports and data manually. Having reports and associated data in electronic format will facilitate review through the use of software ''search'' options, as well as the downloading and analyzing of data in spreadsheet format. Additionally, air agencies would benefit from the reported data being accessible to them through the EPA's electronic reporting system wherever and whenever they want or need access (as long as they have access to the Internet). The ability to access and review air emission report information electronically will assist air agencies to more quickly and accurately determine compliance with the NSPS, potentially allowing a faster response to violations which could minimize harmful air emissions. This benefits both air agencies and the general public.

The general public would also benefit from electronic reporting of emissions data because the data would be accessible more quickly and easily. The EPA Web site that stores the submitted electronic data, WebFIRE, will be easily accessible to the public and will provide a user-friendly interface that any stakeholder could access.

The proposed electronic reporting of data is also consistent with electronic data trends (*e.g.,* electronic banking and income tax filing). Electronic reporting of environmental data is already common practice in many media offices at the EPA; programs such as the Toxics Release Inventory (TRI), the Greenhouse Gas Reporting Program, Acid Rain and NO_X Budget Trading Programs and the Toxic Substances Control Act (TSCA) New Chemicals Program all require electronic submissions to the EPA. The changes being proposed today are needed to continue the EPA's transition to electronic reporting. While we believe that it is unlikely that a facility

will not be able to electronically report data due to lack of access to a computer and the Internet, either on its own site or through public means (*e.g.,* a library), we are requesting comment on whether this assumption is incorrect, and, if so, whether we should have a provision that would allow facilities to submit reports in hard copy instead of electronically in these limited circumstances.

B. Why is the EPA using a phased approach to implementing electronic reporting?

Today's proposal is part of a phased approach to implementing the electronic reporting of air emissions data. This approach builds on advances that have already been made in electronic reporting of air emissions data by adding a more comprehensive group of reports from more facilities while at the same time balancing data collection objectives with the practicalities of building a user-friendly reporting platform.

The first phase included development, testing and refinement of the ERT, and, more recently, CEDRI, for use in selected air program rules and data collection efforts, resulting in the electronic submittal of a subset of performance test reports and performance evaluation reports. In a number of ICRs issued under section 114 of the CAA over the past few years, the EPA has included requirements to report the results of performance tests using ERT generated files. In addition, over two dozen EPA air program rules (in 40 CFR parts 60 and 63) already require electronic submission of performance test, performance evaluation and/or other reports directly to CDX. See *http://www.epa.gov/ttn/chief/ert/ert_rules.html* for a list of the promulgated rules under the CAA that require submission of these reports to the EPA's CEDRI. As a result of using the ERT to submit test reports in response to ICRs and using the ERT and the CEDRI reporting platform to comply with regulatory requirements for electronic submission, users have become more proficient in electronic reporting, including collecting and compiling the data for such reports. In aggregate, the EPA has received over 2,200 submittals electronically through CEDRI.

Throughout this first phase, we continued to improve the ERT in response to comments from users who have first-hand experience with the ERT. We have made several changes to the ERT to ensure the completeness of data collected and improve ease in using the tool. For example, we have developed a template that extracts tagged data from a Microsoft Excel® spreadsheet and inserts the data into the ERT to assist in making the input of data to the ERT easier and more efficient for those facilities that want to take advantage of this option. A discussion of other recent updates that have been made to the ERT can be found at *http://www.epa.gov/ttn/chief/ert/updatehistory.pdf*.

We also initiated a multi-disciplinary, cross-functional Integrated Project Team (IPT) during the first phase in the development of the CEDRI. The IPT included EPA personnel from various offices and representatives from air agencies. The objectives of the CEDRI IPT were to gain insight and ideas regarding the data flow process within the CEDRI.

This proposal represents the second phase to implementing electronic reporting of air emissions data. It would expand the number and type of air emissions reports in NSPS rules required to be submitted electronically. In developing the second phase, we considered the extent to which we should expand the number of reports to be submitted to CDX through CEDRI, starting with the 40 CFR part 60 NSPS. We chose reports that are critical to ensuring that rule requirements are met by focusing on reports of air emissions data used by the EPA and other stakeholders to evaluate the emissions and performance of individual affected facilities. Another consideration was the process of developing the CEDRI platform to accommodate user access to upload and review such data. This effort requires resources to develop the platform, and we have chosen to prioritize the data to be collected to ensure that the platform will be effective in handling the reports addressed in this proposal. In the future, we would consider expanding the number and type of reports required to be submitted electronically to facilitate the electronic collection of additional air emissions data.

C. How does this proposed action affect permits?

As a general matter, and consistent with 40 CFR 70.2, any standard or other requirement under section 111 of the CAA is an applicable requirement for title V purposes. Sources subject to the NSPS affected by this proposed rulemaking that have title V operating permits will likely need to seek a revision to their permits once this rule is final or address this when their permit comes up for renewal, consistent with 40 CFR 70.7(f)(1)(i). In addition, there may be area sources that also need permit revisions (*e.g.,* state operating permits); however, the discussion in this section will focus on major source title V operating permits.

The title V implementing regulations found at 40 CFR parts 70 and 71, as well as state rules that are a part of state-approved title V programs, require the revision of title V permits to include the types of changes described in this proposed rulemaking. Part 70 of 40 CFR provides three basic procedural mechanisms for amending or modifying title V permits: Administrative permit amendments described at 40 CFR 70.7(d); minor permit modifications described at 40 CFR 70.7(e)(2); and significant modifications described at 40 CFR 70.7(e)(4). Each of these provisions provides criteria regarding the availability of the different mechanisms. The rule changes being proposed today generally involve changes to the method of submittal of information already required to be submitted and reported. The EPA does not expect that the changes being proposed today are likely to involve significant changes to monitoring, reporting or recordkeeping requirements in existing title V permits. As a result, to the extent consistent with applicable state rules and the terms and conditions of the title V permit, we anticipate that permitting authorities would be able to implement the changes being proposed today through a minor modification to existing title V permits. Notably, depending on the timing associated with the permit renewal cycle, these changes could be completed as part of a permit renewal consistent with 40 CFR 70.7(f). The EPA recognizes that permitting authorities may have other suitable mechanisms for making the necessary changes available, such as group processing of certain types of revisions to title V operating permits.

IV. Air Agency Delegated Authority Impacts

The CAA allows the EPA to delegate the authority to implement and enforce NSPS to air agencies (CAA section 111(c), 42 U.S.C. 7411(c)). Air agencies to which authority to implement and enforce the NSPS has been delegated routinely receive performance test reports, performance evaluation reports, summary reports, excess emission reports and other reports from industry as part of their compliance monitoring, enforcement and oversight responsibilities. In many cases, air agencies have their own rules in place to implement and enforce the federal rules, and these rules may require industry to submit these reports to them in hardcopy form (as is currently the case in the EPA rules). Air agency rules

may require additional, but associated, information in these reports. In addition, as provided in 40 CFR 60.4(b), some air agency delegation agreements create an exception for facilities in their jurisdiction to refrain from submitting reports to the EPA Regional Offices as otherwise required by 40 CFR 60.4(a). Under this proposed rule, this exception would not apply to electronic reports required to be submitted to CEDRI.

Air agency delegations and reporting and recordkeeping procedures established by those agencies would be unaffected by this proposed rule as we are not proposing to change how agencies and their affected facilities currently interact. Air agencies will continue to require reports to be submitted in hardcopy form and records to be maintained in hardcopy form as they deem appropriate. However, we anticipate that some air agencies may choose to modify their current report submission requirements to accept those reports that are required to be submitted to the EPA electronically in lieu of the paper reports. In fact, we are aware of at least two air agencies that already require their facilities to use the ERT to electronically submit performance test reports to the air agency. To facilitate air agency access, air agency personnel who register for access to CEDRI will receive notifications when reports and associated data are submitted to the EPA's CEDRI by affected facilities in their delegated areas. Air agencies would have full access to reports and associated data as soon as they are submitted, and would not have to purchase any new software or hardware to access this information.

In general, we anticipate that many air agencies will choose to transition to the use of the electronic reports because of the numerous benefits associated with electronic reporting:

• *Streamlined and automated emissions data and report review potential.* Access to data in a common electronic repository and format would allow air agencies to conduct standard automated data reviews that would ultimately streamline the time and steps that air agencies would need in their review of affected facility emissions data and reports. Air agencies could also require their facilities to provide air agency-required data that are routinely submitted with the NSPS-required reports, and the EPA reporting templates will be able to accommodate the additional air agency-required data. In this manner, air agencies that elect to receive reports through the EPA's electronic reporting system can be assured of receiving the same information that they currently receive in paper reports submitted to them by affected facilities.

• *Readily-accessible data.* Air agencies would be able to access reports and data submitted and available electronically on-line from anywhere and anytime that they can obtain access to the Internet. Additionally, electronic files can be downloaded and saved to a data drive or hard drive for quick access and use during facility site visits. Air agencies could develop data retrieval programs specific to their needs.

• *Federal repository/back-up system.* Air agencies could be confident that the federal repository/back-up system would provide needed redundancy and security for submitted reports.

• *Decreased air agency storage space needed.* Because the specified data and reports would be submitted to the EPA electronically and will be stored safely and available to all stakeholders at all times (including air agencies) and because facilities would be allowed to maintain an electronic copy of the specified data and reports, air agencies would have the option of not maintaining these reports in either hardcopy or electronic form.

V. Impacts of Proposed Amendments

We estimate total annualized savings for regulated facilities due to the proposed amendments to be approximately $300,000 per year. The estimate reflects a 7-percent discount rate and a 20-year annualization period. While we know there will also be a savings for air agencies and the EPA based upon the benefits described earlier in this preamble, we have not quantified these savings. The total annualized savings estimate reflects different assumptions for year 1, year 2 and year 3 through year 20. This is because, in some cases, air agencies have their own rules that require hard copies of reports, and it would take time for those air agencies to transition (if they choose to) to the use of the EPA's electronic reporting system for the reports being proposed to be submitted electronically to the EPA's CDX. Thus, we have the transition from paper to electronic reporting drawn out to 3 years for those air agencies that adopt the EPA's electronic reporting requirements, in order to provide the time it would take to update permit requirements and create or change air agency reporting rules, where necessary. We assume that air agencies would continue to require submission of reports in hardcopy form to satisfy air agency reporting requirements in years 1 and 2 because the air agencies would not yet have had time to update reporting requirements. There is an initial cost associated with this rule because hardcopy and electronic reports may both be required during this time period, there is a learning curve associated with the use of our electronic system and data need to be entered initially which will be automatically populated in future reports. We estimate the cost of this rule for regulated facilities to be $6,010,000 for the first year and $4,980,000 for the second year. We assume that beginning in year 3, the air agencies will have had time to update reporting requirements as necessary so that hardcopy reports addressed by this proposal will no longer be required to be submitted to the air agencies for those air agencies that opt to review submitted reports through the EPA's electronic reporting system. Because only electronic reports will be required by this proposed rule, facilities will be familiar with the system, and initial data will already be populated in the system, we estimate that there will be a cost savings of approximately $1,460,000 for every year starting in year 3. For facilities where the air agency is not opting to view reports through the EPA's electronic reporting system, the system is being built such that the report will be able to be printed by the facility. The facility will then be able to mail the printed report to the air agency, if the air agency will accept the printed report in lieu of any otherwise required paper report. While there will be some extra burden associated with printing and mailing the report, we assume that the burden will be equal to or less than the current burden associated with submitting hardcopy reports and, therefore, equal to or less than the savings associated with entering the data electronically.

For each of the three time periods (*i.e.,* year 1, year 2 and year 3 through year 20), Table 4 (in section VI of this preamble) provides a summary of the number of each type of report submitted and the total labor time and savings that would accrue. The following section briefly discusses the data used in calculating each component. For additional details on the calculations, please refer to the ''Electronic Reporting and Recordkeeping Requirements for NSPS Rule Estimate 09–17–2013 includes Part 60.xlsx'' worksheet located in the docket.

To estimate costs and savings associated with annual electronic submittal of source performance test reports, the agency compiled data on the total number of source performance tests required annually by 40 CFR part

60 and its respective subparts.[8] The total number of source performance test reports submitted annually is estimated to be 1,393. Because most NSPS do not require more than one source performance test per year, to calculate the annualized costs, we assessed the number of facilities and the number of stack tests that were included under ICRs (managed by the Office of Information and Regulatory Affairs (OIRA), OMB).

To estimate costs and savings associated with periodic reports, we compiled data on the total number of summary report and excess emission report submittals through a review of 40 CFR part 60 ICRs. The estimated number of periodic reports submitted each year is 17,612.

In year 3 through year 20, we assume that written reports are no longer required by approximately 75 percent of the air agencies and that there is labor savings associated with only requiring electronic report submittal. This estimate is based on data collected from the IPT, a multi-disciplinary, cross-functional team that included EPA personnel from various offices and representatives from air agencies. Due to the ability of the electronic reporting system to access existing information in previously submitted reports, we assume that there is a 50-percent labor savings associated with electronically submitting source performance test reports, and we assume a 25-percent labor savings associated with electronically submitting periodic reports.[9]

We aggregated the labor costs and savings and annualized the totals over a 20-year period using a 7-percent discount rate; we estimated total annualized savings for this proposed rule to be approximately $300,000 per year for regulated facilities. We used labor rates from the Bureau of Labor Statistics and selected a rate for the Management, Professional and Related Occupations category; we adjusted the rate upward by 67 percent to reflect overhead.[10]

VI. Tables

TABLE 1—40 CFR PART 60 SUBPARTS UNAFFECTED OR EXCLUDED BY PROPOSED AMENDMENTS

Name	Subpart	Rationale
Adoption and Submittal of State Plans for Designated Facilities.	B	Requires that states adopt and submit a state plan to the EPA to implement emission guidelines developed under the CAA. Subpart B does not contain emission standards or recordkeeping and reporting requirements. Therefore, subpart B is not amended or affected by this proposed rule.
Emission Guidelines and Compliance Times	C	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Emission Guidelines and Compliance Times for Large Municipal Waste Combustors that are Constructed On or Before September 20, 1994.	Cb	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.	Cc	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units.	Cd	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.	Ce	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Standards of Performance for Fossil-Fuel-Fired Steam Generators.	D	Reports and data will be reviewed to address electronic reporting under a separate and independent rulemaking.
Standards of Performance for Electric Utility Steam Generating Units.	Da	Reports and data will be reviewed to address electronic reporting under a separate and independent rulemaking.
Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.	Db	Reports and data will be reviewed to address electronic reporting under a separate and independent rulemaking.
Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.	Dc	Reports and data will be reviewed to address electronic reporting under a separate and independent rulemaking.

