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Presidential Documents

Title 3—

The President

Proclamation 9286 of May 22, 2015

National Hurricane Preparedness Week, 2015

By the President of the United States of America

A Proclamation

Hurricanes cause devastating and sometimes deadly damage, with violent winds and heavy rains destroying buildings, inundating both coastal and inland areas, and displacing residents from their communities. Each year, we call attention to the risks hurricanes and tropical storms pose, as well as the steps we can take to protect ourselves, our loved ones, and our communities. During National Hurricane Preparedness Week, we recommit to strengthening the capacity of local responders and creating resilient cities, towns, and neighborhoods that are prepared when disaster strikes.

My Administration continues to partner with State, local, and tribal governments, helping them prepare for and respond to hurricanes. We are supporting new technology to help families develop emergency plans, determine evacuation routes, and receive disaster alerts; once a storm has passed, these tools can also help connect residents to resources—from clean water and shelter to information about power outages and gas station closings. We continue to fund rebuilding efforts in areas devastated by hurricanes, ensuring new infrastructure can withstand future storms. And to bolster our recovery efforts for the long term, we have instituted a Unified Federal Review process to help those in need of recovery assistance better navigate the permits and environmental reviews necessary to ensure a rapid and resilient recovery.

Hurricane-associated storm intensity and rainfall rates are projected to increase during this century, in part due to increasing sea surface temperatures. These changes, combined with rising sea levels, could lead to additional damage and higher costs in both coastal and inland communities. That is why, as part of my Climate Action Plan, my Administration is taking steps to prepare for and combat these effects. We are supporting communities with Federal resources, and earlier this year, I signed an Executive Order that establishes a flood standard for new and rebuilt federally funded structures in and around floodplains.

Preparing for and responding to hurricanes is a team effort—everyone has a role to play in keeping our communities safe. Now is the time for each of us to take simple steps to prepare our families for severe weather. Find out today if you live in a storm surge evacuation zone, a low-lying floodplain, or any other location from which you might need to evacuate. I encourage all Americans living in hurricane-threatened areas to build an emergency supply kit, learn evacuation routes, make a family communication strategy, and practice this plan. During a storm, always be sure to follow the instructions of State, local, and tribal officials. To learn more about ways to prepare for hurricanes and other natural disasters, visit *www.Ready.gov* and *www.Hurricanes.gov/Prepare.*

As we enter hurricane season, remember that disaster preparedness is a shared responsibility. Together, let us rededicate ourselves to ensuring the safety of our loved ones and neighbors by building communities ready to weather storms and all natural disasters.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim May 24 through May 30, 2015, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, media, and residents in the coastal areas of our Nation to share information about hurricane preparedness and response to help save lives and protect communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–13051
Filed 5–27–15; 8:45 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9287 of May 22, 2015

Prayer for Peace, Memorial Day, 2015

By the President of the United States of America

A Proclamation

On Memorial Day, the United States pauses to honor the fallen heroes who died in service to our Nation. With heavy hearts and a sense of profound gratitude, we mourn these women and men—parents, children, loved ones, comrades-in-arms, friends, and all those known and unknown—who believed so deeply in what our country could be they were willing to give their lives to protect its promise. Our hearts ache in their absence, but their spirit gives us strength to continue their work of securing and renewing the liberties that all Americans cherish and for which these heroes gave their last full measure of devotion.

In solemn reflection, we gather—in small towns and big cities, on battlefields, in cemeteries, and at sacred places where blood has been shed for freedom's cause—throughout our country and around the world to remember the unbroken chain of patriots who won independence, saved our Union, defeated fascism, and protected the Nation we love from emerging threats in a changing world. Today, their legacy is carried forward by a new generation of servicemen and women and all who strive to shape a more perfect America; and their enormous sacrifices continue to make our opportunity possible.

We owe all those who sacrifice in our name a tremendous debt, including our Nation's mothers and fathers who have given their daughters and sons to America, spouses and partners who shoulder the weight of unthinkable loss, and courageous children in whom the legacies of their parents live on. As a Nation, we must uphold our obligations to these Gold Star families. We have pledged to them that they will never walk alone—that their country will be there for them always—and we must work every day to make good on this promise.

Our Nation will never forget the valor and distinction of the women and men who defend freedom, justice, and peace. Today, we rededicate ourselves to commitments equal to the caliber of those who have rendered the highest service: to support our troops with the resources they need to do their jobs; to never stop searching for those who have gone missing or are prisoners of war; to ensure all our veterans have access to the care and benefits they have earned and deserve; and to continue our constant work of building a Nation worthy of the heroes we honor today.

In honor of all of our fallen service members, the Congress, by a joint resolution approved May 11, 1950, as amended (36 U.S.C. 116), has requested the President issue a proclamation calling on the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer. The Congress, by Public Law 106–579, has also designated 3:00 p.m. local time on that day as a time for all Americans to observe, in their own way, the National Moment of Remembrance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Memorial Day, May 25, 2015, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time during which people may

unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day.

I request the Governors of the United States and its Territories, and the appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of May, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and thirty-ninth.

[FR Doc. 2015–13053
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Presidential Documents

Executive Order 13695 of May 26, 2015

Termination of Emergency With Respect to the Risk of Nuclear Proliferation Created by the Accumulation of a Large Volume of Weapons-Usable Fissile Material in the Territory of the Russian Federation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA),

I, BARACK OBAMA, President of the United States of America, find that the situation that gave rise to the declaration of a national emergency in Executive Order 13617 of June 25, 2012, with respect to the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material resulting from the reduction of nuclear weapons in accordance with agreements in the area of arms control and disarmament and located in the territory of the Russian Federation, has been significantly altered by the successful implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements. Accordingly, I hereby terminate the national emergency declared in Executive Order 13617, revoke that order, and further order:

Section 1. Pursuant to section 202(a) of the NEA (50 U.S.C. 1622(a)), termination of the national emergency declared in Executive Order 13617 shall not affect any action taken or proceeding pending not finally concluded or determined as of the date of this order, any action or proceeding based on any act committed prior to such date, or any rights or duties that matured or penalties that were incurred prior to such date.

Sec. 2. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
May 26, 2015.

[FR Doc. 2015–13055
Filed 5–27–15; 8:45 am]
Billing code 3295–F5

Rules and Regulations

Federal Register

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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 1924

RIN 0575–ZA00

Final Affordability Determination—Energy Efficiency Standards; Correction

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, U.S. Department of Agriculture.

ACTION: Notice of final determination; correction.

SUMMARY: On May 6, 2015, the U.S. Department of Agriculture (USDA), along with the Department of Housing and Urban Development (HUD), published a joint notice of final determination regarding adoption of the 2009 edition of the International Energy Conservation Code (IECC) for single family homes and the 2007 edition of the American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) 90.1 for multifamily buildings. A clerical error in production resulted in the wrong CFR attribution for USDA in the document's heading. This correction carries the proper CFR citation in its heading.

DATES: This correction is effective May 28, 2015, and applicable beginning May 6, 2015.

FOR FURTHER INFORMATION CONTACT: Meghan Walsh, Rural Housing Service, Department of Agriculture, 1400 Independence Avenue SW., Room 6900–S, Washington, DC 20250; telephone number 202–205–9590 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 6, 2015, at 80 FR 25901, USDA and HUD published a joint notice of final determination. A clerical error in production caused the document to publish with USDA's CFR citation in the heading as ''7 CFR Chapter 0,'' and no agencies were assigned to that chapter. As represented in the heading of this correction, the correct USDA agencies and CFR citation are Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency and 7 CFR part 1924.

Dated: May 22, 2015.

Lisa Mensah,

Under Secretary, Rural Development.

Dated: May 22, 2015.

Alexis M. Taylor,

Acting Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2015–12931 Filed 5–27–15; 8:45 am]

BILLING CODE 3410–XV–P

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052–AC85

Organization; Institution Stockholder Voting Procedures

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, we, Agency or our) amends FCA's regulations to clarify and enhance Farm Credit System (Farm Credit or System) bank and association stockholder voting procedures for tabulating votes, the use of tellers committees, and other items as identified.

DATES: *Effective Date:* The regulation will be effective 30 days after publication in the **Federal Register** during which either one or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

Compliance Date: All provisions of this regulation require compliance on or before January 1, 2016.

FOR FURTHER INFORMATION CONTACT: Thomas R. Risdal, Senior Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA, (703) 883–4257, TTY (703) 883–4056; or Nancy Tunis, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4061, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objectives

The primary objective of this rule is to clarify § 611.340 of our regulations regarding confidentiality and security in stockholder voting procedures and facilitate their safe and sound implementation by System institutions. Specifically, this final rule clarifies that:

- A System bank or association may use a tellers committee to tabulate ballots and still maintain confidentiality and security of the voting process; and
- A small number of administrative employees of a bank or association may assist a tellers committee in verifying a stockholder's eligibility to vote.

II. Background

The Farm Credit Act of 1971, as amended (Act),[1] authorizes the FCA to issue regulations implementing the Act's provisions.[2] Our regulations are intended to ensure the safe and sound operation of System institutions. In order to fulfill our responsibility to maintain the safety and soundness of System institutions and safeguard stockholders' right to a secret ballot, the FCA's regulations provide that banks and associations must ensure the confidentiality and security of stockholder voting, while maintaining cooperative principles.[3]

Section 611.340 of the FCA's regulations requires that the board of directors of each System bank and association adopt policies and procedures to ensure the confidentiality and security of all records and materials related to a stockholder vote including, but not limited to, ballots, proxy ballots, and other related materials. Also, this section requires that System bank and association policies and procedures ensure that ballots and proxy ballots are

[1] Public Law 92–181, 85 Stat. 583 (1971), 12 U.S.C. 2001 *et seq.*

[2] Section 5.17(a)(9) of the Act authorizes the FCA to prescribe rules and regulations necessary or appropriate for carrying out the Act.

[3] Section 4.20 of the Act requires that ''[i]n any election or merger vote, or other proceeding subject to a vote of the stockholders . . . the institution (1) may not use signed ballots; and (2) shall implement measures to safeguard the voting process for the protection of the right of stockholders . . . to a secret ballot.''

provided only to stockholders who are eligible to vote as of the record date set for the stockholder vote. Banks and associations must ensure the confidentiality of all information and materials regarding how or whether an individual stockholder has voted, including protecting the information from disclosure to anyone, except vote tabulators and the FCA.

III. Comments and Our Responses

The comment period for the proposed rule closed on December 15, 2014. We received three comment letters on our proposed rule: One letter from the Farm Credit Council (Council) on behalf of its members; one letter from a Farm Credit bank; and one letter from a Farm Credit association. One commenter supported the proposed rule and two commenters supported the proposed rule with suggested changes and/or clarifications. After careful consideration of the comments, the proposed rule is finalized as proposed with the exception of a clarification in § 611.340(a)(4), discussed below in Section B.

A. Persons Allowed To Perform Certain Roles

The Farm Credit bank commented that because we had clearly prohibited employees, directors, director-nominees and nominating committee members from serving as members of the tellers committee, we should clarify that these same categories of people are prohibited from serving as members of an independent third party vote tabulator. While we agree that such categories of persons would not be allowed to participate as an independent third party vote tabulator, we do not believe that such language needs to be included in the regulation, as it is inherent in the generally understood concept of an ''independent'' third party. We believe it is clear that under no circumstance could an employee, director, director-nominee or member of the nominating committee of an institution ever fall within a reasonable interpretation of ''independent.'' As an example, one dictionary definition defines ''independent,'' in part, as: ''(1) Not subject to control by others: Self-governing; (2) not affiliated with a larger controlling unit. . . .'' [4] This definition is used as an illustrative example only, but confirms that categories of individuals such as those highlighted by the Farm Credit bank would not, under any reasonable interpretation, fall within the commonly understood meaning of ''independent.'' So, while we do not believe it is necessary to specifically include this in the regulation text, we invite any System bank or association with questions regarding whether an independent third party vote tabulator is truly independent to contact the Agency to discuss any specific instance on which the institution seeks guidance.

The Farm Credit bank also commented that it was unclear whether the administrative employees who may assist the tellers committee are allowed to be stockholders as well. We agree that an employee who happens to also be a stockholder could effectively perform the administrative duties of voter eligibility verification so long as there is no particular conflict of interest in that employee's ability to serve in that role.

In the proposed rule preamble, we clarified certain limitations on these employees such as that they could not be part of management or principally involved in the loan-making, pricing or servicing functions of the institution. We did not state that the administrative employees could not be stockholders and, since the tellers committee is made up entirely of stockholders, it would seem counter-intuitive that there would be such a prohibition on the administrative support staff of the tellers committee. We agree with the commenter that there is no reason to prohibit employee-stockholders from serving as the administrative support for the tellers committee, but have concluded clarifying language is not needed in the regulation text since no such prohibition exists in the current language.

The Farm Credit association commenter took issue with the limitation imposed on the administrative employees assisting the tellers committee in that they cannot be part of the institution's management. The association stated that ''[t]his language would prohibit the Association's corporate secretary (who in some institutions is a member of the Association's leadership team) from being involved in and insuring that the duties and responsibilities of the tellers committee are accurately performed.'' The association asked that we amend the regulation text to specifically carve out an exception for the corporate secretary to serve as one of the administrative employees allowed to assist the tellers committee with voter eligibility verification.

The function of the corporate secretary contemplated by the commenter, such as ''insuring that the duties and responsibilities of the tellers committee are accurately performed'' is not the intended purpose behind allowing a small number of administrative staff to assist the tellers committee with voter eligibility verification. The assistance provided by the limited number of administrative employees is to perform certain ministerial tasks involved in voter eligibility verification, such as checking the name or identity code of a voter on an outer envelope of a ballot to confirm that the voter is an eligible voting stockholder. However, the institution could include in its policies and procedures that the corporate secretary, for example, is responsible for training the tellers committee's members and designated administrative staff on their appropriate roles. Alternatively, the corporate secretary could be responsible for reviewing the institution's policies and procedures for compliance with the regulation. In order to promote the goal of a confidential voting process free of undue influence, we believe that the administrative employees assisting the tellers committee with voter eligibility verification should not be members of an institution's management or leadership team. As such, we did not make the requested change to carve out an exception for the corporate secretary to perform this role.

B. List of Eligible Voting Stockholders

The Farm Credit bank commented that the proposed rule may result in the list of eligible voting stockholders as of the voting record date to be submitted multiple times to different individuals or groups during the election process. The proposed rule stated that a list of eligible voting stockholders as of the voting record date must be provided to either the tellers committee or the independent third party, whichever group will be tabulating the vote, in order for the group to determine the validity of the votes cast. In the event that a tellers committee tabulates the votes and decides to utilize the services of a small number of administrative employees to assist with voter eligibility verification, it would be the tellers committee's responsibility to provide the list to those administrative employees. The proposed regulation did not contemplate that the list would be given by the institution directly to the administrative employees. The proposed rule simply gave the tellers committee the option to use a small number of administrative employees from the institution to assist the members in performing their duties.

The commenter further suggested that we clarify that the voter eligibility verification process can be performed in advance of the tellers committee's

[4] *http://www.merriam-webster.com/dictionary/independent.*

tabulation and certification. The proposed regulation text provided that if a tellers committee is used, verification of voter eligibility must be done separate and apart from the opening and tabulating of the actual ballots. However, we agree with the commenter that we should clarify that the separate verification can be performed in advance of the actual vote tabulation. As such, we have added language to the regulation text at § 611.340(a)(4) to clarify that verification of voter eligibility may be done in advance of the vote tabulation any time after the list of eligible voting stockholders has been provided to the tellers committee.

C. Signatures

The Farm Credit bank suggested that the regulation be modified to specifically state that, like identity codes, signatures can be used as part of the authentication process, as long as the signatures are separate from the ballot to maintain voter confidentiality. It is our understanding that this is a common practice amongst institutions. However, there is no need for this to be specifically stated in the regulation text because the regulation has always required, and continues to require, System institutions to adopt policies and procedures that ensure ''that all information and materials regarding how or whether an individual stockholder has voted remain[s] confidential . . .'' and the regulation has also always prohibited the use of signed ballots. If institutions wish to adopt policies and procedures regarding the use of signatures on outer envelopes (not the ballot itself), so that the prohibition on signed ballots is not violated, it is certainly within an institution's prerogative to do so. However, we believe it is best left to each individual institution to create its own policies and procedures that meet all of the requirements of this regulation regarding confidentiality and security in voting.

D. Confidentiality Certification

The Farm Credit bank expressed support for the confidentiality certification contained in new § 611.340(c). However, the bank commented that the certification may prohibit communication with stockholders about their own ballot or voting process. The certification requirement previously applied only to independent third party vote tabulators. We concluded that this requirement should be extended to any individual involved in tabulating votes or verification of voter eligibility. The certification reinforces the significance of the regulation, which requires that all information regarding how or whether an individual stockholder has voted remains confidential. The importance of the confidentiality provision and accompanying certification is to ensure that members of the tellers committee and employees assisting the tellers committee do not disclose how or whether a stockholder has voted in order to preserve the stockholder's secret ballot. If a stockholder initiated contact with a tellers committee member, or administrative employee assisting the tellers committee, the confidentiality certification would not prohibit that individual from responding to the stockholder on a question about that stockholder's own ballot. It would, however, prohibit responding to a question from the stockholder about any other stockholder's ballot.

E. General Support

The Council supported the proposed changes to the regulation. Specifically, the Council commented that the changes would clarify a System institution's option to utilize a tellers committee in the tabulation of votes. The Council also commented that appropriate safeguards were included in the regulation to allow for administrative employees to assist the tellers committee.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule would not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, Banking, Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 611—ORGANIZATION

■ 1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.2, 1.3, 1.4, 1.5, 1.12, 1.13, 2.0, 2.1, 2.2, 2.10, 2.11, 2.12, 3.0, 3.1, 3.2, 3.3, 3.7, 3.8, 3.9, 3.21, 4.3A, 4.12, 4.12A, 4.15, 4.20, 4.21, 4.25, 4.26, 4.27, 4.28A, 5.9, 5.17, 5.25, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2002, 2011, 2012, 2013, 2020, 2021, 2071, 2072, 2073, 2091, 2092, 2093, 2121, 2122, 2123, 2124, 2128, 2129, 2130, 2142, 2154a, 2183, 2184, 2203, 2208, 2209, 2211, 2212, 2213, 2214, 2243, 2252, 2261, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Public Law 100–233, 101 Stat. 1568, 1638; sec. 414 of Public Law 100–399, 102 Stat. 989, 1004.