[8] The data are found in the following worksheet in the docket—ERRR Rule EIA ICR Data Part 60.xlsx.

[9] The 50-percent labor savings assumes an existing source performance test file can be reused and already contains about 50 percent of required data. The 25-percent labor savings assumes about 25-percent of the required data is in existing databases and will not need to be submitted a second time.

[10] The labor rates used in the analysis can be found at *http://www.bls.gov/news.release/pdf/ecec.pdf*, Table 9, Management, Professional and Related Occupations.

TABLE 1—40 CFR PART 60 SUBPARTS UNAFFECTED OR EXCLUDED BY PROPOSED AMENDMENTS—Continued

Name	Subpart	Rationale
Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.	K	None of the reports required under subpart K contain air emissions data that the EPA is requesting be submitted electronically under this proposal.
Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and On or Before November 7, 2006.	GGG	None of the reports required under subpart GGG contain air emissions data that the EPA is requesting be submitted electronically under this proposal.
Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.	GGGa	None of the reports required under subpart GGGa contain air emissions data that the EPA is requesting be submitted electronically under this proposal.
Standards of Performance for Petroleum Dry Cleaners.	JJJ	None of the reports required under subpart JJJ contain air emissions data that the EPA is requesting be submitted electronically under this proposal.
Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and On or Before August 23, 2011.	KKK	None of the reports required under subpart KKK contain air emissions data that the EPA is requesting be submitted electronically under this proposal.
Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999.	BBBB	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Standards of Performance for Commercial and Industrial Solid Waste Incineration Units.	CCCC	Electronic reporting is being addressed under a separate and independent rulemaking.
Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units.	DDDD	Electronic reporting is being addressed under a separate and independent rulemaking.
Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units that Commenced Construction On or Before December 9, 2004.	FFFF	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.
Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units.	MMMM	Emission guidelines apply to air agencies. Because it would be overly burdensome to require air agencies to revise and resubmit implementation plans solely to address electronic reporting, we are not proposing to revise the emission guidelines to require electronic reporting to the EPA at this time. Reports and data will be reviewed to address electronic reporting under the emission guidelines in separate and independent rulemakings.

TABLE 2—40 CFR PART 60 SUBPARTS AFFECTED BY PROPOSED AMENDMENTS

Name	Subpart
General Provisions	A
Standards of Performance for Incinerators	E
Standards of Performance for Municipal Waste Combustors for which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994.	Ea
Standards of Performance for Large Municipal Waste Combustors for which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996.	Eb
Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators	Ec
Standards of Performance for Portland Cement Plants	F
Standards of Performance for Nitric Acid Plants	G
Standards of Performance for Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced After October 14, 2011.	Ga
Standards of Performance for Sulfuric Acid Plants	H
Standards of Performance for Hot Mix Asphalt Facilities	I
Standards of Performance for Petroleum Refineries	J
Standards of Performance for Petroleum Refineries for which Construction, Reconstruction, or Modification commenced After May 14, 2007.	Ja
Standards of Performance for Storage Vessels for Petroleum Liquids for which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.	Ka
Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.	Kb
Standards of Performance for Secondary Lead Smelters	L
Standards of Performance for Secondary Brass and Bronze Production Plants	M

TABLE 2—40 CFR PART 60 SUBPARTS AFFECTED BY PROPOSED AMENDMENTS—Continued

Name	Subpart
Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced After June 11, 1973.	N
Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced After January 20, 1983.	Na
Standards of Performance for Sewage Treatment Plants	O
Standards of Performance for Primary Copper Smelters	P
Standards of Performance for Primary Zinc Smelters	Q
Standards of Performance for Primary Lead Smelters	R
Standards of Performance for Primary Aluminum Reduction Plants	S
Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants	T
Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U
Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V
Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants	W
Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	X
Standards of Performance for Coal Preparation and Processing Plants	Y
Standards of Performance for Ferroalloy Production Facilities	Z
Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.	AA
Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.	AAa
Standards of Performance for Pulp Mills	BB
Standards of Performance for Kraft Pulp Mill Affected Sources for which Construction, Reconstruction, or Modification Commenced After May 23, 2013.	BBa
Standards of Performance for Glass Manufacturing Plants	CC
Standards of Performance for Grain Elevators	DD
Standards of Performance for Surface Coating of Metal Furniture	EE
Standards of Performance for Stationary Gas Turbines	GG
Standards of Performance for Lime Manufacturing Plants	HH
Standards of Performance for Lead-Acid Battery Manufacturing Plants	KK
Standards of Performance for Metallic Mineral Processing Plants	LL
Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations	MM
Standards of Performance for Phosphate Rock Plants	NN
Standards of Performance for Ammonium Sulfate Manufacture	PP
Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing	QQ
Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations	RR
Standards of Performance for Industrial Surface Coating: Large Appliances	SS
Standards of Performance for Metal Coil Surface Coating	TT
Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture	UU
Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981 and On or Before November 7, 2006.	VV
Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After November 7, 2006.	VVa
Standards of Performance for the Beverage Can Surface Coating Industry	WW
Standards of Performance for Bulk Gasoline Terminals	XX
Standards of Performance for New Residential Wood Heaters [a]	AAA
Standards of Performance for the Rubber Tire Manufacturing Industry	BBB
Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	DDD
Standards of Performance for Flexible Vinyl and Urethane Coating and Printing	FFF
Standards of Performance for Synthetic Fiber Production Facilities	HHH
Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.	III
Standards of Performance for SO_2 Emissions from Onshore Natural Gas Processing for which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and On or Before August 23, 2011.	LLL
Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.	NNN
Standards of Performance for Nonmetallic Mineral Processing Plants	OOO
Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants	PPP
Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems	QQQ
Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.	RRR
Standards of Performance for Magnetic Tape Coating Facilities	SSS
Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines	TTT
Standards of Performance for Calciners and Dryers in Mineral Industries	UUU
Standards of Performance for Polymeric Coating of Supporting Substrates Facilities	VVV
Standards of Performance for Municipal Solid Waste Landfills	WWW
Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.	AAAA
Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004 or for Which Modification or Reconstruction Is Commenced After June 16, 2006.	EEEE
Standards of Performance for Stationary Compression Ignition Internal Combustion Engines	IIII
Standards of Performance for Stationary Spark Ignition Internal Combustion Engines	JJJJ
Standards of Performance for Stationary Combustion Turbines	KKKK

TABLE 2—40 CFR PART 60 SUBPARTS AFFECTED BY PROPOSED AMENDMENTS—Continued

Name	Subpart
Standards of Performance for New Sewage Sludge Incineration Units	LLLL
Standards of Performance for Crude Oil and Natural Gas Production, Transmission, and Distribution	OOOO

[a] Subpart AAA is an affected subpart only because of a proposed revision necessary to retain the current exclusion for submission of performance test reports. There are no proposed electronic reporting requirements under the proposed revisions.

TABLE 3—TEST METHODS CURRENTLY SUPPORTED IN THE ERT

US EPA Methods 1 through 4
US EPA Method 3A
US EPA Method 5
US EPA Method 5B
US EPA Method 5F
US EPA Method 5G
US EPA Method 6C
US EPA Method 7E
US EPA Method 8
US EPA Method 10
US EPA Method 12
US EPA Method 13A
US EPA Method 13B

TABLE 3—TEST METHODS CURRENTLY SUPPORTED IN THE ERT—Continued

US EPA Method 17
US EPA Method 23
US EPA Method 25A
US EPA Method 26
US EPA Method 26A
US EPA Method 29
US EPA Method 30B
US EPA Method 101
US EPA Method 101A
US EPA Method 102
US EPA Method 103
US EPA Method 104
US EPA Method 108
US EPA Method 201A

TABLE 3—TEST METHODS CURRENTLY SUPPORTED IN THE ERT—Continued

US EPA Method 202
US EPA Method 306
US EPA Method 306A
US EPA Method 315
US EPA Method 316
SW–846 Method 0011
SW–846 Method 0061
Conditional Test Method 39
California Air Resources Board Method 428
California Air Resources Board Method 429
Performance Specification 2
Performance Specification 3
Performance Specification 4

TABLE 4—SUMMARY OF COST SAVINGS [A]

Report	Number of submittals	Labor rate	Hours/test submittal—year 1	Total labor costs for year 1
Source Performance Test	1,393	$85.55	6	$710,000
Periodic Reports	17,612	85.55	3.5	5,300,000
Report	**Number of submittals**	**Labor rate**	**Hours/test submittal—year 2**	**Total labor costs for year 2**
Source Performance Test	1,393	$85.55	4	$480,000
Periodic Reports	17,612	85.55	3	4,500,000
Report	**Number of submittals**	**Labor rate**	**Hours/test submittal—year 3 through 20**	**Total labor costs each year for years 3 through 20**
Source Performance Test	1,051	$85.55	(4)	($360,000)
Periodic Reports	13,286	85.55	(1)	(1,100,000)

[a] Memo from Robin Langdon, EPA/OAR/OAQPS/AEG to Colin Boswell, EPA/OAR/OAQPS/MPG. *Economic Impact Analysis for the Electronic Reporting and Recordkeeping Requirements for NSPS Rule*. September 25, 2014.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to OMB for review.

An analysis of the potential costs and benefits associated with this action is contained in the *Economic Impact Analysis for Electronic Reporting and Recordkeeping Requirements for NSPS Rule*.[11] This document addresses the economic impacts of the Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards Rule. We estimated the total annualized savings for this proposed rule to be approximately $300,000 per year.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations being amended with this action and this action does not involve the collection of any new information. Specifically, the purpose of this rule is to require that some targeted reports currently required to be submitted in hardcopy form to both the EPA and the delegated authority be submitted electronically to the EPA. While some delegation agreements have excepted hardcopy reporting to the EPA and this rule will not allow such exceptions for electronic reporting, the reports that would be submitted electronically in response to these proposed amendments contain the same data elements currently required by the affected NSPS to be submitted in hardcopy form to the air agencies. More importantly, these proposed

[11] Memo from Robin Langdon, EPA/OAR/OAQPS/AEG to Colin Boswell, EPA/OAR/OAQPS/MPG. *Economic Impact Analysis for the Electronic Reporting and Recordkeeping Requirements for NSPS Rule*. September 25, 2014.

amendments would neither require additional reports nor require that additional content be added to already required reports. Therefore, this action would not impose any new information collection burden. Further, electronic reporting would reduce costs associated with information collection and, thus, compliance costs in the long-term.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. As described in section V of this preamble, implementation of this rule would result in savings of $300,000 per year due to reduced reporting burden. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities. We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

State, local or tribal governments will not be required to change the way that they interact with their facilities, unless they choose to do so. The only action required on the part of state, local or tribal governments is to update permitting requirements to reflect the electronic reporting provisions. We expect this to be a minimal burden, as most of these updates can be done during the permit renewal process.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.

Although section 6 of Executive Order 13132 does not apply to this proposed action, the EPA did consult with state and local officials representing air agencies in developing this action. In discussions with personnel in some air agencies and representatives for air agencies such as the National Association of Clean Air Agencies (NACAA), Association of Air Pollution Control Agencies (AAPCA) and Northeast States for Coordinated Air Use Management (NESCAUM) regarding this proposed rulemaking, they raised the issue of whether this proposal would change their delegated authority to implement and enforce federal air regulations (including NSPS). Specifically, air agencies expressed a concern about how this action would affect how they receive performance test reports and other air emissions data reports targeted by this action.

This action would not affect an air agency's delegated authority, and air agencies would continue to receive reports directly from affected facilities in whatever format they require. The major difference is that air agencies would also have access to reports being proposed to be submitted to the EPA electronically through the EPA's CDX and WebFIRE, and would have the option of not receiving these reports directly from affected facilities. Because the proposed amendments do not interfere with the air agencies' authority or how they currently receive reports, we have addressed the concerns regarding the air agencies' authority and ability to implement and enforce the subject federal air regulations.

We initiated a multi-disciplinary, cross-functional IPT during the development of the CEDRI that included EPA personnel from various offices and representatives from air agencies. The objectives of the CEDRI IPT were to gain insight and ideas regarding the data flow process within the CEDRI.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed action from state and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It would not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. Nonetheless, to promote meaningful involvement, the EPA held a conference call with representatives from tribes on November 29, 2012, to discuss details of the proposed amendments. Further tribal and public input is expected through public comment on the proposed amendments. The EPA specifically solicits additional comment on the proposed action from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment.

Specifically, requiring the electronic submission of reports that are currently required to be submitted in hardcopy format would not affect the level of protection provided to human health or the environment. On the contrary, we expect electronic reporting to increase complete, accurate and timely submittal of data which will, in turn, improve the protection of public health and the

environment, providing a beneficial impact to all populations.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 26, 2015.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 60.4 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 60.4 Address.