■ 2. Section 611.340 is revised to read as follows:

§ 611.340 Confidentiality and security in voting.

(a) Each Farm Credit bank and association's board of directors must adopt policies and procedures that:

(1) Ensure the security of all records and materials related to a stockholder vote including, but not limited to, ballots, proxy ballots, and other related materials.

(2) Ensure that ballots and proxy ballots are provided only to stockholders who are eligible to vote as of the record date set for the stockholder vote.

(3) Provide for the establishment of a tellers committee or an independent third party who will be responsible for validating ballots and proxies and tabulating voting results. A tellers committee may only consist of voting stockholders who are not employees, directors, director-nominees, or members of that election cycle's nominating committee.

(4) Ensure that a list of eligible voting stockholders (or identity codes of eligible voting stockholders) as of the voting record date is provided to the tellers committee or independent third party that will be tabulating the vote to ensure the validity of the votes cast. A small number of specifically authorized administrative employees of the institution may assist the tellers committee in such verifications, provided the institution implements procedures to ensure the confidentiality and security of the information made available to the employees. If an institution is using a tellers committee, verification of voter eligibility must be done separate and apart from the opening and tabulating of the actual ballots and may be done in advance of the vote tabulation, any time after the list of eligible voting stockholders has been provided to the tellers committee.

(5) Ensure that all information and materials regarding how or whether an individual stockholder has voted remain confidential, including protecting the information from disclosure to the institution's directors, stockholders, or employees, or any other person except:

(i) A duly appointed tellers committee;

(ii) A small number of specifically authorized administrative employees assisting the tellers committee by validating stockholders' eligibility to vote;

(iii) An independent third party tabulating the vote; or

(iv) The Farm Credit Administration.

(b) No Farm Credit bank or association may use signed ballots in stockholder votes. A bank or association may use balloting procedures, such as an identity code, that can be used to identify whether an individual stockholder is eligible to vote or has previously submitted a vote. In weighted voting, the votes must be tabulated by an independent third party.

(c) An independent third party or each member of the tellers committee that tabulates the votes, and any administrative employees assisting the tellers committee in verifying stockholder eligibility to vote, must sign a certificate declaring that such party, member, or employee will not disclose to any person (including the institution, its directors, stockholders, or employees) any information about how or whether an individual stockholder has voted, except that the information must be disclosed to the Farm Credit Administration, if requested.

(d) Once a Farm Credit bank or association receives a ballot, the vote of that stockholder is final, except that a stockholder may withdraw a proxy ballot before balloting begins at a stockholders' meeting. A Farm Credit bank or association may give a stockholder voting by proxy an opportunity to give voting discretion to the proxy of the stockholder's choice, provided that the proxy is also a stockholder eligible to vote.

(e) Ballots and proxy ballots must be safeguarded before the time of distribution or mailing to voting stockholders and after the time of receipt by the bank or association until disposal. When stockholder meetings are held for the purpose of conducting elections or other votes, only proxy ballots may be accepted prior to any or all sessions of the stockholders' meeting and mail ballots may only be distributed after the conclusion of the meeting. In an election of directors, ballots, proxy ballots, and election records must be retained at least until the end of the term of office of the director. In other stockholder votes, ballots, proxy ballots, and records must be retained for at least 3 years after the vote.

(f) An institution and its officers, directors, and employees may not make any public announcement of the results of a stockholder vote before the tellers committee or independent third party has validated the results of the vote.

Dated: May 21, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2015–12823 Filed 5–27–15; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1290

RIN 2590–AA38

Federal Home Loan Bank Community Support Program—Administrative Amendments

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing a final rule amending its community support regulation to streamline and simplify the administrative process requirements under the regulation. The amendments will not affect the substantive requirements of the regulation, which include FHFA review and assessment of applicable members of the Federal Home Loan Banks (Banks) every two years, or change the criteria for determining member compliance with the community support standards and eligibility for access to long-term Bank advances. The amendments will replace the current process of selecting one-eighth of all applicable members for eight quarterly reviews by FHFA over a two-year review cycle, with a new process of FHFA reviewing all applicable members at the same time every two years.

DATES: This final rule will become effective on June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Melissa Allen, Principal Program Analyst, (202) 649–3130, Charles McLean, Special Assistant to the Deputy Director, (202) 649–3155, *#HMGCommunitySupportProgram@fhfa.gov*, Division of Housing Mission and Goals, or Kevin Sheehan, Associate General Counsel, (202) 649–3086, Office of General Counsel, 400 Seventh Street SW., Washington, DC 20024. (These are not toll-free numbers.) The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Community Support Regulation Established Under the Bank Act

Section 10(g) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to adopt regulations establishing standards of community investment or service for members of Banks to maintain access to long-term Bank advances. 12 U.S.C. 1430(g). Section 10(g) states that such regulations ''shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 [(CRA)] and the member's record of lending to first-time homebuyers.''

FHFA's current community support regulation implements section 10(g). 12 CFR part 1290. The regulation details the CRA and first-time homebuyer standards that have been established pursuant to section 10(g). Each Bank member, except as provided in the regulation, must meet these standards in order to maintain access to long-term Bank advances. A long-term Bank advance is defined as an advance with a term to maturity greater than one year. 12 CFR 1290.1. The regulation sets forth the process that FHFA follows in reviewing, evaluating, and communicating each member's community support performance.[1]

B. CRA and First-Time Homebuyer Standards Under the Current Regulation

A member meets the CRA standard if the rating in the member's most recent CRA evaluation was ''Outstanding'' or ''Satisfactory.'' 12 CFR 1290.3(b). Only members subject to the CRA must meet the CRA standard. *Id.*

A member meets the first-time homebuyer standard if it has an established record of lending to first-time homebuyers or if it performs one or more of the first-time homebuyer support activities specified in the regulation. 12 CFR 1290.3(c). A member that is subject to the CRA is deemed to meet the first-time homebuyer standard if its most recent CRA rating was ''Outstanding.'' *Id.* All members subject to community support review, including those not subject to the CRA (*e.g.,* insurance companies and credit unions), must meet the first-time homebuyer standard. *Id.*

Members that have been certified as community development financial institutions (CDFIs) are deemed to be in compliance with the community support requirements and are not

[1] In addition, the community support regulation requires each Bank to establish and maintain a community support program that provides technical assistance to its members and promotes and expands affordable housing finance.

subject to community support review, unless the CDFI member is also an insured depository institution or a CDFI credit union. 12 CFR 1290.2(e).

C. Review Process Under the Current Regulation

1. Quarterly Reviews and Notices to Members

The current regulation requires FHFA to select a member for community support review approximately once every two years. Approximately one-eighth of all members are required to be reviewed in each calendar quarter of a two-year review cycle. FHFA does not review a member until it has been a member of a Bank for at least one year. Each member selected for review is required to submit a Community Support Statement to FHFA evidencing the member's most recent CRA rating, if any, and its first-time homebuyers support activities.

Members selected for review are notified in two ways of the requirement to submit Community Support Statements to FHFA. First, FHFA publishes a quarterly Notice in the **Federal Register** of the members selected for community support review and the deadline for submission of their Community Support Statements to FHFA, and notifies each Bank of the members within its district selected for community support review during the calendar quarter. Second, within 15 days of the publication of the Notice in the **Federal Register**, each Bank must provide written notice to its members selected for community support review of the deadline for submission of the Community Support Statements to FHFA. The **Federal Register** Notice requires each Bank to provide to members a blank Community Support Statement Form, which also is available on FHFA's Web site and, upon a member's request, to assist the member in completing the Community Support Statement. Many of the Banks maintain regular contacts with their members throughout the community support review process.

2. Public Comments on Members' Community Support Performance

FHFA reviews each member's completed Community Support Statement for compliance with the community support standards. 12 CFR 1290.4. As part of its review, FHFA is also required to take into consideration any public comments received concerning the member. 12 CFR 1290.2(d). The **Federal Register** Notice informs the public that comments may be submitted to FHFA on the selected members' community support performance. The Notice and regulation also provide that, to encourage the submission of public comments, each Bank shall provide written notice to its Advisory Council, and to nonprofit housing developers, community groups, and other interested parties in its district, of the members selected for community support review. 12 CFR 1290.2(b)(2)(ii). FHFA has received relatively few public comments on members' community support performance, and most have been supportive of their performance.

3. Sanctions for Failure To Comply With the Current Regulation

A member that does not meet the requirements of the community support regulation may be placed ''on probation'' or ''on restriction.'' Typically, less than one percent of members are on probation or restriction at any given time. The regulation provides for members to be placed on probation if: (i) Their most recent CRA rating is ''Needs to Improve''; or (ii) their first-time homebuyer performance is unsatisfactory. If a member is placed on probation, the member may continue to obtain long-term Bank advances. A member that is on probation as a result of its CRA rating will remain on probation until its next CRA review. If the new rating for the member fails to meet the CRA standard, the member will be placed on restriction. 12 CFR 1290.3(b)(2). A member that is on probation due to a failure to meet the first-time homebuyer standard will remain on probation for one year. If the member fails to demonstrate compliance with the first-time homebuyer standard at the end of the probationary period, the member will be placed on restriction. 12 CFR 1290.3(c)(2).