(a) All requests, reports, applications, submittals, and other communications to the Administrator pursuant to this part shall be submitted in duplicate to the appropriate Regional Office of the U.S. Environmental Protection Agency to the attention of the Director of the Division indicated in the following list of EPA Regional Offices. If a request, report, application, submittal, or other communication is required by this part to be submitted electronically via the EPA's Central Data Exchange (CDX) then such submission satisfies the requirements of this paragraph.

* * * * *

(b) Section 111(c) directs the Administrator to delegate to each State, when appropriate, the authority to implement and enforce standards of performance for new stationary sources located in such State. Indian tribes which have obtained treatment in the same manner as a state (TAS) for that purpose may also be delegated such authority. All information required in this part to be submitted to the EPA, must also be submitted in paper format to the appropriate State or Tribal Agency of any State or Tribe to which this authority has been delegated (the delegated authority) unless the delegated authority specifies another format. Information submitted in paper format must be postmarked no later than the date that the report is required to be submitted to the EPA's CDX electronically. Any information required to be submitted electronically by this part via the EPA's CDX may, at the discretion of the delegated authority, satisfy the requirements of this paragraph. Each specific delegation may exempt sources from certain Federal or State reporting requirements under this part, with the exception of Federal electronic reporting requirements under this part. Sources may not be exempted from Federal electronic reporting requirements. If the electronic reporting form for the subpart of interest is not available in the Compliance and Emissions Data Reporting Interface (CEDRI) at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in this section. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. All reports must be submitted by the deadline specified in the subpart of interest, regardless of the method in which the report is submitted. The appropriate mailing address for those States whose delegation requests have been approved is as follows: * * *

■ 3. Section 60.7 is amended by revising paragraph (c) introductory text and adding paragraph (i) to read as follows:

§ 60.7 Notification and record keeping.

* * * * *

(c) Each owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report (excess emissions are defined in applicable subparts) and-or summary report form (see paragraph (d) of this section) to the Administrator semiannually, except when: More frequent reporting is specifically required by an applicable subpart; or the Administrator, on a case-by-case basis, determines that more frequent reporting is necessary to accurately assess the compliance status of the source. Unless otherwise specified by an applicable subpart, each owner or operator shall submit reports required by this paragraph to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. All reports shall be submitted by the 30th day following the end of each six-month period, regardless of the method in which the report is submitted, as required under this part. Reports of excess emissions shall include the following information: * * *

(i) Any records required to be maintained by this part that are submitted electronically via the EPA's CDX may be maintained in electronic format.

■ 4. Section 60.8 is amended by revising paragraph (a) introductory text and adding paragraph (j) to read as follows:

§ 60.8 Performance tests.

(a) Except as specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section, within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, or at such other times specified by this part, and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and submit to the Administrator a report of the results of such performance test(s) following the procedure specified in paragraph (j) of this section.

* * * * *

(j) Unless otherwise specified in an applicable subpart, each owner or operator must submit the results of all performance tests following the procedure specified in either paragraph (j)(1) or (j)(2) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, the owner or operator must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. Owners or operators who claim that some of the performance test information being

submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

■ 5. Section 60.13 is amended by revising paragraph (c)(2) to read as follows:

§ 60.13 Monitoring requirements.

* * * * *

(c) * * *

(2) Except as provided in paragraph (c)(1) of this section, the owner or operator of an affected facility shall submit to the Administrator within 60 days of completion of the performance evaluation a report of the results of the performance evaluation. Unless otherwise provided by an applicable subpart, the results of the performance evaluation shall be submitted following the procedure specified in either paragraph (c)(2)(i) or (c)(2)(ii) of this section.

(i) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html* at the time of the test, the owner or operator shall submit the results of the performance evaluation to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance evaluation data shall be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. Owners or operators who claim that some of the performance evaluation information being submitted is confidential business information (CBI) shall submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit two or, upon request, more copies of a written report of the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

* * * * *

■ 6. Section 60.19 is amended by revising paragraph (b) to read as follows:

§ 60.19 General notification and reporting requirements.

* * * * *

(b) For the purposes of this part, if an explicit postmark and-or electronic submittal deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark, when paper submission is required by this part, and electronically submit, when electronic submission is required by this part, the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked, when paper submission is required by this part, and electronically submitted, when electronic submission is required by this part, on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be delivered or postmarked, when paper submission is required by this part, and electronically submitted, when electronic submission is required by this part, on or before 15 days following the end of the event. For submittals required to be submitted in paper form, the use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery, including the use of electronic media, agreed to by the permitting authority, is acceptable.

Subpart Ea—Standards of Performance for Municipal Waste Combustors for Which Construction Is Commenced After December 20, 1989 and On or Before September 20, 1994

■ 7. Section 60.50a is amended by revising paragraph (l) to read as follows:

§ 60.50a Applicability and delegation of authority.

* * * * *

(l) The following authorities shall be retained by the Administrator and not transferred to a State:

(1) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

(2) [Reserved]

* * * * *

■ 8. Section 60.59a is amended by:

■ a. Revising paragraph (c);

■ b. Revising paragraphs (e) through (g); and

■ c. Adding paragraph (k).

The revisions and addition read as follows:

§ 60.59a Reporting and recordkeeping requirements.

* * * * *

(c) Following the initial compliance test as required under §§ 60.8 and 60.58a, the owner or operator of an affected facility located within a large MWC plant shall submit, following the procedure specified in § 60.8(j), the results of the initial compliance test data, and shall submit, following the procedure specified in § 60.13(c)(2), the results of the performance evaluation of the CEMS conducted using the applicable performance specifications in appendix B. The owner or operator shall submit the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature established during the dioxin/furan compliance test with the report of the results of the initial dioxin/furan compliance test.

* * * * *

(e)(1) The owner or operator of an affected facility located within a large MWC plant shall submit, following the procedure specified in § 60.7(c), annual compliance reports for sulfur dioxide,

nitrogen oxide (if applicable), carbon monoxide, load level, and particulate matter control device temperature containing the information recorded under paragraphs (b)(1), (2)(ii), (4), (5), and (6) of this section for each pollutant or parameter. The hourly average values recorded under paragraph (b)(2)(i) of this section are not required to be included in the annual reports. Combustors firing a mixture of medical waste and other MSW shall also provide the information under paragraph (b)(15) of this section, as applicable, in each annual report. The owner or operator of an affected facility must submit, following the procedure specified in § 60.7(c), reports semiannually once the affected facility is subject to permitting requirements under Title V of the Act.

(2) The owner or operator shall submit, following the procedure specified in § 60.7(c), a semiannual report for any pollutant or parameter that does not comply with the pollutant or parameter limits specified in this subpart. Such report shall include the information recorded under paragraph (b)(3) of this section. For each of the dates reported, include the sulfur dioxide, nitrogen oxide, carbon monoxide, load level, and particulate matter control device temperature data, as applicable, recorded under paragraphs (b)(2)(ii)(A) through (D) of this section.

(3) Reports shall be submitted electronically no later than the 30th day following the end of the annual or semiannual period, as applicable.

(f)(1) The owner or operator of an affected facility located within a large MWC plant shall submit, following the procedure specified in § 60.7(c), annual compliance reports, as applicable, for opacity. The annual report shall list the percent of the affected facility operating time for the reporting period that the opacity CEMS was operating and collecting valid data. Once the unit is subject to permitting requirements under Title V of the Act, the owner or operator of an affected facility must submit these reports semiannually.

(2) The owner or operator shall submit, following the procedure specified in § 60.7(c), a semiannual report for all periods when the 6-minute average levels exceeded the opacity limit under § 60.52a. The semiannual report shall include all information recorded under paragraph (b)(3) of this section which pertains to opacity, and a listing of the 6-minute average opacity levels recorded under paragraph (b)(2)(i)(A) of this section, which exceeded the opacity limit.

(3) Reports shall be submitted electronically no later than the 30th day following the end of the annual or semiannual period, as applicable.

(g)(1) The owner or operator of an affected facility located within a large MWC plant shall submit, following the procedure specified in § 60.8(j), reports of all annual performance tests for particulate matter, dioxin/furan, and hydrogen chloride as recorded under paragraph (b)(7) of this section, as applicable, from the affected facility. For each annual dioxin/furan compliance test, the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature shall be reported. Such reports shall be submitted when available and in no case later than the date of required submittal of the annual report specified under paragraphs (e) and (f) of this section, or within six months of the date the test was conducted, whichever is earlier.

(2) The owner or operator shall submit, following the procedure specified in § 60.8(j), a report of test results which document any particulate matter, dioxin/furan, and hydrogen chloride levels that were above the applicable pollutant limit. The report shall include the performance test results documenting the emission levels and shall include the corrective action taken. Such reports shall be submitted when available and in no case later than the date required for submittal of any semiannual report required in paragraphs (e) or (f) of this section, or within six months of the date the test was conducted, whichever is earlier.

* * * * *

(k) Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

■ 9. Section 60.50b is amended by adding paragraph (n)(11) to read as follows:

§ 60.50b Applicability and delegation of authority.

* * * * *

(n) * * *

(11) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

* * * * *

■ 10. Section 60.59b is amended by:

■ a. Revising paragraph (f) introductory text;

■ b. Revising paragraph (g) introductory text; and

■ c. Revising paragraphs (j) and (k).

The revisions read as follows:

§ 60.59b Reporting and recordkeeping requirements.

* * * * *

(f) The owner or operator of an affected facility shall submit the information specified in paragraphs (f)(1), (f)(2), and (f)(4) through (f)(6) of this section in the initial performance test report. The owner or operator shall submit the report following the procedure specified in § 60.8(j). The owner or operator of an affected facility shall submit the information specified in paragraph (f)(3) of this section following the procedure specified in § 60.13(c)(2).

* * * * *

(g) Following the first year of municipal waste combustor operation, the owner or operator of an affected facility shall submit, following the procedure specified in § 60.7(c), an annual report that includes the information specified in paragraphs (g)(1) through (g)(5) of this section, as applicable, no later than February 1 of each year following the calendar year in which the data were collected. (Once the unit is subject to permitting requirements under title V of the Act, the owner or operator of an affected facility must submit these reports semiannually. The reports must be submitted following the procedure specified in § 60.7(c).)

* * * * *

(j) All reports specified under paragraphs (a), (b), (c), (f), (g), (h), and (i) of this section shall be electronically submitted, when electronic submission is required by this subpart, and postmarked, when paper submission is required by this subpart, on or before the submittal dates specified under these paragraphs, and maintained onsite for a period of 5 years. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

(k) All records specified under paragraphs (d) and (e) of this section shall be maintained onsite in either paper copy or electronic format.

* * * * *

Subpart Ec—Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators

■ 11. Section 60.50c is amended by:
■ a. Revising paragraphs (i)(4) and (i)(5); and
■ b. Adding paragraph (i)(6).

The revisions and addition read as follows:

§ 60.50c Applicability and delegation of authority.

* * * * *

(i) * * *

(4) Waiver of recordkeeping requirements;

(5) Performance test and data reduction waivers under § 60.8(b); and

(6) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

* * * * *

■ 12. Section 60.58c is amended by:
■ a. Revising paragraph (c)(1);
■ b. Revising paragraph (d) introductory text;
■ c. Revising paragraphs (d)(5) and (6);
■ d. Revising paragraphs (e) and (f); and
■ e. Removing paragraph (g).

The revisions read as follows:

§ 60.58c Reporting and recordkeeping requirements.

* * * * *

(c) * * *

(1) The initial performance test data as recorded under § 60.56c(b)(1) through (b)(14), as applicable. The owner or operator shall submit the results of the performance test following the procedure specified in § 60.8(j).

* * * * *

(d) An annual report shall be submitted 1 year following the submissions of the information in paragraph (c) of this section and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to permitting requirements under title V of the Clean Air Act, the owner or operator of an affected facility must submit these reports semiannually). The report shall include the information specified in paragraphs (d)(1) through (11) of this section. The owner or operator shall submit the reports required by this paragraph to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

(5) Any information recorded under paragraphs (b)(3) through (b)(5) of this section for the calendar year preceding the year being reported, in order to provide the Administrator with a summary of the performance of the affected facility over a 2-year period. Starting with the second year of submitting these reports electronically, information for the preceding calendar year is not required.

(6) For each performance test conducted during the reporting period, if any performance test is conducted, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Submit, following the procedure specified in § 60.8(j), the performance test report no later than the date that the annual report is submitted.

* * * * *

(e) The owner or operator of an affected facility shall submit semiannual reports containing any information recorded under paragraphs (b)(3) through (b)(5) of this section no later than 60 days following the reporting period. The first semiannual reporting period ends 6 months following the submission of information in paragraph (c) of this section. Subsequent reports shall be submitted no later than 6 calendar months following the previous report. The owner or operator shall submit the reports required by this paragraph to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(f) All records specified under paragraph (b) of this section shall be maintained onsite in either paper copy or electronic format.

Subpart F—Standards of Performance for Portland Cement Plants

§ 60.64 [Amended]

■ 13. Section 60.64 is amended by removing paragraph (d).
■ 14. Section 60.65 is amended by:
■ a. Revising paragraphs (a) through (c); and
■ b. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 60.65 Recordkeeping and reporting requirements.

(a) Each owner or operator required to install a CPMS or CEMS under sections § 60.63(c) through (e) shall submit reports of excess emissions. The content of these reports must comply with § 60.7(c), and the reports must be submitted following the procedure specified in § 60.7(c). Notwithstanding the provisions of § 60.7(c), such reports shall be submitted semiannually.

(b) Each owner or operator of facilities subject to the provisions of § 60.63(c) through (e) shall submit semiannual reports of the malfunction information required to be recorded by § 60.7(b). These reports shall be submitted following the procedure specified in § 60.7(c) and shall include the frequency, duration, and cause of any incident resulting in deenergization of any device controlling kiln emissions or in the venting of emissions directly to the atmosphere.