Under the regulation, a member is placed on restriction if: (i) It does not submit a Community Support Statement; (ii) it provides no evidence of first-time homebuyer performance; (iii) its most recent CRA rating is ''Substantial Noncompliance''; or (iv) it fails to comply with either the CRA standard or the first-time homebuyer standard at the end of a probationary period. If a member is placed on restriction, it may not obtain long-term Bank advances until it meets the requirements for CRA ratings or first-time homebuyers activities. 12 CFR 1290.3(b)(3), (c)(3); 1290.5(a).

II. Proposed Rule and Comments

On November 10, 2011, FHFA published in the **Federal Register** a proposed rule that would have made substantive and administrative changes to the community support regulation. 76 FR 70069. The proposed rule would have replaced the requirement for members to submit their most recent CRA ratings in Community Support Statements to FHFA with a requirement that the Banks verify members' CRA ratings using publicly available information from the Federal Financial Institutions Examination Council or the member's primary Federal banking regulatory agency. Members would still have been required to submit a statement every two years describing their first-time homebuyer support activities, but the Banks rather than FHFA would have been responsible for reviewing those statements to evaluate members' compliance with the first-time homebuyer support requirements.

In conjunction with the proposed transfer of responsibility for community support review and evaluation, the proposed rule would have eliminated the quarterly FHFA reviews of selected members and the accompanying **Federal Register** Notices. The proposed rule would have added a requirement that the Banks post notices on their public Web sites soliciting public comments on members' community support performance. The proposed rule would have required the Banks to notify their members of the results of the Banks' community support reviews by providing that a Bank could not approve a member's request for long-term advances unless the Bank had determined that the member complies with the first-time homebuyer standard and the CRA standard, as applicable.

FHFA received 114 comments on the proposed rule. The twelve Banks submitted a joint comment letter, and a majority of the other comments were submitted by Bank members or by associations representing Bank members. Comments were also submitted by nonprofits, Bank Advisory Council members, and state housing agencies. Most of the comments, including those of the twelve Banks, opposed the proposed shift in responsibility for reviewing and assessing members' community support compliance from FHFA to the Banks. Commenters contended that the determination of whether a member complies with the community support requirements is a regulatory function best suited to FHFA and that the Banks should not be evaluating their own members. Commenters stated that each Bank would be required to adopt its own standards and procedures, resulting in unnecessary duplication of effort among the Banks. Commenters also objected to the Banks soliciting public comments on members'

community support performance because they did not support transferring the responsibility to determine compliance to the Banks. Commenters were generally silent on the proposed administrative changes, including the discontinuation of the quarterly review rounds and accompanying **Federal Register** Notices.

III. Analysis of Final Rule

The final rule does not make any of the changes to substantive requirements that were proposed in the 2011 proposed rule. FHFA will continue to be responsible for reviewing and assessing member compliance with the community support requirements, with members continuing to be reviewed every two years. However, consistent with the proposed rule, the final rule makes a number of revisions that streamline and simplify the administrative process requirements, which will facilitate the use of electronic submissions and evaluations.

The specific administrative changes are the following: Eliminating the eight quarterly review rounds; eliminating the accompanying quarterly FHFA **Federal Register** Notices; requiring the Banks to solicit public comments (to be sent to FHFA) on their public Web sites; requiring the Banks, rather than FHFA, to communicate FHFA's review results to members; and eliminating specific deadlines for FHFA's review of members' Community Support Statements and notifications of the results to members.

The final rule also makes organizational and other technical language changes in the regulation for greater clarity in administering the review process. These technical changes include codifying FHFA's long-standing policy for treatment of new Bank members, which has been to exclude members from community support reviews until they have been Bank members for more than one year. The technical changes also include codifying long-standing agency practice with respect to the consequences for failure to comply with the first-time homebuyer standard, by eliminating provisions that suggested some failures to comply would result in probation rather than restriction for the member.

The changes in the final rule will make it easier for FHFA to transition from a paper-based administrative process to a fully electronic process. An electronic submission process will further reduce the administrative process requirements. FHFA will work with the Banks to ensure that all members are able to comply with any such changes.

The specific changes made by the final rule are described in the section-by-section analysis below.

A. Definitions—§ 1290.1

Section 1290.1 of the final rule continues to set forth definitions applicable to the community support requirements in part 1290. The final rule removes the definitions for ''appropriate Federal banking agency'' and ''appropriate State regulator'' from § 1290.1 because those terms are defined in 12 CFR part 1201, which includes general definitions applicable to all FHFA regulations.

B. Community Support Requirements—§ 1290.2

Section 1290.2 of the final rule sets forth administrative process requirements applicable to the Banks and members under the community support regulation.

1. Bank Notices to Members

Section 1290.2(a) of the final rule provides that by the effective date of the final rule, and by March 31, 2017, and every two years thereafter, each Bank must provide written notice to all of its members subject to community support review that each such member must submit to FHFA a completed Community Support Statement in accordance with paragraph (b) of this section. As further discussed under paragraph (b), FHFA will no longer review selected members' community support performance on a quarterly schedule, and instead will review all members subject to community support review at approximately the same time every two years. Accordingly, FHFA will no longer be required to notify the Banks, or publish quarterly Notices in the **Federal Register**, of the members selected for community support review and the submission deadlines for the Community Support Statements. Paragraph (a) retains the requirement in current paragraph (b)(2) for the Banks to provide notices to members, but simplifies the requirement because all members will receive the same notice at the same time, with the same deadline for submission of their Community Support Statements.

Section 1290.2(a) also provides that, unless instructed otherwise by FHFA, the Bank shall provide to members a blank Community Support Statement Form, which also is available on FHFA's Web site. Section 1290.2(a) further provides that at the request of a member the Bank shall assist the member in completing the Community Support Statement. These requirements, which currently are in the quarterly **Federal Register** Notices, are included in the final rule because the Notices will be discontinued.

2. Members' Submission of Community Support Statements to FHFA

Currently, § 1290.2(a) provides that FHFA will select a member for community support review approximately once every two years. Section 1290.2(b)(1) of the final rule does not change the frequency of this review. However, instead of requiring FHFA to select members for review, the paragraph is revised to specify the deadline for members to submit to FHFA their completed Community Support Statements and any other information FHFA may require. These Statements will be due to FHFA no later than December 31, 2015, and December 31 every two years thereafter. The final rule also simplifies the existing regulatory language by incorporating current paragraph (c) on signing of the Statement in revised paragraph (b)(1).

This change means that, instead of different members being required to submit their Community Support Statements in different quarters spread over a two-year period, all members subject to community support review will be required to submit their Community Support Statements by the same deadline every two years. This change is consistent with the 2011 proposed rule, which provided for review of members' first-time homebuyers performance every two years but did not require that the Banks conduct the reviews on a quarterly basis. Reviewing all members subject to community support review on the same schedule every two years will significantly simplify and streamline the current administrative process. It will eliminate the need for FHFA to maintain and track eight separate lists of members for each quarterly round, as well as the need to publish quarterly Notices in the **Federal Register** identifying the members subject to review in that quarter. It will simplify FHFA tracking of members' Community Support Statement submissions and compliance, and it will simplify compliance for the members by avoiding any possible confusion among the Banks and members about whether a member is subject to review in a particular quarter. The change to a single submission deadline every two years will also eliminate the administrative complications of preparing for a new quarterly round while still processing member Community Support Statement submissions from the previous round.

3. Transition Provision

FHFA is in the middle of the review cycle covering 2014 and 2015 under the current community support regulation. Starting on the effective date of the final rule, FHFA will apply the final rule's new review process for the remainder of the 2014–2015 review period. New § 1290.2(b)(2) of the final rule provides for a transition period for members that were selected for review during the 2014–2015 review cycle under the current regulation. Members that were selected for review prior to the effective date of the final rule are required to submit completed Community Support Statements as provided in the applicable **Federal Register** Notice. Members that have submitted or submit completed Community Support Statements to FHFA as required by such **Federal Register** Notice are not required to submit a second Community Support Statement to FHFA by the December 31, 2015 deadline. Instead, these members will be required to submit their next Community Support Statements to FHFA by December 31, 2017. Based on past community support review experience, the likelihood of members changing status from compliance to noncompliance is very small. Members determined to be in noncompliance are permitted under the regulation to submit subsequent evidence of compliance to FHFA at any time. After this transition period, all members subject to community support review will be required to submit their Community Support Statements to FHFA on the same schedule, once every two years. The first review to be conducted entirely under the new review process will be in 2017.

4. Notices to Public

Section 1290.2(c)(1) of the final rule continues the requirement in current paragraph (b)(2) that the Banks notify their Advisory Councils, nonprofit housing developers, community groups, and other interested parties in their districts, of the community support review of members. However, the process is simplified in that, unlike under the current regulation, the notice is only required to be provided every two years rather than quarterly, reflecting the elimination of the quarterly review schedule.

Consistent with the proposed rule, § 1290.2(c)(1) of the final rule requires the Banks to also post notices on their Web sites inviting public comments on any member's community support programs and activities. Because FHFA will continue to conduct the community support reviews under the final rule, the Bank's notices shall include instructions for the public to submit any comments to FHFA.

Section 1290.2(c)(2) of the final rule provides that FHFA may publish a notice in the **Federal Register** as an additional means of notifying the public of the opportunity to submit comments on any member's community support programs and activities. FHFA currently includes this notice in the quarterly **Federal Register** Notices under the existing regulation. The final rule allows FHFA to publish a similar notice as necessary, while allowing FHFA flexibility to forego the notice if it is no longer an effective means of informing the public of the opportunity to submit comments on individual members.