(c) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Clean Air Act, 42 U.S.C. 7411, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic

reports required in this section to the EPA.

(d) Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, the owner or operator must submit the results of the performance test following the procedure specified in either paragraph (d)(1) or (d)(2) of this section. The owner or operator must include the information specified in paragraph (d)(3) of this section for PM performance test reports used to set a PM CPMS operating limit.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, the owner or operator must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. Owners or operators who claim that some of the performance test information being submitted is confidential business information (CBI) must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(3) For PM performance test reports used to set a PM CPMS operating limit, the electronic submission of the test report must also include the make and model of the PM CPMS instrument, serial number of the instrument, analytical principle of the instrument (*e.g.,* beta attenuation), span of the instrument's primary analytical range, milliamp value equivalent to the instrument zero output, technique by which this zero value was determined, and the average milliamp signals corresponding to each PM compliance test run.

(e) Within 60 days after the date of completing each CEMS performance evaluation, as defined in § 63.2, the owner or operator must submit the results of the performance evaluation following the procedure specified in either paragraph (e)(1) or (e)(2) of this section.

(1) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site *http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, the owner or operator must submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. Owners or operators who claim that some of the performance evaluation information being submitted is CBI must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

■ 15. Section 60.66 is amended by adding paragraph (b)(5) to read as follows:

§ 60.66 Delegation of authority.

* * * * *

(b) * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by § 60.65.

Subpart Ga—Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011

■ 16. Section 60.76a is amended by adding paragraph (g) to read as follows:

§ 60.76a Recordkeeping.

* * * * *

(g) Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

■ 17. Section 60.77a is amended by:

■ a. Revising paragraphs (a), (b) introductory text, (c) introductory text, and (f) introductory text; and

■ b. Removing and reserving paragraph (e).

The revisions read as follows:

§ 60.77a Reporting.

(a) The performance test data from the initial and subsequent performance tests must be submitted following the procedure specified in § 60.8(j). The data from the performance evaluations of the continuous monitors must be submitted following the procedure specified in § 60.13(c)(2).

(b) The following information must be submitted, following the procedure specified in 60.7(c), for each 30 operating day period where you were not in compliance with the emissions standard:

* * * * *

(c) You must also submit, following the procedure specified in § 60.7(c), the following whenever they occur:

* * * * *

(e) [Reserved]

(f) If a malfunction occurred during the reporting period, you must submit, following the procedure specified in § 60.7(c), a report that contains the following:

* * * * *

Subpart J—Standards of Performance for Petroleum Refineries

■ 18. Section 60.107 is amended by:

■ a. Revising paragraphs (c) introductory text, and (f); and

■ b. Adding paragraph (h).

The revisions and addition read as follows:

§ 60.107 Reporting and recordkeeping requirements.

* * * * *

(c) Each owner or operator subject to § 60.104(b) shall submit a report except as provided by paragraph (d) of this section. Each owner or operator shall submit the information specified in paragraphs (c)(1) through (c)(6) of this section (except for the information required by paragraph (c)(4)(vi) of this section) to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The owner or operator shall submit the information required by (c)(4)(vi) of this section to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(f) The owner or operator of an affected facility shall submit the reports required under this subpart to the Administrator semiannually for each six-month period. All semiannual reports shall be submitted electronically and-or postmarked by the 30th day following the end of each six-month period.

* * * * *

(h) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

■ 19. Section 60.109 is amended by adding paragraph (b)(3) to read as follows:

§ 60.109 Delegation of authority.

* * * * *

(b) * * *

(3) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart Ja—Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007

■ 20. Section 60.104a is amended by revising paragraph (b) to read as follows:

§ 60.104a Performance tests.

* * * * *

(b) The owner or operator of a FCCU or FCU that elects to monitor control device operating parameters according to the requirements in § 60.105a(b), to use bag leak detectors according to the requirements in § 60.105a(c), or to use COMS according to the requirements in § 60.105a(e) shall conduct a PM performance test at least once every 12 months and submit, following the procedure specified in § 60.8(j), a report of the results of each test.

* * * * *

■ 21. Section 60.109a is amended by adding paragraph (b)(5) to read as follows:

§ 60.109a Delegation of authority.

* * * * *

(b) * * *

(5) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart Ka—Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984

■ 22. Section 60.113a is amended by revising paragraph (a)(1)(i)(E) to read as follows:

§ 60.113a Testing and procedures.

(a) * * *

(1) * * *

(i) * * *

(E) If either the seal gap calculated in accord with paragraph (a)(1)(iii) of this section or the measured maximum seal gap exceeds the limitations specified by § 60.112a of this subpart, a report shall be submitted within 60 days of the date of measurements. The report shall identify the vessel and list each reason why the vessel did not meet the specifications of § 60.112a. The report shall also describe the actions necessary to bring the storage vessel into compliance with the specifications of § 60.112a. The owner or operator shall submit this report to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984

■ 23. Section 60.115b is amended by:

■ a. Revising the introductory text;

■ b. Revising paragraph (a)(3);

■ c. Revising paragraph (b)(4);

■ d. Revising paragraph (d)(3); and

■ e. Adding paragraph (e).

The revisions and addition read as follows:

§ 60.115b Reporting and recordkeeping requirements.

The owner or operator of each storage vessel as specified in § 60.112b(a) shall keep records and furnish reports as required by paragraphs (a), (b), or (c) of this section depending upon the control equipment installed to meet the requirements of § 60.112b. The owner or operator shall keep copies of all reports and records required by this section, except for the record required by paragraph (c)(1) of this section, for at least 2 years. The record required by paragraph (c)(1) of this section will be kept for the life of the control equipment. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

(a) * * *

(3) If any of the conditions described in § 60.113b(a)(2) are detected during the annual visual inspection required by § 60.113b(a)(2), a report shall be submitted, following the procedure specified in paragraph (e) of this section, within 30 days of the inspection. Each report shall identify

the storage vessel, the nature of the defects, and the date the storage vessel was emptied or the nature of and date the repair was made.

* * * * *

(b) * * *

(4) After each seal gap measurement that detects gaps exceeding the limitations specified by § 60.113b(b)(4), submit, following the procedure specified in paragraph (e) of this section, a report to the Administrator within 30 days of the inspection. The report will identify the vessel and contain the information specified in paragraph (b)(2) of this section and the date the vessel was emptied or the repairs made and date of repair.

* * * * *

(d) * * *

(3) Semiannual reports of all periods recorded under § 60.115b(d)(2) in which the pilot flame was absent shall be submitted following the procedure specified in paragraph (e) of this section.

(e) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

■ 24. Section 60.117b is amended by revising paragraph (b) to read as follows:

§ 60.117b Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States: §§ 60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), 60.116b(f)(2)(iii), and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart N—Standards of Performance for Primary Emissions From Basic Oxygen Process Furnaces for Which Construction Is Commenced After June 11, 1973

■ 25. Section 60.143 is amended by revising paragraph (c) to read as follows:

§ 60.143 Monitoring of operations.

* * * * *

(c) Any owner or operator subject to the requirements of paragraph (b) of this section shall report, on a semiannual basis, all measurements over any 3-hour period that average more than 10 percent below the average levels maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the mass standards under § 60.142(a)(1), (b)(1)(i), or (b)(2)(i). The accuracy of the respective measurements, not to exceed the values specified in paragraphs (b)(1) and (b)(2) of this section, may be taken into consideration when determining the measurement results that must be reported. Each such report of measurements shall be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) You shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

Subpart Na—Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction Is Commenced After January 20, 1983

■ 26. Section 60.143a is amended by:

■ a. Revising paragraphs (d) and (e); and

■ b. Adding paragraph (f).

The revisions and addition read as follows:

§ 60.143a Monitoring of operations.

* * * * *

(d) Each owner or operator subject to the requirements of paragraph (a) of this section shall report, following the procedure specified in paragraph (f) of this section, on a semiannual basis all measurements of exhaust ventilation rates or levels over any 3-hour period that average more than 10 percent below the average rates or levels of exhaust ventilation maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the standard under § 60.142a(a)(2). The accuracy of the respective measurements, not to exceed the values specified in paragraph (c) of this section, may be considered when determining the measurement results that must be reported.

(e) If a scrubber primary emission control device is used to collect secondary emissions, the owner or operator shall report, following the procedure specified in paragraph (f) of this section, on a semiannual basis all measurements of exhaust ventilation rate over any 3-hour period that average more than 10 percent below the average levels maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the standard under § 60.142(a)(1).

(f) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

Subpart O—Standards of Performance for Sewage Treatment Plants

■ 27. Section 60.155 is amended by revising paragraph (a) introductory text to read as follows:

§ 60.155 Reporting.

(a) The owner or operator of any multiple hearth, fluidized bed, or electric sludge incinerator subject to the provisions of this subpart shall submit a report semi-annually to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The semi-annual report shall contain the following:

* * * * *

■ 28. Section 60.156 is amended by revising paragraph (b) to read as follows:

§ 60.156 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States: § 60.153(e) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart S—Standards of Performance for Primary Aluminum Reduction Plants

■ 29. Section 60.192 is amended by revising paragraph (b) to read as follows:

§ 60.192 Standard for fluorides.

* * * * *

(b) Within 30 days of any performance test which reveals emissions which fall between the 1.0 kg/Mg and 1.3 kg/Mg levels in paragraph (a)(1) of this section or between the 0.95 kg/Mg and 1.25 kg/Mg levels in paragraph (a)(2) of this section, the owner or operator shall submit a report indicating whether all necessary control devices were on-line and operating properly during the performance test, describing the operating and maintenance procedures followed, and setting forth any explanation for the excess emissions. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

Subpart Y—Standards of Performance for Coal Preparation and Processing Plants

■ 30. Section 60.258 is amended by revising paragraph (d) to read as follows:

§ 60.258 Reporting and recordkeeping.

* * * * *

(d) Within 60 days after the date of completing each continuous monitoring system performance evaluation, as defined in § 63.2, the owner or operator must submit the results of the performance evaluation following the procedure specified in either paragraph (d)(1) or (d)(2) of this section.

(1) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, the owner or operator must submit the results of the performance evaluation to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. If you claim that some of the performance evaluation information being submitted is Confidential Business Information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, the owner or operator must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

Subpart AA—Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983

■ 31. Section 60.276 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (c) introductory text; and

■ c. Adding paragraph (f).

The revisions and addition read as follows:

§ 60.276 Recordkeeping and reporting requirements.

(a) Operation at a furnace static pressure that exceeds the value established under § 60.274(g) and either operation of control system fan motor amperes at values exceeding ±15 percent of the value established under § 60.274(c) or operation at flow rates lower than those established under § 60.274(c) may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility. Operation at such values shall be reported semiannually to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form

specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

(c) For the purpose of this subpart, the owner or operator shall conduct the demonstration of compliance with § 60.272(a) of this subpart and submit, following the procedure specified in § 60.8(j), a report of the results of the performance test. This report shall include the following information:

* * * * *

(f) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

Subpart AAa—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983

■ 32. Section 60.276a is amended by:
■ a. Revising paragraphs (b) through (d);
■ b. Revising paragraph (f) introductory text; and
■ c. Adding paragraphs (i) and (j).

The revisions and additions read as follows:

§ 60.276a Recordkeeping and reporting requirements.

* * * * *

(b) Each owner or operator shall submit semi-annually, following the procedure specified in paragraph (i) of this section, a report of exceedances of the control device opacity. For the purposes of these reports, exceedances are defined as all 6-minute periods during which the average opacity is 3 percent or greater.

(c) Operation at a furnace static pressure that exceeds the value established under § 60.274a(g) and either operation of control system fan motor amperes at values exceeding ±15 percent of the value established under § 60.274a(c) or operation at flow rates lower than those established under § 60.274a(c) may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility. Operation at such values shall be reported semiannually, following the procedure specified in paragraph (i) of this section.

(d) The requirements of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

* * * * *

(f) For the purpose of this subpart, the owner or operator shall conduct the demonstration of compliance with § 60.272a(a) of this subpart and submit, following the procedure specified in § 60.8(j), a report of the results of the test. This report shall include the following information:

* * * * *

(i) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(j) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013

■ 33. Section 60.287a is amended by adding paragraph (d) to read as follows:

§ 60.287a Recordkeeping.

* * * * *

(d) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

■ 34. Section 60.288a is amended by:
■ a. Revising paragraphs (b) and (c); and
■ b. Revising paragraph (d) introductory text.

The revisions read as follows:

§ 60.288a Reporting.

* * * * *

(b) Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, you must submit the results of the performance test following the procedure specified in either paragraph (b)(1) or (b)(2) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file

with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(c) Within 60 days after the date of completing each CEMS performance evaluation, as defined in § 63.2, you must submit the results of the performance evaluation following the procedure specified in either paragraph (c)(1) or (c)(2) of this section.

(1) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. If you claim that some of the performance evaluation information being submitted is CBI, you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(2) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

(d) If a malfunction occurred during the reporting period, you must submit, following the procedure specified in § 60.7(c), a report that contains the following:

* * * * *

Subpart EE—Standards of Performance for Surface Coating of Metal Furniture

■ 35. Section 60.315 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b);
■ c. Revising paragraph (c) introductory text; and
■ d. Revising paragraph (d).

The revisions read as follows:

§ 60.315 Reporting and recordkeeping requirements.

(a) The reporting requirements of § 60.8 apply only to the initial performance test. Each owner or operator subject to the provisions of this subpart shall include the following data in the report of the initial performance test required under § 60.8:

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a report every calendar quarter of each instance in which the volume-weighted average of the total mass of VOCs emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.312. If no such instances have occurred during a particular quarter, a report stating this shall be submitted semiannually. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit, at the frequency and following the procedure specified in § 60.7(c), the following:

* * * * *

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

Subpart GG—Standards of Performance for Stationary Gas Turbines

■ 36. Section 60.334 is amended by revising paragraph (j)(5) to read as follows:

§ 60.334 Monitoring of operations.