Section 1290.2(c)(3) of the final rule provides that FHFA will consider any comments it receives in reviewing members for compliance with the community support requirement. This provision is substantially the same as the provision currently located in paragraph (d).

5. Non-Depository Community Development Financial Institutions

Section 1290.2(d) of the final rule continues to provide that members that have been certified as CDFIs by the CDFI Fund and that are not insured depository institutions or CDFI credit unions are deemed to be in compliance with the community support requirements. Accordingly, such non-depository CDFIs are not required to submit Community Support Statements to FHFA and are not subject to review by FHFA under the community support regulation. The final rule renumbers existing paragraph (e) as paragraph (d) and makes non-substantive changes to the paragraph for greater clarity. For additional discussion of this provision, see the **Federal Register** notice describing the final rule entitled ''Federal Home Loan Bank Membership for Community Development Financial Institutions.'' 75 FR 678, 689–690 (Jan. 5, 2010).

6. New Bank Members

The final rule adds a new § 1290.2(e) that incorporates into the regulation the long-standing agency policy that new members of a Bank are not subject to community support review until after the first year of Bank membership. The **Federal Register** notice describing the 1996 proposed rule on the community support regulation stated that an institution would be subject to review ''only after it has been a [Bank] member for one year.'' 61 FR 60229. The **Federal Register** notice describing the 1997 final community support rule noted that several commenters supported this approach, 62 FR 28983, and the policy has been followed consistently since that time.

Section 1290.2(e) of the final rule provides that a member of a Bank is not required to submit a Community Support Statement under paragraph (b) unless the institution has been a member of a Bank for at least one year as of March 31 of the year in which submissions are due under paragraph (b). An institution that becomes a member after the applicable cut-off date will be subject to community support review during the succeeding review.

C. Community Support Standards—§ 1290.3

Current § 1290.3 sets forth the standards for member compliance with the community support regulation, as well as the circumstances under which a member will be placed on probation or restriction from access to long-term Bank advances. Current § 1290.5 sets forth additional provisions and procedures related to restricting access to long-term advances based on noncompliance with the community support regulation. The final rule maintains the existing standards for compliance and circumstances giving rise to probation or restriction, but these sections have been reorganized for greater clarity. As reorganized, § 1290.3 sets out the standards for member compliance with the community support regulation, and § 1290.5 sets out the circumstances under which a member will be placed on probation or restriction, as well as the procedures applicable in those circumstances.

1. CRA Standard

Section 1290.3(b) of the final rule continues to provide that a member meets the CRA standard if it received a rating of ''Outstanding'' or ''Satisfactory'' in its most recent CRA evaluation. As under the current regulation, members such as credit unions and insurance companies that are not subject to the CRA will not have a CRA rating and, therefore, are subject only to the first-time homebuyer standard.

2. First-Time Homebuyer Standard

Section 1290.3(c) of the final rule continues to set forth the specific first-time homebuyer programs and activities that are eligible to meet the first-time homebuyer standard and clarifies some of the language consistent with current practice. The final rule provides that a member meets the first-time homebuyer standard if the member received a rating of ''Outstanding'' in its most recent CRA

evaluation. For other members, FHFA evaluates whether the member has engaged in at least one of the listed eligible first-time homebuyer programs or activities.

Section 1290.3(c)(4)(vii) of the final rule clarifies that the first-time homebuyer standard can be met by participating or investing in service organizations that assist credit unions in providing mortgages to first-time homebuyers or to low- or moderate-income households. This clarification is consistent with FHFA's current interpretation of the regulation, which considers mortgages to low- or moderate-income households a proxy for mortgages to first-time homebuyers under the community support regulation.

The final rule also includes a new paragraph (c)(5) for other member activities supporting first-time homebuyer financing that may not be covered by the list of specified activities in the regulation. This ''other activities'' category is currently included in the Community Support Statement Form and is added in the final rule so that all eligible activities are set forth comprehensively in one place in the rule.

The final rule also moves the language in current § 1290.3(c)(1) on mitigating factors affecting a member's ability to meet the first-time homebuyer standard to new § 1290.3(c)(6). FHFA may determine that mitigating factors affect a member's ability to engage in activities to assist first-time or potential first-time homebuyers as described in paragraphs (c)(1) through (c)(5).

The final rule also simplifies the current regulatory language in § 1290.3 by deleting redundant language describing the various elements of the Community Support Statement and information that FHFA must consider in its evaluation of a member's community support performance. FHFA will continue to evaluate all information submitted by a member, as well as any public comments or other information, as relevant to the member's performance under the first-time homebuyer standard.

D. FHFA Review and Decision on Community Support Statements—§ 1290.4

Section 1290.4 of the final rule continues to set forth the process for FHFA review and evaluation of member compliance with the community support requirements. Currently, § 1290.4 includes specific timeframes applicable to FHFA's review. Consistent with the current regulation, § 1290.4(a) of the final rule provides that FHFA will review each member approximately once every two years for compliance with the community support requirements. The final rule simplifies the existing regulatory language by eliminating unnecessarily detailed descriptions of each step in the review process, including the deadlines for FHFA review, which will no longer be applicable as members will be able to submit their Community Support Statements to FHFA for review and decision at any time after being notified by the Bank up until the December 31st deadline.

Section 1290.4(b) of the final rule continues to provide that a Community Support Statement is considered complete when a member has provided to FHFA all of the information required by this part.

Section 1290.4(c) of the final rule provides that FHFA will notify the Banks of the results of FHFA's community support determinations. Section 1290.4(c) of the final rule also requires the Banks to promptly notify their members of FHFA's determinations. Under current § 1290.4(b), FHFA notifies the members and their Banks of the results. Requiring the Banks, rather than FHFA, to notify their members of FHFA's determinations is consistent with the proposed rule. The Banks have the customer relationships with their members, and it is the Banks' responsibility to make or restrict advances to their members and communicate the status of members' access to advances.

Section 1290.4(c) of the final rule clarifies that FHFA's written notice of determination on a Community Support Statement will identify the reasons for FHFA's determination only if a member is being placed on probation or restriction. The notice will not provide specific reasons if a member is in compliance with the community support standards. The community support regulation clearly states the criteria for compliance with the community support requirements, so it is unnecessary for FHFA to further describe its rationale if FHFA determines that a member is in compliance with the community support requirements.

E. Probation or Restriction on Member Access to Long-Term Bank Advances—§ 1290.5

Currently, § 1290.5 sets out requirements and procedures applicable to restrictions on access to long-term Bank advances. As discussed above, the final rule revises § 1290.5 to consolidate the various provisions in current §§ 1290.3 and 1290.5 applicable to both probation and restriction. The final rule does not make any substantive changes to the criteria or procedures applicable to either probation or restriction.

1. Probation

The final rule adds a new § 1290.5(a) listing the circumstances under which FHFA will place a member on probation. Currently, § 1290.3(b)(2) provides that a member with a most recent CRA rating of ''Needs to Improve'' continues to have access to long-term advances but is placed on probation, which extends until the member receives its next CRA rating. The final rule includes this provision in § 1290.5(a).

Separately, current § 1290.5(d)(2) provides that a member on restriction due to a CRA rating of ''Substantial Noncompliance'' will be moved to probationary status if the member's subsequent CRA rating is ''Needs to Improve,'' and the member either had not previously received a CRA rating or had received an ''Outstanding'' or ''Satisfactory'' rating immediately prior to the CRA rating leading to restriction. The final rule includes this provision in § 1290.5(d)(3), restated for clarity and to remove a cross-reference that is no longer necessary.

Section 1290.3(c)(2) currently provides that a member is subject to probation if FHFA deems the evidence of first-time homebuyer performance to be unsatisfactory, while § 1290.3(c)(3) currently provides that a member is subject to restriction if the member provides no evidence of first-time homebuyer performance. These provisions are replaced by § 1290.5(b)(5) in the final rule, as further discussed under the restriction criteria below.

2. Restriction on Access to Long-Term Bank Advances

The final rule reorders existing paragraph (a) of § 1290.5 as paragraph (b), listing the circumstances under which FHFA will restrict a member's access to long-term Bank advances.

Section 1290.5(b)(1) of the final rule provides that members that fail to submit completed Community Support Statements will be placed on restriction from access to long-term advances. This provision is relocated from § 1290.5(a) in the current regulation. The final rule clarifies that a member will be placed on restriction if it: (i) Submits a Community Support Statement to FHFA that has not been signed; (ii) submits a Community Support Statement to FHFA that fails to include a CRA rating if the member is subject to the CRA; or (iii)

fails to submit a Community Support Statement at all to FHFA.

Sections 1290.5(b)(2), (b)(3), and (b)(4) of the final rule provide that a member is required to be placed on restriction from access to long-term advances if it has: (i) A CRA rating of ''Substantial Noncompliance'' on its most recent CRA evaluation; (ii) CRA ratings of ''Needs to Improve'' on its two most recent consecutive CRA evaluations; or (iii) CRA ratings of ''Substantial Noncompliance'' and a subsequent ''Needs to Improve'' on its two most recent consecutive CRA evaluations, if the CRA rating preceding the ''Substantial Noncompliance'' rating was ''Needs to Improve'' or ''Substantial Noncompliance.'' These provisions are relocated from §§ 1290.3(b)(3) and 1290.5(a)(3), respectively, in the current regulation.

Section 1290.5(b)(5) of the final rule provides that a member that fails to demonstrate compliance with the first-time homebuyer standard is required to be placed on restriction from access to long-term advances. This provision replaces §§ 1290.3(c)(2), 1290.3(c)(3), and 1290.5(a)(4) in the current regulation. Section 1290.3(c)(2) currently provides that a member is subject to probation if FHFA deems the evidence of first-time homebuyer performance to be unsatisfactory, while § 1290.3(c)(3) currently provides that a member is subject to restriction if the member provides no evidence of first-time homebuyer performance. Section 1290.5(a)(4) currently addresses the status of members at the end of a probationary period under § 1290.3(c)(2).

In practice, FHFA has found there to be no meaningful distinction between ''unsatisfactory evidence'' and ''no evidence'' of first-time homebuyer performance because under either criterion the member has not demonstrated compliance with the first-time homebuyer standard, resulting in restriction under the regulation (and would have resulted in restriction under the 2011 proposed rule). Either term could be interpreted to cover many of the same situations, potentially creating confusion about the proper application of the regulation. To minimize confusion and codify FHFA's long-standing practice, the final rule eliminates the distinction between ''unsatisfactory evidence'' and ''no evidence.'' Section 1290.5(b)(5) of the final rule simplifies and clarifies the existing regulatory language and provides that a member that fails to demonstrate compliance with the first-time homebuyer standard will be placed on restriction.

Section 1290.5(c) of the final rule revises current paragraph (c), which sets forth the effective date for members placed on restriction, to include the effective dates applicable for both probation and restriction. Paragraph (c)(1) provides that the probationary period under § 1290.5(a) will extend until the member's appropriate Federal banking agency completes its next CRA evaluation and issues a rating. The member will be eligible to receive long-term advances during the probationary period. At the end of the probationary period, the member would either meet the CRA standard under § 1290.3(b) or would be placed on restriction pursuant to § 1290.5(b)(3). Probation will take effect on the date the notice required under § 1290.4(c) is sent by FHFA to the Bank.

Paragraph (c)(2) provides that a restriction on access to long-term advances will take effect 30 days after notice is sent by FHFA to the Bank, unless the member demonstrates compliance before the end of the 30-day period.

3. Removal of Restriction on Access to Long-Term Bank Advances

Currently, § 1290.5(d) sets out the criteria and procedures for removing restrictions on members' access to long-term Bank advances. The final rule consolidates the substance of paragraph (d)(2) with the rest of the provisions regarding probation and restriction in paragraphs (a) and (b) of that section.

Section 1290.5(d)(1) of the final rule retains the current provision that a restriction may be removed if FHFA determines, upon written request from a member, that application of the restriction may adversely affect the safety and soundness of the member.

Section 1290.5(d)(2) of the final rule retains the current provision that a restriction may be removed if FHFA determines, upon written request from a member, that the member subsequently has complied with the requirements of this part, *e.g.,* the member has received a CRA rating of ''Outstanding'' or ''Satisfactory'' on its next CRA evaluation, or the member has demonstrated compliance with the first-time homebuyer standard.

Section 1290.5(d)(3) of the final rule provides that FHFA will remove a restriction on a member's access to long-term advances and place the member on probation if the member is subject to the CRA and the member received a rating of ''Needs to Improve'' in its most recent CRA evaluation, its immediately preceding CRA rating was ''Substantial Noncompliance,'' and either the member has not received any other CRA rating or the CRA rating before the rating of ''Substantial Noncompliance'' was ''Outstanding'' or ''Satisfactory.'' This provision retains the requirements in current § 1290.5(d)(2).

Section 1290.5(d)(4) of the final rule retains the provision in current § 1290.5(d)(3) requiring FHFA to provide written notice to the member's Bank of a determination by FHFA to remove a restriction on the member's access to long-term advances. The final rule revises the current provision by requiring the Bank, rather than FHFA, to provide notice promptly to the member of FHFA's determination to remove a restriction. The determination to remove a restriction takes effect on the date the notice is sent by FHFA to the Bank.

4. Bank Affordable Housing Programs and Other Bank Community Investment Cash Advance Programs

Section 1290.5(e) of the current regulation provides that a member that is subject to restriction on access to long-term Bank advances due to a failure to meet the community support requirements is not eligible to submit new applications under the Bank's Community Investment Cash Advance (CICA) programs under 12 CFR part 1291 or 12 CFR part 952. Section 1290.5(e) of the final rule retains the current provision, with two technical clarifications. The final rule states explicitly that part 1291 is the regulation for the Bank Affordable Housing Programs (AHP). The AHP is included under the definition of CICA program, as described in 12 CFR 1292.1. The final rule also updates the cross-reference to the CICA regulation from part 952 to part 1292.

F. Bank Community Support Programs—§ 1290.6

Section 1290.6 of the final rule sets out the requirements for the Banks' community support programs, including requirements that each Bank's program: provide technical assistance to members; promote and expand affordable housing finance; and include an annual Targeted Community Lending Plan. The final rule does not make any changes to current § 1290.6.

G. Bank Advisory Council Annual Reports—§ 1290.7

Section 1290.7 of the final rule sets out a requirement that each Annual Report submitted by a Bank's Advisory Council to FHFA pursuant to section 10(j)(11) of the Bank Act (12 U.S.C. 1430(j)(11)) must include an analysis of the Bank's targeted community lending and affordable housing activities. The final rule makes non-substantive

changes to current § 1290.7 for greater clarity.

IV. Notice and Public Participation

Most of the specific administrative changes in the final rule have already been subject to prior public notice and comment as part of the 2011 proposed rule. 76 FR 70069. As discussed in more detail above, in adopting this final rule, FHFA has considered all of the comments that were received on the 2011 proposed rule. However, even if the changes in the final rule had not been included in the 2011 proposed rule, they would be exempt from the prior public notice and comment requirements of the Administrative Procedure Act (APA).

Section 553(b)(A) of the APA provides that when a regulation involves matters of agency organization, procedure, or practice, the agency may publish the regulation in final form without prior public notice and comment. 5 U.S.C. 553(b)(A). This final rule involves matters of agency procedure and practice. The final rule does not make any change to the substantive standards for compliance with the community support regulation. The changes in the final rule are limited to administrative changes in the process that FHFA itself uses to evaluate members. As a result, FHFA finds that the final rule is exempt from the public notice and comment provisions of section 553.

In addition, section 553(b)(B) of the APA provides that when an agency for good cause finds that notice and comment are impracticable, unnecessary or contrary to the public interest, the agency may publish the regulation in final form without prior public notice and comment. 5 U.S.C. 553(b)(B). Many of the changes in this final rule are limited to reorganizing and restating existing provisions for clarity and, therefore, are insignificant in nature and impact. As a result, FHFA finds that public notice and comment on those changes are unnecessary.

V. Regulatory Impacts

A. Paperwork Reduction Act

FHFA currently collects information from Bank members regarding their compliance with the community support requirements under existing part 1290. Existing part 1290 also permits Bank members whose access to long-term advances has been restricted for failure to meet the community support requirements to apply directly to FHFA to remove the restriction under certain circumstances. The current collection of information has been approved by the Office of Management and Budget (OMB), and the control number, OMB No. 2590–0005, will expire on February 29, 2016. The final rule amends the community support provisions in part 1290 but does not substantively or materially modify the approved information collection with respect to the members' information collection burden. Therefore, FHFA has not submitted any request to revise the information collection to OMB for review and approval.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of this final rule under the Regulatory Flexibility Act. FHFA certifies that the final rule will not have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Banks, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1290

Credit, Federal home loan banks, Housing, Mortgages, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the Supplementary Information, and under the authority of 12 U.S.C. 4526, FHFA revises part 1290 of title 12, chapter XII of the Code of Federal Regulations to read as follows:

PART 1290—COMMUNITY SUPPORT REQUIREMENTS

Sec.

1290.1 Definitions.
1290.2 Community support requirements.
1290.3 Community support standards.
1290.4 FHFA review and decision on Community Support Statements.
1290.5 Probation or restriction on member access to long-term Bank advances.
1290.6 Bank community support programs.
1290.7 Bank Advisory Council Annual Reports.

Authority: 12 U.S.C. 1430(g), 4511, 4513.

§ 1290.1 Definitions.

For purposes of this part:

Advisory Council means the Advisory Council each Bank is required to establish pursuant to section 10(j)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(11)), and part 1291 of this chapter.

CDFI Fund means the Community Development Financial Institutions Fund established under section 104(a) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(a)).

Community development financial institution or CDFI means an institution that is certified as a community development financial institution by the CDFI Fund under the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*).

CRA means the Community Reinvestment Act of 1977, as amended (12 U.S.C. 2901, *et seq.*).

CRA evaluation means the public disclosure portion of the CRA performance evaluation provided by a member's appropriate Federal banking agency.

Displaced homemaker means an adult who has not worked full-time, full-year in the labor force for a number of years, and during that period, worked primarily without remuneration to care for a home and family, and currently is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

First-time homebuyer means:

(1) An individual and his or her spouse, if any, who has had no present ownership interest in a principal residence during the three-year period prior to purchase of a principal residence.

(2) A displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (1) of this definition.

(3) A single parent who, except for owning a residence with his or her spouse or residing in a residence owned by his or her spouse, meets the requirements of paragraph (1) of this definition.