* * * * *

(j) * * *

(5) All reports required under § 60.7(c) shall be submitted electronically by the 30th day following the end of each 6-month period.

Subpart LL—Standards of Performance for Metallic Mineral Processing Plants

■ 37. Section 60.385 is amended by:
■ a. Revising paragraph (a); and
■ b. Revising paragraphs (d) and (e).

The revisions read as follows:

§ 60.385 Recordkeeping and reporting requirements.

(a) The owner or operator subject to the provisions of this subpart shall conduct a performance test and submit a report of the results of the test following the procedure specified in § 60.8(j).

* * * * *

(d) The reports required under paragraph (c) shall be submitted electronically within 30 days following the end of the second and fourth calendar quarters. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the

EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(e) The requirements of this subsection remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart MM—Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations

■ 38. Section 60.395 is amended by revising paragraph (b) and paragraph (c) introductory text to read as follows:

§ 60.395 Reporting and recordkeeping requirements.

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a report every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.392. If no such instances have occurred during a particular quarter, a report stating this shall be submitted semiannually. Where compliance is achieved through the use of a capture system and control device, the volume-weighted average after the control device should be reported. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(c) Where compliance with § 60.392 is achieved through the use of incineration, the owner or operator shall continuously record the incinerator combustion temperature during coating operations for thermal incineration or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration. The owner or operator shall submit, at the frequency and following the procedure specified in § 60.7(c), a report of the information defined below.

* * * * *

Subpart NN—Standards of Performance for Phosphate Rock Plants

■ 39. Section 60.403 is amended by revising paragraph (f) to read as follows:

§ 60.403 Monitoring of emissions and operations.

* * * * *

(f) Any owner or operator subject to the requirements under paragraph (c) of this section shall report, at the frequency and following the procedure specified in § 60.7(c), all measurement results that are less than 90 percent of the average levels maintained during the most recent performance test conducted under § 60.8 in which the affected facility demonstrated compliance with the standard under § 60.402.

Subpart QQ—Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing

■ 40. Section 60.433 is amended by revising paragraph (e)(6) to read as follows:

§ 60.433 Performance test and compliance provisions.

* * * * *

(e) * * *

(6) The owner or operator of the existing facility (or facilities) shall submit, following the procedure specified in § 60.8(j), a report of the results of the emission test.

* * * * *

Subpart RR—Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations

■ 41. Section 60.447 is revised to read as follows:

§ 60.447 Reporting requirements.

(a) For all affected facilities subject to compliance with § 60.442, the performance test data and results from the performance test shall be submitted as specified in § 60.8(j) of the General Provisions (40 CFR part 60, subpart A).

(b) Following the initial performance test, the owner or operator of each affected facility shall submit quarterly reports of exceedances of the VOC emission limits specified in § 60.442. If no such exceedances occur during a particular quarter, a report stating this shall be submitted semiannually. These quarterly and semiannual reports shall be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(c) The owner or operator of each affected facility shall also submit reports, at the frequency and following the procedure specified in § 60.7(c), when the incinerator temperature drops as defined under § 60.443(e). If no such periods occur, the owner or operator shall state this in the report.

(d) The requirements of this subsection remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart SS—Standards of Performance for Industrial Surface Coating: Large Appliances

■ 42. Section 60.455 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b);
■ c. Revising paragraph (c) introductory text; and
■ d. Revising paragraph (d).

The revisions read as follows:

§ 60.455 Reporting and recordkeeping requirements.

(a) The reporting requirements of § 60.8 apply only to the initial performance test. Each owner or operator subject to the provisions of this subpart shall include the following data in the report of the initial performance test required under § 60.8:

* * * * *

(b) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a report every calendar quarter of each instance in which the volume-weighted average of the total mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.452. If no such instances have occurred during a particular quarter, a report stating this shall be submitted semiannually. These quarterly and semiannual reports shall be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit, at the frequency and following the procedure specified in § 60.7(c), the following:

* * * * *

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

Subpart TT—Standards of Performance for Metal Coil Surface Coating

■ 43. Section 60.465 is amended by revising paragraphs (c) through (e) to read as follows:

§ 60.465 Reporting and recordkeeping requirements.

* * * * *

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit a report every calendar quarter of each instance in which the volume-weighted average of the local mass of VOC's emitted to the atmosphere per volume of applied coating solids (N) is greater than the limit specified under § 60.462. If no such instances have occurred during a particular quarter, a report stating this shall be submitted semiannually. Each owner or operator of an affected facility shall submit such quarterly and semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(d) The owner or operator of each affected facility shall also submit reports, at the frequency and following the procedure specified in § 60.7(c), when the incinerator temperature drops as defined under § 60.464(c). If no such periods occur, the owner or operator shall state this in the report.

(e) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine monthly VOC emissions from each affected facility and to determine the monthly emission limit, where applicable. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

Subpart VV—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006

■ 44. Section 60.486 is amended by revising paragraph (a)(1) to read as follows:

§ 60.486 Recordkeeping requirements.

(a)(1) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

* * * * *

■ 45. Section 60.487 is amended by revising paragraphs (a) and (f) to read as follows:

§ 60.487 Reporting requirements.

(a) Beginning six months after the initial startup date, each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

(f) The requirements of paragraphs (a) through (c) of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with the requirements of paragraphs (a) through (c) of this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart VVa—Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006

■ 46. Section 60.486a is amended by revising paragraph (a)(1) to read as follows:

§ 60.486a Recordkeeping requirements.

(a)(1) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

* * * * *

■ 47. Section 60.487a is amended by revising paragraphs (a) and (f) to read as follows:

§ 60.487a Reporting requirements.

(a) Beginning 6 months after the initial startup date, each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

(f) The requirements of paragraphs (a) through (c) of this section remain in force until and unless the EPA, in delegating enforcement authority to a state under section 111(c) of the CAA, approves reporting requirements or an alternative means of compliance surveillance adopted by such state. In that event, affected sources within the state will be relieved of the obligation to comply with the requirements of paragraphs (a) through (c) of this section, provided that they comply with the requirements established by the state. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry

■ 48. Section 60.495 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b);
■ c. Revising paragraph (c) introductory text; and
■ d. Revising paragraphs (d) and (e).
The revisions read as follows:

§ 60.495 Reporting and recordkeeping requirements.

(a) The owner or operator of an affected facility shall include the following data in the initial compliance report required under § 60.8.

* * * * *

(b) Following the initial performance test, each owner or operator shall identify, record, and submit quarterly reports of each instance in which the volume-weighted average of the total mass of VOC per volume of coating solids, after the control device, if capture devices and control systems are used, is greater than the limit specified under § 60.492. If no such instances occur during a particular quarter, a report stating this shall be submitted semiannually. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the

CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

(c) Following the initial performance test, the owner or operator of an affected facility shall identify, record, and submit, at the frequency and following the procedure specified in § 60.7(c), the following:

* * * * *

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility in the initial and monthly performance tests. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(e) The requirements of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart AAA—Standards of Performance for New Residential Wood Heaters

■ 49. Section 60.539b is amended by revising paragraph (b) to read as follows:

§ 60.539b General provisions exclusions.

* * * * *

(b) Section 60.8(a), (c), (d), (e), (f), and (j) and

* * * * *

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

■ 50. Section 60.545 is amended by adding paragraph (g) to read as follows:

§ 60.545 Recordkeeping requirements.

* * * * *

(g) Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

■ 51. Section 60.546 is amended by:

■ a. Revising paragraph (c) introductory text;

■ b. Revising paragraph (f) introductory text;

■ c. Revising paragraph (g);

■ d. Revising paragraph (j); and

■ e. Adding paragraph (k).

The revisions and addition read as follows:

§ 60.546 Reporting requirements.

* * * * *

(c) Each owner or operator subject to the provisions of this subpart shall submit, following the procedure specified in § 60.8(j), the results of all initial performance tests and the results of the performance tests required under § 60.543(b)(2) and (b)(3). The following data shall be included in the report for each of the above performance tests:

* * * * *

(f) Once every 6 months each owner or operator subject to the provisions of § 60.545 shall report, following the procedure specified in paragraph (k) of this section, as applicable:

* * * * *

(g) The requirements for semiannual reports remain in force until and unless the EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with these requirements, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

* * * * *

(j) The owner or operator of each tread end cementing operation and each green tire spraying (inside and/or outside) operation using water-based sprays containing less than 1.0 percent, by weight, of VOC as described in § 60.543(b)(1) shall submit, following the procedure specified in paragraph (k) of this section, within 60 days initially and annually thereafter, formulation data or Method 24 results to verify the VOC content of the water-based sprays in use. If the spray formulation changes before the end of the 12-month period, formulation data or Method 24 results to verify the VOC content of the spray shall be reported within 30 days of the change.

(k) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

■ 52. Section 60.548 is amended by revising paragraph (b) to read as follows:

§ 60.548 Delegation of authority.

* * * * *

(b) Authority which will not be delegated to States: § 60.543(c)(2)(ii)(B) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart DDD—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Polymer Manufacturing Industry

■ 53. Section 60.565 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b)(1);
■ c. Revising paragraph (k) introductory text;
■ d. Revising paragraph (m); and
■ e. Adding paragraphs (n) and (o).

The revisions and additions read as follows:

§ 60.565 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily-accessible record of the following information measured during each performance test and include the following information in the report of the initial performance test, submitted following the procedure in § 60.8(j), in addition to the results of such performance tests. Where a control device is used to comply with § 60.562–1(a)(1)(i)(D) only, a report containing performance test data need not be submitted, but a report containing the information in § 60.565(a)(11) is required to be submitted following the procedure specified in paragraph (n) of this section. Where a boiler or process heater with a design heat input capacity of 150 million Btu/hour or greater is used to comply with § 60.562–1(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.565(a)(2)(i) is required to be submitted following the procedure specified in paragraph (n) of this section. The same information specified in this section shall be submitted, following the procedure specified in § 60.8(j), in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device or the outlet concentration of TOC (minus methane and ethane) is determined.

* * * * *

(b)(1) Each owner or operator subject to the provisions of this subpart shall submit an engineering report describing in detail the vent system used to vent each affected vent stream to a control device. This report shall include all valves and vent pipes that could vent the stream to the atmosphere, thereby bypassing the control device, and identify which valves are car-sealed opened and which valves are car-sealed closed. Unless the owner or operator submits an initial performance test electronically to the EPA via the EPA's Central Data Exchange (CDX) or if the owner or operator is complying with § 60.562–1(a)(1)(i)(D), the engineering report shall be submitted with the initial performance test. If the owner or operator submits an initial performance test electronically to the EPA's CDX or if the owner or operator is complying with § 60.562–1(a)(1)(i)(D), the engineering report shall be submitted as a separate report to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(k) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the uncontrolled threshold emission rate cutoff provision of §§ 60.560 (d) and (e), the individual stream exemptions of § 60.560(g), or the requirements of § 60.562–1 shall submit, following the procedure specified in paragraph (n) of this section, semiannual reports of the following recorded information, as applicable. The initial report must be submitted within 6 months after the initial start-up date.

* * * * *

(m) The requirements of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves alternative reporting requirements or means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(n) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(o) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

■ 54. Section 60.566 is amended by revising paragraph (b) to read as follows:

§ 60.566 Delegation of authority.

* * * * *

(b) Authority which will not be delegated to States: § 60.562–2(c) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart FFF—Standards of Performance for Flexible Vinyl and Urethane Coating and Printing

■ 55. Section 60.585 is amended by:
■ a. Revising paragraph (a); and
■ b. Revising paragraphs (c) and (d).

The revisions read as follows:

§ 60.585 Reporting requirements.

(a) For all affected facilities subject to compliance with § 60.582, the performance test data and results from the performance test shall be submitted as specified in § 60.8(j).

* * * * *

(c) The reports required under paragraph (b) of this section shall be submitted electronically within 30 days following the end of the second and fourth calendar quarters. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(d) The requirements of this subsection remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart HHH—Standards of Performance for Synthetic Fiber Production Facilities

■ 56. Section 60.604 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (a)(2);
■ c. Revising paragraphs (b) and (c); and
■ d. Adding paragraph (d).

The revisions and addition read as follows:

§ 60.604 Reporting requirements.

(a) The owner or operator of an affected facility shall submit reports of the following:

* * * * *

(2) The results of subsequent performance tests that indicate that VOC emissions exceed the standards in § 60.602. These reports shall be submitted, following the procedure specified in § 60.8(j), quarterly at 3-month intervals after the initial performance test. If no exceedances occur during a particular quarter, a report stating this shall be submitted, following the procedure specified in paragraph (d) of this section, semiannually.

(b) Solvent-spun synthetic fiber producing facilities exempted from these standards in § 60.600(a) (those producing less than 500 Mg (551 ton) annually) shall submit, following the procedure specified in paragraph (d) of this section, a report within 30 days whenever extruded fiber for the preceding 12 calendar months exceeds 500 Mg (551 ton).

(c) The requirements of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternate means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(d) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

■ 57. Section 60.615 is amended by:
■ a. Revising paragraph (b) introductory text;
■ b. Revising paragraph (j) introductory text;
■ c. Revising paragraph (k); and
■ d. Adding paragraphs (m) and (n).

The revisions and additions read as follows:

§ 60.615 Reporting and recordkeeping requirements.

* * * * *

(b) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible records of the following data measured during each performance test and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), a report containing performance test data need not be submitted, but a report containing the information of § 60.615(b)(2)(i) is required to be submitted following the procedure specified in paragraph (m) of this section. The same data specified in this section shall be submitted, following the procedure specified in § 60.8(j), in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

* * * * *

(j) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.612 shall submit, following the procedure specified in paragraph (m) of this section, semiannual reports of the following information. The initial report shall be submitted within 6 months after the initial start-up-date.

* * * * *

(k) The requirements of § 60.615(j) remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.615(j), provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

* * * * *

(m) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate

address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(n) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained electronically.

Subpart LLL—Standards of Performance for SO_2 Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011

■ 58. Section 60.647 is amended by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (b) introductory text; and
■ c. Revising paragraph (e).

The revisions read as follows:

§ 60.647 Recordkeeping and reporting requirements.

(a) Records of the calculations and measurements required in § 60.642 (a) and (b) and § 60.646 (a) through (g) must be retained for at least 2 years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the General Provisions. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

(b) Each owner or operator shall submit, following the procedure specified in § 60.7(c), a report of excess emissions semiannually. For the purpose of these reports, excess emissions are defined as:

* * * * *

(e) The requirements of paragraph (b) of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of obligation to comply with paragraph (b) of this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

Subpart NNN—Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations

■ 59. Section 60.665 is amended by:
■ a. Revising paragraph (b) introductory text;
■ b. Revising paragraph (l) introductory text;
■ c. Revising paragraph (m); and
■ d. Adding paragraphs (q) and (r).

The revisions and additions read as follows:

§ 60.665 Reporting and recordkeeping requirements.

* * * * *

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.662(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.665(b)(2)(i) is required to be submitted following the procedure specified in paragraph (q) of this section. The same data specified in this section shall be submitted, following the procedure specified in § 60.8(j), in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

* * * * *

(l) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.660 (c)(4), (c)(5), or (c)(6) or § 60.662 shall submit, following the procedure specified in paragraph (q) of this section, semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

* * * * *

(m) The requirements of § 60.665(l) remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.665(l), provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

* * * * *

(q) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(r) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained electronically.

■ 60. Section 60.668 is amended by revising paragraph (b) to read as follows:

§ 60.668 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States: § 60.663(e) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants

■ 61. Section 60.676 is amended by:
■ a. Revising paragraphs (e) and (f);
■ b. Revising paragraphs (j) and (k); and
■ c. Adding paragraph (l).

The revisions and addition read as follows:

§ 60.676 Reporting and recordkeeping.

* * * * *

(e) The reports required under paragraph (d) of this section shall be submitted electronically within 30 days following the end of the second and

fourth calendar quarters to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(f) The owner or operator of any affected facility shall submit, following the procedure specified in § 60.8(j), reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in § 60.672 of this subpart, including reports of opacity observations made using Method 9 (40 CFR part 60, Appendix A–4) to demonstrate compliance with § 60.672(b), (e) and (f).

* * * * *

(j) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected facilities within the State will be relieved of the obligation to comply with the reporting requirements of this section, provided that they comply with requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(k) Except for the reports required to be electronically submitted to the EPA's CDX, as identified in this section, notifications and reports required under this subpart and under subpart A of this part to demonstrate compliance with this subpart need only to be sent to the EPA Region or the State which has been delegated authority according to § 60.4(b). Reports required to be electronically submitted to the EPA's CDX may not be exempted from Federal electronic reporting requirements.

(l) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained electronically.

■ 62. Amend Table 1 to Subpart OOO by revising entry ''60.4, Address'' to read as follows:

TABLE 1 TO SUBPART OOO—EXCEPTIONS TO APPLICABILITY OF SUBPART A TO SUBPART OOO

Subpart A reference	Applies to subpart OOO	Explanation
60.4, Address	Yes	Except in § 60.4(a) and (b) submittals that are not submitted to the EPA's CDX need only be sent to the EPA Region or the State which has been delegated authority (§ 60.676(k)).
*	*	* * * * *

Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

■ 63. Section 60.684 is amended by:
■ a. Revising paragraphs (d) and (e); and
■ b. Adding paragraph (f).

The revisions and addition read as follows:

§ 60.684 Recordkeeping and reporting requirements.

* * * * *

(d) Each owner or operator shall submit semiannual reports of exceedances of control device operating parameters required to be monitored by paragraphs (a) and (b) of this section and documentation of, and a report of corrective maintenance required as a result of, quarterly calibrations of the monitoring devices required in § 60.683(c). For the purpose of these reports, exceedances are defined as any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. Each owner or operator shall submit such reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(e) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(f) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained electronically.

Subpart QQQ—Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems

■ 64. Section 60.697 is amended by revising paragraph (a) to read as follows:

§ 60.697 Recordkeeping requirements.

(a) Each owner or operator of a facility subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section. All records shall be retained for a period of 2 years

after being recorded unless otherwise noted. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

* * * * *

■ 65. Section 60.698 is amended by:
■ a. Revising paragraph (b)(1);
■ b. Revising paragraph (c);
■ c. Revising paragraph (d) introductory text; and
■ d. Adding paragraph (f).

The revisions and addition read as follows:

§ 60.698 Reporting requirements.

* * * * *

(b)(1) Within 60 days after initial startup, each owner or operator of a facility subject to this subpart shall submit, following the procedure specified in paragraph (f) of this section, a certification that the equipment necessary to comply with these standards has been installed and that the required initial inspections or tests of process drains, sewer lines, junction boxes, oil-water separators, and closed vent systems and control devices have been carried out in accordance with these standards. Thereafter, the owner or operator shall submit semiannually, following the procedure specified in paragraph (f) of this section, a certification that all of the required inspections have been carried out in accordance with these standards.

* * * * *

(c) A report that summarizes all inspections when a water seal was dry or otherwise breached, when a drain cap or plug was missing or improperly installed, or when cracks, gaps, or other problems were identified that could result in VOC emissions, including information about the repairs or corrective action taken, shall be submitted initially and semiannually thereafter, following the procedure specified in paragraph (f) of this section.

(d) As applicable, a report shall be submitted semiannually, following the procedure specified in paragraph (f) of this section, that indicates:

* * * * *

(f) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

■ 66. Section 60.699 is amended by revising paragraph (b) to read as follows:

§ 60.699 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States:

§ 60.694 Permission to use alternative means of emission limitations.

Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart RRR—Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

■ 67. Section 60.705 is amended by:
■ a. Revising paragraph (b);
■ b. Revising paragraph (l) introductory text;
■ c. Revising paragraph (m);
■ d. Revising paragraph (p); and
■ e. Adding paragraphs (u) and (v).

The revisions and additions read as follows:

§ 60.705 Reporting and recordkeeping requirements.

* * * * *

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used or where the reactor process vent stream is introduced as the primary fuel to any size boiler or process heater to comply with § 60.702(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.705(b)(2)(i) is required to be submitted following the procedure specified in paragraph (u) of this section. The same data specified in this section shall be submitted, following the procedure specified in § 60.8(j), in the reports of all subsequently required performance tests where either the emission control efficiency of a combustion device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

* * * * *

(l) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.700 (c)(2), (c)(3), or (c)(4) or § 60.702 shall submit, following the procedure specified in paragraph (u) of this section, semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

* * * * *

(m) The requirements of § 60.705(l) remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.705(l), provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

* * * * *

(p) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(8) must submit, following the procedure specified in § 60.8(j), an initial report including a concentration measurement using the test method specified in § 60.704.

* * * * *

(u) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit

the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(v) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained electronically.

■ 68. Section 60.708 is amended by revising paragraph (b) to read as follows:

§ 60.708 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States: § 60.703(e) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart SSS—Standards of Performance for Magnetic Tape Coating Facilities

■ 69. Section 60.717 is amended by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (c);
■ c. Revising paragraph (d) introductory text;
■ d. Revising paragraph (e);
■ e. Revising paragraphs (h) and (i); and
■ f. Adding paragraph (j).

The revisions and addition read as follows:

§ 60.717 Reporting and monitoring requirements.

(a) For all affected coating operations subject to § 60.712(a), (b)(1), (b)(2), or (b)(3) and all affected coating mix preparation equipment subject to § 60.712(c), the performance test data and results shall be submitted following the procedure specified in § 60.8(j) of the General Provisions (40 CFR part 60, subpart A). In addition, the average values of the monitored parameters measured at least every 15 minutes and averaged over the period of the performance test shall be submitted with the results of all performance tests.

* * * * *

(c) Each owner or operator of an affected coating operation initially utilizing less than the applicable volume of solvent specified in § 60.710(b) per calendar year shall report, following the procedure specified in paragraph (j) of this section, the first calendar year in which actual annual solvent use exceeds the applicable volume.

(d) Each owner or operator of an affected coating operation, or affected coating mix preparation equipment subject to § 60.712(c), shall submit, following the procedure specified in paragraph (j) of this section, semiannual reports documenting the following:

* * * * *

(e) Each owner or operator of an affected coating operation, or affected coating mix preparation equipment subject to § 60.712(c), not required to submit reports under § 60.717(d) because no reportable periods have occurred shall submit, following the procedure specified in paragraph (j) of this section, semiannual reports so affirming.

* * * * *

(h) The reports required under paragraphs (b) through (e) of this section shall be submitted electronically within 30 days of the end of the reporting period.

(i) The requirements of this subsection remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In this event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(j) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

■ 70. Section 60.718 is amended by revising paragraph (b) to read as follows:

§ 60.718 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States:
§ 60.711(a)(16)
§ 60.713(b)(1)(i)
§ 60.713(b)(1)(ii)
§ 60.713(b)(5)(i)
§ 60.713(d)
§ 60.715(a)
§ 60.716

Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart TTT—Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines

■ 71. Section 60.724 is amended by:
■ a. Revising paragraph (a) introductory text;
■ b. Revising paragraph (b) introductory text; and
■ c. Revising paragraphs (c) and (d).

The revisions read as follows:

§ 60.724 Reporting and recordkeeping requirements.

(a) The reporting requirements of § 60.8 apply only to the initial performance test. Each owner or operator subject to the provisions of this subpart shall include the following data in the report of the initial performance test required under § 60.8:

* * * * *

(b) Following the initial report, each owner or operator must submit the information specified in paragraphs (b)(1) and (b)(2) of this section to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or provide an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in

this subpart, regardless of the method in which the report is submitted.

* * * * *

(c) These reports shall be submitted electronically not later than 10 days after the end of the periods specified in § 60.724(b)(1) and § 60.724(b)(2).

(d) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine monthly VOC emissions from each coating operation for each affected facility as specified in 40 CFR 60.7(d). Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

* * * * *

■ 72. Section 60.726 is amended to revise paragraph (b) to read as follows:

§ 60.726 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to the States:

Section 60.723(b)(1)

Section 60.723(b)(2)(i)(C)

Section 60.723(b)(2)(iv)

Section 60.724(e)

Section 60.725(b)

Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries

■ 73. Section 60.735 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraph (c) introductory text; and

■ c. Revising paragraph (d).

The revisions read as follows:

§ 60.735 Recordkeeping and reporting requirements.

(a) Records of the measurements required in § 60.734 of this subpart shall be retained for at least 2 years. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

* * * * *

(c) Semiannually, each owner or operator shall submit reports of exceedances of control device operating parameters required to be monitored by § 60.734 of this subpart to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator shall use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator shall submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator shall begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. For the purpose of these reports, exceedances are defined as follows:

* * * * *

(d) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Clean Air Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

■ 74. Section 60.737 is amended by revising paragraph (b) to read as follows:

§ 60.737 Delegation of authority.

* * * * *

(b) Authorities which will not be delegated to States:

Approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart VVV—Standards of Performance for Polymeric Coating of Supporting Substrates Facilities

■ 75. Section 60.741, Table 1B is amended by:

■ a. Adding a ''(j)'' to the ''Reporting and recordkeeping requirements—§ 60.747'' column for ''Compliance provisions—§ 60.743'' entries A(a)(1) through (a)(4);

■ b. Adding a ''(j)'' to the ''Reporting and recordkeeping requirements—§ 60.747'' column for ''Compliance provisions—§ 60.743'' entry A(b); and

■ c. Adding a ''(j)'' to the ''Reporting and recordkeeping requirements—§ 60.747'' column for ''Compliance provisions—§ 60.743'' entry B(c).

The additions read as follows:

§ 60.741 Definitions, symbols, and cross-reference tables.

* * * * *

TABLE 1B—CROSS REFERENCE

Compliance provisions—§ 60.743	Test methods—§ 60.745	Category/equipment [a]	Monitoring requirements—§ 60.744	Reporting and recordkeeping requirements—§ 60.747
A. Coating operation:				
(a)(1)—Gaseous emission test for coating operations not using carbon adsorption beds with individual exhausts.	(b)–(g)	General, CA, CO, TI, CI, PE, TE.	(a), (i), (j), (k), (c)(1), (d), (e), (f), (g).	(a), (d)(7), (f), (g), (h), (d)(1)(i), (d)(2)(i), (d)(3), (d)(4), (d)(5), (d)(6), (j).
(a)(2)—Gaseous emission test for coating operations using carbon adsorption beds with individual exhausts.	(b)–(g)	General, CA, PE, TE	(a), (i), (j), (k), (c)(2), (g)	(a), (d)(7), (f), (g), (h), (d)(1)(ii), (d)(2)(ii), (d)(6), (j).
(a)(3)—Monthly liquid material balance—can be used only when a VOC recovery device controls only those emissions from one affected coating operation.	(a)	VOC recovery	(i), (k)	(e), (f), (g), (h), (j).