Long-term advance means an advance with a term to maturity greater than one year.

Restriction on access to long-term advances means a member may not borrow long-term advances or renew any maturing advance for a term to maturity greater than one year.

Single parent means an individual who is unmarried or legally separated from a spouse and has custody or joint custody of one or more minor children or is pregnant.

Targeted community lending means providing financing for economic

development projects for targeted beneficiaries.

§ 1290.2 Community support requirements.

(a) *Bank notice to members.* By June 29, 2015, and by March 31, 2017, and every two years thereafter, each Bank must provide written notice to all of its members subject to community support review that each such member must submit to FHFA a completed Community Support Statement in accordance with the requirements of paragraph (b) of this section. Unless instructed otherwise by FHFA, the Bank must provide to each member a blank Community Support Statement Form, which will also be available on FHFA's Web site. Upon a member's request, the Bank must provide assistance to the member in completing the Community Support Statement.

(b) *Community Support Statement.*—(1) *Submission requirements.* Except as provided in paragraph (b)(2) of this section, each member that is subject to community support review must submit to FHFA a completed Community Support Statement and any other related information FHFA may require by December 31, 2015, and by December 31 every two years thereafter. The member's completed Community Support Statement must be executed by an appropriate senior officer of the member and must be submitted to FHFA pursuant to FHFA's submission instructions.

(2) *Transition provision.* Members that were selected for community support review during the 2014–2015 review cycle prior to June 29, 2015 are required to submit completed Community Support Statements as provided in the applicable **Federal Register** Notice. Members that have submitted or submit completed Community Support Statements to FHFA as required in the applicable **Federal Register** Notice for the 2014–2015 review cycle are not required to submit a second Community Support Statement to FHFA by the December 31, 2015 deadline.

(c) *Notice to public.*—(1) *By the Banks.* By June 29, 2015, and by March 31, 2017, and every two years thereafter, each Bank must provide written notice to its Advisory Council, and to interested nonprofit housing developers, community groups, and other interested parties in its district, and include a notice on its public Web site, of the opportunity to submit comments on the community support programs and activities of Bank members, with the name and address of each member subject to community support review and the deadline and FHFA contact information for submission of any comments to FHFA.

(2) *By FHFA.* FHFA may publish a notice in the **Federal Register** notifying the public of the opportunity to submit comments on the community support programs and activities of Bank members, with the deadline and FHFA contact information for submission of any comments to FHFA.

(3) *Consideration of comments.* In reviewing a member for compliance with the community support requirements, FHFA will take into consideration any public comments it has received concerning the member.

(d) *Non-Depository Community Development Financial Institutions.* A member that has been certified as a community development financial institution by the CDFI Fund, other than a member that also is an insured depository institution or a CDFI credit union (as defined in 12 CFR 1263.1), is deemed to be in compliance with the community support requirements of section 10(g) of the Federal Home Loan Bank Act (12 U.S.C. 1430(g)) and this part, by virtue of that certification. Such non-depository CDFIs, therefore, are not required to submit Community Support Statements to FHFA under paragraph (b) of this section and are not subject to community support review under this part.

(e) *New Bank members.* A member of a Bank is not required to submit a Community Support Statement under paragraph (b) of this section unless the institution has been a member of a Bank for at least one year as of March 31 of the year in which submissions are due under paragraph (b) of this section.

§ 1290.3 Community support standards.

(a) *In general.* A member subject to community support review meets the community support requirements of this part if it submits a completed Community Support Statement that demonstrates to FHFA's satisfaction that the member complies with both the CRA standard, if the member is subject to the requirements of the CRA, and the first-time homebuyer standard.

(b) *CRA standard.* A member meets the CRA standard if it is subject to the requirements of the CRA and the rating in the member's most recent CRA evaluation is ''Outstanding'' or ''Satisfactory.''

(c) *First-time homebuyer standard.* A member meets the first-time homebuyer standard if at least one of the following is satisfied:

(1) The member is subject to the requirements of the CRA and the rating in the member's most recent CRA evaluation is ''Outstanding'';

(2) The member has an established record of lending to first-time homebuyers;

(3) The member has a program whereby it actively seeks to lend or support lending to first-time homebuyers, including, but not limited to, the following—

(i) Providing special credit products with flexible underwriting standards for first-time homebuyers;

(ii) Participating in Federal, State, or local government, or nationwide homeownership lending programs that benefit, serve, or are targeted to, first-time homebuyers; or

(iii) Participating in loan consortia for first-time homebuyer loans or loans that serve predominantly low- or moderate-income borrowers;

(4) The member has a program whereby it actively seeks to assist or support organizations that assist potential first-time homebuyers to qualify for mortgage loans, including, but not limited to, the following—

(i) Providing, participating in, or supporting special counseling programs or other homeownership education activities that benefit, serve, or are targeted to, first-time homebuyers;

(ii) Providing or participating in marketing plans and related outreach programs targeted to first-time homebuyers;

(iii) Providing technical assistance or financial support to organizations that assist first-time homebuyers;

(iv) Participating with or financially supporting community or nonprofit groups that assist first-time homebuyers;

(v) Holding investments or making loans that support first-time homebuyer programs;

(vi) Holding mortgage-backed securities that may include a pool of loans to low- and moderate-income homebuyers;

(vii) Participating or investing in service organizations that assist credit unions in providing mortgages to first-time homebuyers or low- or moderate-income households; or

(viii) Participating in a Bank Affordable Housing Program or other Bank targeted community investment or development program;

(5) The member engages in other activities, not covered by paragraphs (c)(1) through (c)(4) of this section, that demonstrate to FHFA's satisfaction the member's support for first-time homebuyers financing; or

(6) FHFA determines that mitigating factors affect the member's ability to engage in activities to assist first-time or potential first-time homebuyers as

described in paragraphs (c)(1) through (c)(5) of this section.

§ 1290.4 FHFA review and decision on Community Support Statements.

(a) *Review by FHFA.* FHFA will review each member approximately once every two years for compliance with the community support requirements of this part.

(b) *Complete Community Support Statements.* A Community Support Statement is complete when a member has provided to FHFA all of the information required by this part.

(c) *Decision on Community Support Statements.* FHFA will provide written notice to the member's Bank of FHFA's determination regarding the Community Support Statement submitted by the member. A notice placing a member on probation or restricting the member's access to long-term Bank advances will identify the reasons for FHFA's determination. The Bank must promptly notify the member of FHFA's determination regarding the member's Community Support Statement.

§ 1290.5 Probation or restriction on member access to long-term Bank advances.

(a) *Probation.* FHFA will place a member on probation if the member is subject to the CRA, its most recent CRA rating was ''Needs to Improve,'' and either the member has not received any other CRA rating or its second-most recent CRA rating was ''Outstanding'' or ''Satisfactory.''

(b) *Restriction.* FHFA will restrict a member's access to long-term advances if:

(1) The member failed to sign its Community Support Statement submitted to FHFA pursuant to § 1290.2(b)(1), failed to include its CRA rating in its Community Support Statement submitted to FHFA if subject to the CRA, or failed to submit a Community Support Statement at all to FHFA;

(2) The member is subject to the CRA and its most recent CRA rating was ''Substantial Noncompliance'';

(3) The member is subject to the CRA, its most recent CRA rating was ''Needs to Improve,'' and its second-most recent CRA rating was ''Needs to Improve'';

(4) The member is subject to the CRA, its most recent CRA rating was ''Needs to Improve,'' its second-most recent CRA rating was ''Substantial Noncompliance,'' and its third-most recent CRA rating was ''Needs to Improve'' or ''Substantial Noncompliance''; or

(5) The member has not demonstrated compliance with the first-time homebuyer standard.

(c) *Effective dates.*—(1) *Probation.* A probationary period under § 1290.5(a) will extend until the member's appropriate Federal banking agency completes its next CRA evaluation and issues a rating for the member. Probation will take effect on the date the notice required under § 1290.4(c) is sent by FHFA to the Bank. The member will be eligible to receive long-term advances during the probationary period.

(2) *Restriction.* A restriction on access to long-term advances will take effect 30 days after the date the notice required under § 1290.4(c) is sent by FHFA to the Bank, unless the member demonstrates compliance with the requirements of this part before the end of the 30-day period.

(d) *Removing a restriction.*—(1) FHFA may remove a restriction on a member's access to long-term advances imposed under this section if FHFA determines that application of the restriction may adversely affect the safety and soundness of the member. A member may submit a written request to FHFA to remove a restriction on access to long-term advances under this paragraph (d)(1). The written request must include a clear and concise statement of the basis for the request and a statement that application of the restriction may adversely affect the safety and soundness of the member from the member's appropriate Federal banking agency or the member's appropriate State regulator for a member that is not subject to regulation or supervision by a Federal regulator. FHFA will consider each written request within 30 calendar days of receipt.

(2) FHFA may remove a restriction on a member's access to long-term advances imposed under this section if FHFA determines that the member subsequently has complied with the requirements of this part. A member may submit a written request to FHFA to remove a restriction on access to long-term advances under this paragraph (d)(2). The written request must state with specificity how the member has complied with the requirements of this part. FHFA will consider each written request within 30 calendar days of receipt.