TABLE 1B—CROSS REFERENCE—Continued

Compliance provisions—§ 60.743	Test methods—§ 60.745	Category/equipment [a]	Monitoring requirements—§ 60.744	Reporting and recordkeeping requirements—§ 60.747
(a)(4)—Short-term (3 to 7 day) liquid material balance—may be used as an alternative to (a)(3).	(a)	General, CA, CO, PE, TE.	(a), (i), (j), (k), (c)(1), (c)(2), (d), (g).	(a), (d)(7), (f), (g), (h), (d)(1), (d)(2), (d)(3), (d)(6), (j).
(b)—Alternative standard for coating operation—demonstrate use of approved total enclosure and emissions vented to a 95 percent efficient control device.	(b)–(g)	General, CA, CO, TI, CI, PE, TE.	(a), (i), (j), (k), (c)(1), (c)(2), (d), (e), (f), (h).	(a), (d)(7), (f), (g), (h), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(6), (j).
B. Coating mix preparation equipment:				
(c)—Standard for equipment servicing a coating operation with concurrent construction of a control device that uses at least 130 Mg/yr of VOC—demonstrate that covers meeting specifications are installed and used properly; procedures detailing proper use are posted; the mix equipment is vented to a 95 percent efficient control device.	(b)–(g)	General, CA, TI, CI	(a), (i), (j), (k), (c)(1), (c)(2), (e), (f).	(a), (d)(7), (f), (g), (h), (d)(1), (d)(2), (d)(4), (d)(5), (j).
*	*	*	*	*	*	*

* * * * *

■ 76. Section 60.747 is amended by:

■ a. Revising paragraph (a);

■ b. Revising paragraphs (c)(2) and (3);

■ c. Revising paragraph (d) introductory text;

■ d. Revising paragraph (e) introductory text;

■ e. Revising paragraphs (g) through (i); and

■ f. Adding paragraph (j).

The revisions and addition read as follows:

§ 60.747 Reporting and recordkeeping requirements.

(a) For each affected facility subject to the requirements of § 60.742(b) and (c), the owner or operator shall submit the performance test data and results as specified in § 60.8(j) of this part. In addition, the average values of the monitored parameters measured at least every 15 minutes and averaged over the period of the performance test shall be submitted with the results of all performance tests.

* * * * *

(c) * * *

(2) Report, following the procedure specified in paragraph (j) of this section, the first semiannual estimate in which projected annual VOC use exceeds the applicable cutoff; and

(3) Report, following the procedure specified in paragraph (j) of this section, the first 12-month period in which the actual VOC use exceeds the applicable cutoff.

(d) Each owner or operator of an affected facility demonstrating compliance by the methods described in § 60.743(a)(1), (2), (4), (b), or (c) shall maintain records and submit, following the procedure specified in paragraph (j) of this section, quarterly reports documenting the following:

* * * * *

(e) Each owner or operator of an affected coating operation, demonstrating compliance by the test methods described in § 60.743(a)(3) (liquid-liquid material balance) shall submit, following the procedure specified in paragraph (j) of this section, the following:

* * * * *

(g) The reports required under paragraphs (b), (c), (d), and (e) of this section shall be submitted electronically and-or postmarked within 30 days of the end of the reporting period.

(h) Records required in § 60.747 must be retained for at least 2 years. Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

(i) The requirements of this section remain in force until and unless the EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In this event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with the requirements established by the State. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

(j) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

■ 77. Section 60.748 is amended by revising paragraph (b) to read as follows:

§ 60.748 Delegation of authority.

* * * * *

(b) Authorities that will not be delegated to States: §§ 60.743(a)(3)(v)(A) and (B); 60.743(e); 60.745(a); 60.746; and approval of an alternative to any electronic reporting to the EPA required by this subpart.

Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills

■ 78. Section 60.750 is amended by revising paragraph (b) to read as follows:

§ 60.750 Applicability, designation of affected facility, and delegation of authority.

* * * * *

(b) The following authorities shall be retained by the Administrator and not transferred to the State: § 60.754(a)(5) and approval of an alternative to any electronic reporting to the EPA required by this subpart.

* * * * *

■ 79. Section 60.757 is amended by:

■ a. Revising paragraphs (b) introductory text;

■ b. Revising paragraph (b)(1)(i) introductory text;

■ c. Revising paragraph (b)(1)(ii);

■ d. Revising paragraphs (c)(1) and (c)(2);

■ e. Revising paragraphs (e)(1)(ii) and (e)(1)(iii);

■ f. Revising paragraph (f) introductory text; and

■ g. Adding paragraph (h).

The revisions and addition read as follows:

§ 60.757 Reporting requirements.

* * * * *

(b) Each owner or operator subject to the requirements of this subpart shall submit, following the procedure specified in paragraph (h) of this section, an NMOC emission rate report initially and annually thereafter, except as provided for in paragraphs (b)(1)(ii) or (b)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.

(1) * * *

(i) The initial NMOC emission rate report shall be submitted no later than indicated in paragraphs (b)(1)(i)(A) and (B) of this section. Subsequent NMOC emission rate reports shall be submitted annually thereafter, except as provided for in paragraphs (b)(1)(ii) and (b)(3) of this section.

* * * * *

(ii) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 50 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in paragraph (h) of this section, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate shall include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based shall be provided to the Administrator. This estimate shall be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate shall be submitted to the Administrator. The revised estimate shall cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

* * * * *

(c) * * *

(1) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 60.754(a)(3) and the resulting rate is less than 50 megagrams per year, annual periodic reporting shall be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated emission rate is equal to or greater than 50 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated emission rate based on NMOC sampling and analysis, shall be submitted, following the procedure specified in paragraph (h) of this section, within 180 days of the first calculated exceedance of 50 megagrams per year.

(2) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant (k), as provided in Tier 3 in § 60.754(a)(4), and the resulting NMOC emission rate is less than 50 Mg/yr, annual periodic reporting shall be resumed. The resulting site-specific methane generation rate constant (k) shall be used in the emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 60.754(a)(4) and the resulting site-specific methane generation rate constant (k) shall be submitted, following the procedure specified in paragraph (h) of this section, within 1 year of the first calculated emission rate exceeding 50 megagrams per year.

* * * * *

(e) * * *

(1) * * *

(ii) A copy of the initial performance test report demonstrating that the 15 year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's Central Data Exchange (CDX). In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

* * * * *

(f) Each owner or operator of a landfill seeking to comply with § 60.752(b)(2) using an active collection system designed in accordance with § 60.752(b)(2)(ii) shall submit, following the procedure specified in paragraph (h) of this section, annual reports of the recorded information in (f)(1) through (f)(6) of this paragraph. The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system. The initial annual report shall include the following information pertaining to the initial performance test report required under § 60.8: the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. The initial performance test report shall be submitted, following the procedure specified in § 60.8(j), no later than the date that the initial annual report is submitted. For enclosed combustion devices and flares, reportable exceedances are defined under § 60.758(c).

* * * * *

(h) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the

reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in § 60.4. The owner or operator must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

■ 80. Section 60.758 is amended by adding paragraph (g) to read as follows:

§ 60.758 Recordkeeping requirements.

* * * * *

(g) Any records required to be maintained by this subpart that are submitted electronically via the EPA's Central Data Exchange (CDX) may be maintained in electronic format.

Subpart AAAA—Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction Is Commenced After June 6, 2001

■ 81. Section 60.1030 is revised to read as follows:

§ 60.1030 Can the Administrator delegate authority to enforce these Federal new source performance standards to a State agency?

Yes, the Administrator can delegate all authorities in all sections of this subpart, except approval of an alternative to any electronic reporting to the EPA required by this subpart, to the State for direct State enforcement.

■ 82. Section 60.1385 is revised to read as follows:

§ 60.1385 What reports must I submit after I submit my notice of construction and in what form?

(a) Submit an initial report and annual reports, plus semiannual reports for any emission or parameter level that does not meet the limits specified in this subpart. Submit initial, annual and semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) You must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate address listed in § 60.4. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(b) Submit all reports electronically on or before the submittal dates in §§ 60.1395, 60.1405, and 60.1420.

(c) Keep a copy of all reports required by §§ 60.1400, 60.1410, and 60.1425 onsite for 5 years. Records for any report that is submitted electronically via the EPA's CDX may be maintained in electronic format.

■ 83. Section 60.1400 is amended by revising paragraphs (c) and (d) to read as follows:

§ 60.1400 What must I include in my initial report?

* * * * *

(c) For each initial performance test conducted during the reporting period, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Submit, following the procedure specified in § 60.8(j), the results of the initial performance test (including supporting calculations) required by this subpart no later than the date that you submit the initial report.

(d) For the initial performance evaluation of your continuous emissions monitoring system (CEMS), the process unit where the CEMS is installed, the pollutant the CEMS measures, and the date that the performance evaluation was conducted. Use the applicable performance specifications in appendix B of this part in conducting the evaluation. Submit the results of the initial performance evaluation of your CEMS, following the procedure specified in § 60.13(c)(2), no later than the date that you submit the initial report.

* * * * *

■ 84. Section 60.1425 is amended by revising paragraph (b) to read as follows:

§ 60.1425 What must I include in the semiannual out-of-compliance reports?

* * * * *

(b) If the results of your annual stack tests (as recorded in § 60.1360(a)) show emissions above the limits specified in table 1 of this subpart for dioxins/furans, cadmium, lead, mercury, particulate matter, opacity, hydrogen chloride, and fugitive ash, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. You must submit, following the procedure specified in § 60.8(j), the performance test report that documents the emission levels and your corrective actions no later than the date that you submit the semiannual report.

* * * * *

Subpart EEEE—Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006

■ 85. Section 60.2889 is amended by revising paragraph (b) introductory text and adding paragraph (b)(7) to read as follows:

§ 60.2889 Who implements and enforces this subpart?

* * * * *

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency, the authorities contained in paragraphs (b)(1) through (7) of this section are retained by the EPA and are not transferred to the State, local, or tribal agency.

* * * * *

(7) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 86. Section 60.2956 is amended by revising paragraph (h) to read as follows:

§ 60.2956 What information must I include in my annual report?

* * * * *

(h) For each performance test conducted during the reporting period, if any performance test is conducted, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Submit, following the procedure specified in § 60.8(j), the performance test report no later than the date that you submit the annual report.

* * * * *

■ 87. Section 60.2958 is amended by revising paragraph (d) to read as follows:

§ 60.2958 What must I include in the deviation report?

* * * * *

(d) A copy of the operating limit monitoring data during each deviation and for any test report that documents the emission levels, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Submit, following the procedure specified in § 60.8(j), the performance test report no later than the

date that you submit the deviation report.

* * * * *

■ 88. Section 60.2961 is revised to read as follows:

§ 60.2961 In what form can I submit my reports?

Submit initial reports electronically or in paper format, postmarked on or before the submittal due date, to the Administrator at the appropriate address listed in § 60.4. Submit annual and deviation reports electronically on or before the submittal due dates to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

■ 89. Table 4 to Subpart EEEE is amended by revising the entries for ''4. Annual report'' and ''5. Emission limitation or operating limit deviation report'' to read as follows:

TABLE 4 TO SUBPART EEEE OF PART 60—SUMMARY OF REPORTING REQUIREMENTS

Report	Due date	Contents	Reference
*	*	*	*
4. Annual report	a. No later than 12 months following the submission of the initial test report. Subsequent reports are to be submitted no more than 12 months following the previous report.	i. Company name and address;	§§ 60.2955 and 60.2956.
		ii. Statement and signature by the owner or operator;	§§ 60.2955 and 60.2956.
		iii. Date of report;	§§ 60.2955 and 60.2956.
		iv. Values for the operating limits;	§§ 60.2955 and 60.2956.
			§§ 60.2955 and 60.2956.
		v. If no deviations or malfunctions were reported, a statement that no deviations occurred during the reporting period;	§§ 60.2955 and 60.2956.
		vi. Highest and lowest recorded 12-hour averages, as applicable for carbon monoxide emissions and highest and lowest recorded 3-hour averages, as applicable, for each operating parameter recorded for the calendar year being reported;	§§ 60.2955 and 60.2956.
		vii. Information for deviations or malfunctions recorded under § 60.2949(b)(6) and (c) through (e);	§§ 60.2955 and 60.2956.
		viii. For each performance test conducted during the reporting period, if any performance test is conducted, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted.	§§ 60.2955 and 60.2956.
		ix. If a performance test was not conducted during the reporting period, a statement that the requirements of § 60.2934(a) or (b) were met; and	§§ 60.2955 and 60.2956.
		x. Documentation of periods when all qualified OSWI unit operators were unavailable for more than 12 hours but less than 2 weeks.	§§ 60.2955 and 60.2956.
5. Emission limitation or operating limit deviation report.	a. By August 1 of that year for data collected during the first half of the calendar year. By February 1 of the following year for data collected during the second half of the calendar year.	i. Dates and times of deviation;	§§ 60.2957 and 60.2958.
		ii. Averaged and recorded data for those dates;	§§ 60.2957 and 60.2958.
		iii. Duration and causes of each deviation and the corrective actions taken;	§§ 60.2957 and 60.2958.
		iv. Copy of operating limit monitoring data and, if any performance test was conducted that documents the emission levels, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted;	§§ 60.2957 and 60.2958.
		v. Dates, times, and causes for monitor downtime incidents;	§§ 60.2957 and 60.2958.
		vi. Whether each deviation occurred during a period of startup, shutdown, or malfunction; and	§§ 60.2957 and 60.2958.
		vii. Dates, times and durations of any bypass of the control device.	§§ 60.2957 and 60.2958.
*	*	*	*

* * * * *

Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

■ 90. Section 60.4214 is amended by revising paragraph (d)(3) to read as follows:

§ 60.4214 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary CI internal combustion engine?

* * * * *

(d) * * *

(3) Submit the annual report to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines

■ 91. Amend § 60.4245 by revising paragraph (d) and paragraph (e)(3) to read as follows:

§ 60.4245 What are my notification, reporting, and recordkeeping requirements if I am an owner or operator of a stationary SI internal combustion engine?

* * * * *

(d) Owners and operators of stationary SI ICE that are subject to performance testing must submit, following the procedure specified in § 60.8(j), a report of the results of each performance test conducted following the procedure specified in § 60.4244 within 60 days after the test has been completed.

(e) * * *

(3) Submit the annual report to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

Subpart KKKK—Standards of Performance for Stationary Combustion Turbines

■ 92. Amend § 60.4375 by revising paragraph (b) to read as follows:

§ 60.4375 What reports must I submit?

* * * * *

(b) For each affected unit that performs annual performance tests in accordance with § 60.4340(a), you must submit, following the procedure specified in § 60.8(j), a report of the results of each performance test before the close of business on the 60th day following the completion of the performance test.

■ 93. Section 60.4395 is revised to read as follows:

§ 60.4395 When must I submit my reports?

All reports required under § 60.7(c) must be submitted electronically by the 30th day following the end of each 6-month period.

Subpart LLLL—Standards of Performance for New Sewage Sludge Incineration Units

■ 94. Section 60.4785 is amended by revising paragraph (c) introductory text and adding paragraph (c)(9) to read as follows:

§ 60.4785 Who implements and enforces this subpart?

* * * * *

(c) The authorities that will not be delegated to state, local, or tribal agencies are specified in paragraphs (c)(1) through (c)(9) of this section.

* * * * *

(9) Approval of an alternative to any electronic reporting to the EPA required by this subpart.

■ 95. Section 60.4910 is amended by revising the introductory paragraph text to read as follows:

§ 60.4910 What records must I keep?

You must maintain the items (as applicable) specified in paragraphs (a) through (n) of this section for a period of at least 5 years. All records must be available on site in either electronic format (that can be printed upon request) or paper copy format.

* * * * *

■ 96. Section 60.4915 is amended by:

■ a. Revising paragraph (c) introductory text;

■ b. Revising paragraphs (c)(4) and (c)(5);

■ c. Revising paragraph (d);

■ d. Revising paragraph (d)(4) introductory text;

■ e. Revising paragraph (d)(8);

■ f. Revising paragraph (e)(2);

■ g. Revising paragraph (e)(3)(vii);

■ h. Revising paragraph (e)(4)(vii);

■ i. Revising paragraphs (i)(1) and (i)(2);

■ j. Adding paragraph (i)(3).

The revisions and addition read as follows:

§ 60.4915 What reports must I submit?

* * * * *

(c) *Initial compliance report.* You must submit, following the procedure specified in paragraph (i)(1) of this section, an initial compliance report containing the information listed in paragraphs (c)(1) through (c)(8) of this section no later than 60 days following the initial performance test.

* * * * *

(4) For the initial performance test conducted using the test methods specified in Table 1 or 2 of this subpart, the process unit(s) tested, the pollutant(s) tested, and the date that the initial performance test was conducted. Submit the initial performance test results, following the procedure specified in paragraph (i)(2) of this section, no later than the date that you submit the initial compliance report.

(5) If an initial performance evaluation of a continuous monitoring system (CMS) was conducted, the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation is conducted. Submit the initial performance evaluation results, following the procedure specified in paragraph (i)(3) of this section, no later than the date that you submit the initial compliance report.

* * * * *

(d) *Annual compliance report.* You must submit, following the procedure specified in paragraph (i)(1) of this section, an annual compliance report that includes the items listed in paragraphs (d)(1) through (d)(16) of this section for the reporting period specified in paragraph (d)(3) of this section. You must submit your first annual compliance report no later than

12 months following the submission of the initial compliance report required by paragraph (c) of this section. You must submit subsequent annual compliance reports no more than 12 months following the previous annual compliance report. (You may be required to submit these reports (or additional compliance information) more frequently by the title V operating permit required in § 60.4920.)

* * * * *

(4) If a performance test was conducted during the reporting period, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Submit, following the procedure specified in paragraph (i)(2) of this section, the performance test report no later than the date that you submit the annual report.

* * * * *

(8) If a performance evaluation of a continuous monitoring system (CMS) was conducted, the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation is conducted. Submit, following the procedure specified in paragraph (i)(3) of this section, the results of that performance evaluation no later than the date that you submit the annual compliance report. If new operating limits were established during the performance evaluation, include your calculations for establishing those operating limits.

* * * * *

(e) * * *

(2) The deviation report must be submitted, following the procedure specified in paragraph (i)(1) of this section, by August 1 of that year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31).

(3) * * *

(vii) A copy of the operating parameter monitoring data during each deviation and for any test report that documents the emission levels, the process unit(s) tested, the pollutant(s) tested and the date that the performance test was conducted. Submit the performance test report, following the procedure specified in paragraph (i)(2) of this section, no later than the date that you submit the deviation report.

* * * * *

(4) * * *

(vii) For any performance test report that showed a deviation from the emission limits or standard, the process unit(s) tested, the pollutant(s) tested and the date that the performance test was conducted. Submit the performance test report, following the procedure specified in paragraph (i)(2) of this section, no later than the date that you submit the deviation report.

* * * * *

(i) * * *

(1) Submit initial, annual, and deviation reports electronically on or before the submittal due dates to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. Begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(2) Within 60 days after the date of completing each performance test (see § 60.8) conducted to demonstrate compliance with this subpart, you must submit the results of the performance test following the procedure specified in either paragraph (i)(2)(i) or (i)(2)(ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

(3) Within 60 days after the date of completing each CEMS performance evaluation, you must submit the results of the performance evaluation following the procedure specified in either paragraph (i)(3)(i) or (i)(3)(ii) of this section.

(i) For performance evaluations of continuous monitoring systems measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, you must submit the results of the performance evaluation to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) Performance evaluation data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the XML schema listed on the EPA's ERT Web site. If you claim that some of the performance evaluation information being submitted is CBI, you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For any performance evaluations of continuous monitoring systems measuring RATA pollutants that are not

supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance evaluation to the Administrator at the appropriate address listed in § 60.4.

* * * * *

■ 97. Table 5 to Subpart LLLL is amended by:

■ a. Revising the ''Initial compliance report'' entry;

■ b. Revising the ''Annual compliance report'' entry; and

■ c. Revising the ''Deviation report (deviations from emission limits, emission standards, or operating limits, as specified in § 60.4915(e)(1))'' entry.

The revisions read as follows:

TABLE 5 TO SUBPART LLLL OF PART 60—SUMMARY OF REPORTING REQUIREMENTS FOR NEW SEWAGE SLUDGE INCINERATION UNITS [a]

Report	Due date	Contents	Reference
*	*	*	*
Initial compliance report	No later than 60 days following the initial performance test.	1. Company name and address ..... 2. Statement by a responsible official, with that official's name, title, and signature, certifying the accuracy of the content of the report. 3. Date of report. 4. For the initial performance test conducted, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. 5. For the initial performance evaluation of your CMS,[b] the process unit where the CMS is installed, the pollutant the CMS measures, and the date that the performance evaluation is conducted. 6. The values for the site-specific operating limits and the calculations and methods, as applicable, used to establish each operating limit. 7. Documentation of installation of bag leak detection system for fabric filter. 8. Results of initial air pollution control device inspection, including a description of repairs.	§ 60.4915(c).
Annual compliance report ..	No later than 12 months following the submission of the initial compliance report; subsequent reports are to be submitted no more than 12 months following the previous report.	1. Company name and address ..... 2. Statement and signature by responsible official ..... 3. Date and beginning and ending dates of report ..... 4. For each performance test conducted during the reporting period, if any performance test is conducted, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. Include any new operating limits and associated calculations and the type of activated carbon used, if applicable. 5. For each pollutant and operating parameter recorded using a CMS, the highest recorded 3-hour average and the lowest recorded 3-hour average, as applicable. 6. If no deviations from emission limits, emission standards, or operating limits occurred, a statement that no deviations occurred. 7. If a fabric filter is used, the date, time, and duration of alarms. 8. For each performance evaluation conducted during the reporting period, the process unit where the CMS is installed, the parameter measured by the CMS, and the date that the performance evaluation was conducted. Include any new operating limits and their associated calculations. 9. If you met the requirements of § 60.4885(a)(3) and did not conduct a performance test, include the dates of the last three performance tests, a comparison to the 50 percent emission limit threshold of the emission level achieved in the last three performance tests, and a statement as to whether there have been any process changes. 10. Documentation of periods when all qualified SSI unit operators were unavailable for more than 8 hours but less than 2 weeks. 11. Results of annual pollutions control device inspections, including description of repairs. 12. If there were no periods during which your CMSs had malfunctions, a statement that there were no periods during which your CMSs had malfunctions.	§ 60.4915(d).

TABLE 5 TO SUBPART LLLL OF PART 60—SUMMARY OF REPORTING REQUIREMENTS FOR NEW SEWAGE SLUDGE INCINERATION UNITS [a]—Continued

Report	Due date	Contents	Reference
		13. If there were no periods during which your CMSs were out of control, a statement that there were no periods during which your CMSs were out of control. 14. If there were no operator training deviations, a statement that there were no such deviations. 15. Information on monitoring plan revisions, including a copy of any revised monitoring plan.	
Deviation report (deviations from emission limits, emission standards, or operating limits, as specified in § 60.4915(e)(1)).	By August 1 of a calendar year for data collected during the first half of the calendar year; by February 1 of a calendar year for data collected during the second half of the calendar year.	*If using a CMS:* 1. Company name and address ..... 2. Statement by a responsible official ..... 3. The calendar dates and times your unit deviated from the emission limits or operating limits. 4. The averaged and recorded data for those dates ..... 5. Duration and cause of each deviation ..... 6. Dates, times, and causes for monitor downtime incidents. 7. A copy of the operating parameter monitoring data during each deviation, and, for any test report that documents the emission levels, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. 8. For periods of CMS malfunction or when a CMS was out of control, you must include the information specified in § 60.4915(e)(3)(viii). *If not using a CMS:* 1. Company name and address. 2. Statement by a responsible official. 3. The total operating time of each affected SSI. 4. The calendar dates and times your unit deviated from the emission limits, emission standard, or operating limits. 5. The averaged and recorded data for those dates. 6. Duration and cause of each deviation. 7. For each performance test that showed a deviation from emission limits or standards conducted during the reporting period, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted. 8. A brief description of any malfunction, a description of actions taken during the malfunction to minimize emissions, and corrective action taken.	§ 60.4915(e).

* * * * * * *

* * * * *

Subpart OOOO—Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution

■ 98. Section 60.5420 is amended by:
■ a. Revising paragraph (b) introductory text;
■ b. Revising paragraph (b)(7);
■ c. Adding paragraph (b)(9); and
■ d. Revising paragraph (c) introductory text.

The revisions and addition read as follows:

§ 60.5420 What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) *Reporting requirements.* You must submit annual reports containing the information specified in paragraphs (b)(1) through (6) of this section and performance test reports as specified in paragraph (b)(7) or (8) of this section. You must submit annual reports following the procedure specified in paragraph (b)(9). The initial annual report is due no later than 90 days after the end of the initial compliance period as determined according to § 60.5410. Subsequent annual reports are due no later than the same date each year as the initial annual report. If you own or operate more than one affected facility, you may submit one report for multiple affected facilities provided the report contains all of the information required as specified in paragraphs (b)(1) through (6) of this section. Annual reports may coincide with title V reports as long as all the required elements of the annual report are included. You may arrange with the Administrator a common schedule on which reports required by this part may be submitted as long as the schedule does not extend the reporting period.

* * * * *

(7) Within 60 days after the date of completing each performance test (see § 60.8) required by this subpart, except testing conducted by the manufacturer as specified in § 60.5413(d), you must submit the results of the performance test following the procedure specified in either paragraph (b)(7)(i) or (b)(7)(ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT Web site (*http://www.epa.gov/ttn/chief/ert/index.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://*

cdx.epa.gov/).) Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT Web site. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT Web site, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(9) If you are required to submit reports in the manner specified in this paragraph, you must submit reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*).) You must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate address listed in § 60.4. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(c) *Recordkeeping requirements.* You must maintain the records identified as specified in § 60.7(f) and in paragraphs (c)(1) through (13) of this section. All records required by this subpart must be maintained either onsite or at the nearest local field office for at least 5 years. Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

* * * * *

■ 99. Section 60.5422 is amended by revising paragraph (a) to read as follows:

§ 60.5422 What are my additional reporting requirements for my affected facility subject to VOC requirements for onshore natural gas processing plants?

(a) You must comply with the requirements of paragraphs (b) and (c) of this section in addition to the requirements of § 60.487a(a), (b), (c)(2)(i) through (iv), and (c)(2)(vii) through (viii). As required by § 60.487a(a), you must submit semiannual reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, submit the report to the Administrator at the appropriate address listed in § 60.4. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted.

* * * * *

■ 100. Section 60.5423 is amended by revising paragraph (b) introductory text and paragraph (e) to read as follows:

§ 60.5423 What additional recordkeeping and reporting requirements apply to my sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(b) You must submit a report of excess emissions with your annual report if you had excess emissions during the reporting period. The excess emissions report must be submitted to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) You must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the CEDRI Web site (*http://www.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate address listed in § 60.4. You must begin submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. For the purpose of these reports, excess emissions are defined as:

* * * * *

(e) The requirements of paragraph (b) of this section remain in force until and unless the EPA, in delegating enforcement authority to a state under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such state. In that event, affected sources within the state will be relieved of obligation to comply with paragraph (b) of this section, provided that they comply with the requirements established by the state. Electronic reporting to the EPA cannot be waived, and as such, the provisions of this paragraph do not relieve owners or operators of affected facilities of the requirement to submit the electronic reports required in this section to the EPA.

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