(3) FHFA may remove a restriction on a member's access to long-term advances imposed under this section and place the member on probation if the member is subject to the CRA, its most recent CRA rating was ''Needs to Improve,'' its second-most recent CRA rating was ''Substantial Noncompliance,'' and either the member has not received any other CRA rating or its third-most recent CRA rating was ''Outstanding'' or ''Satisfactory.''

(4) FHFA will provide written notice to the member's Bank of any determination to remove a restriction under this paragraph (d). The Bank shall promptly notify the member of FHFA's determination to remove a restriction. FHFA's determination shall take effect on the date the notice is sent by FHFA to the Bank.

(e) *Bank Affordable Housing Programs and other Bank Community Investment Cash Advance Programs.* A member that is subject to a restriction on access to long-term advances under this part is not eligible to participate in the Bank's Affordable Housing Program (AHP) under part 1291 of this chapter or in other Bank Community Investment Cash Advance (CICA) programs offered under part 1292 of this chapter. The restriction in this paragraph (e) does not apply to AHP or other CICA applications or funding approved before the date the restriction is imposed.

§ 1290.6 Bank community support programs.

(a) *Requirement.* Consistent with the safe and sound operation of the Bank, each Bank shall establish and maintain a community support program. A Bank's community support program shall:

(1) Provide technical assistance to members;

(2) Promote and expand affordable housing finance;

(3) Identify opportunities for members to expand financial and credit services in underserved neighborhoods and communities;

(4) Encourage members to increase their targeted community lending and affordable housing finance activities by providing incentives such as awards or technical assistance to nonprofit housing developers or community groups with outstanding records of participation in targeted community lending or affordable housing finance partnerships with members; and

(5) Include an annual Targeted Community Lending Plan, approved by the Bank's board of directors and subject to modification, which shall require the Bank to—

(i) Conduct market research in the Bank's district;

(ii) Describe how the Bank will address identified credit needs and market opportunities in the Bank's district for targeted community lending;

(iii) Consult with its Advisory Council and with members, housing associates, and public and private economic development organizations in the Bank's district in developing and

implementing its Targeted Community Lending Plan; and

(iv) Establish quantitative targeted community lending performance goals.

(b) *Notice.* A Bank shall provide annually to each of its members a written notice:

(1) Identifying CICA programs and other Bank activities that may provide opportunities for a member to meet the community support requirements and to engage in targeted community lending; and

(2) Summarizing targeted community lending and affordable housing activities undertaken by members, housing associates, nonprofit housing developers, community groups, or other entities in the Bank's district that may provide opportunities for a member to meet the community support requirements and to engage in targeted community lending.

§ 1290.7 Bank Advisory Council Annual Reports.

Each Annual Report submitted by a Bank's Advisory Council to FHFA pursuant to section 10(j)(11) of the Bank Act (12 U.S.C. 1430(j)(11)) must include an analysis of the Bank's targeted community lending and affordable housing activities.

Dated: May 19, 2015.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2015–12807 Filed 5–27–15; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0940; Directorate Identifier 2014–NE–15–AD; Amendment 39–18162; AD 2015–10–06]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines Reciprocating Engines (Type Certificate Previously Held by Textron Lycoming Division, AVCO Corporation)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Lycoming TIO–540–AJ1A reciprocating engines. This AD was prompted by several reports of cracked engine exhaust pipes. This AD requires inspection of the engine exhaust pipes for cracks and replacement of the turbocharger mounting bracket. We are issuing this AD to prevent failure of the exhaust system due to cracking, which could lead to uncontrolled engine fire, harmful exhaust gases entering the cabin resulting in crew incapacitation, and damage to the airplane.

DATES: This AD is effective July 2, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 2, 2015.

ADDRESSES: For service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: 800–258–3279; fax: 570–327–7101; Internet: *www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0940.

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–2014–0940; 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 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 FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@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 Lycoming TIO–540–AJ1A reciprocating engines. The NPRM published in the **Federal Register** on February 2, 2015 (80 FR 5489). The NPRM was prompted by several reports of cracked engine exhaust pipes. The NPRM proposed to require inspection of the engine exhaust pipes for cracks and replacement of the turbocharger mounting bracket. We are issuing this AD to prevent failure of the exhaust system due to cracking, which could lead to uncontrolled engine fire, harmful exhaust gases entering the cabin resulting in crew incapacitation, and damage to the airplane.

Related Service Information Under CFR Part 51

We reviewed Lycoming Engines Mandatory Service Bulletin No. 614A, dated October 10, 2014. This service bulletin describes procedures for exhaust system inspection and turbocharger mounting bracket replacement. It also provides for the return of the turbocharger mounting bracket to Lycoming. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 5489, February 2, 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 this AD as proposed.

Costs of Compliance

We estimate that this AD affects about 111 engines installed on airplanes of U.S. registry. We also estimate that it will take about 8 hours per engine to comply with this AD. The average labor rate is $85 per hour. Parts replacement will cost about $6,782 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $828,282. Our cost estimate is exclusive of possible warranty coverage.

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 to the extent that it justifies making a regulatory distinction, 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):

2015–10–06 Lycoming Engines (Type Certificate previously held by Textron Lycoming Division, AVCO Corporation): Amendment 39–18162; Docket No. FAA–2014–0940; Directorate Identifier 2014–NE–15–AD.

(a) Effective Date

This AD is effective July 2, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Lycoming TIO–540–AJ1A reciprocating engines listed by engine serial number (S/N) in Figure 1 to paragraph (c) of this AD and to any TIO–540–AJ1A reciprocating engine with a replacement turbocharger mounting bracket installed that was purchased between April 5, 2012 and May 29, 2014.

FIGURE 1 TO PARAGRAPH (c)—LYCOMING TIO–540–AJ1A ENGINE S/NS

L–6748–61E	L–13828–61E	L–13832–61E	L–13843–61E
L–13817–61E	L–13831–61E	L–13833–61E	L–13847–61E
L–13819–61E	L–13823–61E	L–13839–61E	L–13855–61E
L–13856–61E	L–13947–61E	L–14011–61E	RL–2551–61E
L–13857–61E	L–13948–61E	L–14013–61E	RL–2848–61E
L–13866–61E	L–13949–61E	L–14014–61E	RL–3450–61E
L–13867–61E	L–13950–61E	L–14015–61E	RL–4138–61E
L–13873–61E	L–13960–61E	L–14017–61E	RL–7243–61E
L–13882–61E	L–13961–61E	L–14024–61E	RL–7512–61E
L–13883–61E	L–13962–61E	L–14025–61E	RL–8435–61E
L–13884–61E	L–13967–61E	L–14026–61E	RL–8767–61E
L–13885–61E	L–13973–61E	L–14028–61E	RL–8914–61E
L–13886–61E	L–13975–61E	L–14034–61E	RL–8979–61E
L–13895–61E	L–13976–61E	L–14054–61E	RL–9399–61E
L–13896–61E	L–13979–61E	L–14055–61E	RL–9466–61E
L–13898–61E	L–13981–61E	L–14056–61E	RL–9618–61E
L–13900–61E	L–13983–61E	L–14057–61E	RL–9663–61E
L–13902–61E	L–13984–61E	L–14062–61E	RL–10098–61E
L–13907–61E	L–13993–61E	L–14063–61E	RL–10194–61E
L–13913–61E	L–13996–61E	L–14066–61E	RL–10249–61E
L–13915–61E	L–13997–61E	L–14067–61E	RL–10615–61E
L–13930–61E	L–13998–61E	L–14069–61E	RL–11011–61E
L–13931–61E	L–13999–61E	L–14071–61E	RL–12121–61E
L–13934–61E	L–14000–61E	L–14076–61E	RL–12163–61E
L–13936–61E	L–14001–61E	L–14077–61E	RL–12343–61E
L–13938–61E	L–14003–61E	RL–1726–61E	RL–13352–61E
L–13939–61E	L–14004–61E	RL–1810–61E	RL–13601–61E
L–13946–61E	L–14005–61E	RL–1862–61E	.....

(d) Unsafe Condition

This AD was prompted by several reports of cracked engine exhaust pipes. We are issuing this AD to prevent failure of the exhaust system due to cracking, which could lead to uncontrolled engine fire, harmful exhaust gases entering the cabin resulting in crew incapacitation, and damage to the airplane.

(e) Compliance

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

(1) For affected engines with an S/N listed in Figure 1 to paragraph (c) of this AD with 400 hours or less time since new (TSN) or time since last overhaul (TSLO), and for any TIO–540–AJ1A reciprocating engine with a replacement turbocharger mounting bracket installed that was purchased between April 5, 2012 and May 29, 2014, that has accumulated 400 hours or less time-in-service (TIS), within 25 hours after the effective date of this AD, replace the turbocharger mounting bracket with a part eligible for installation, and inspect the exhaust pipes for cracks. Use Lycoming Engines Mandatory Service Bulletin (MSB) No. 614A, dated October 10, 2014, Exhaust System Disassembly and Removal, paragraphs 1 through 22 to replace the bracket, and Exhaust System Inspection, paragraphs 1 through 5 to do the inspection.

(2) For affected engines with an S/N listed in Figure 1 to paragraph (c) of this AD with more than 400 hours TSN or TSLO, and for any TIO–540–AJ1A reciprocating engine with a replacement turbocharger mounting bracket installed that was purchased between April 5, 2012 and May 29, 2014, that has accumulated more than 400 hours TIS, replace the turbocharger mounting bracket with a part eligible for installation, and inspect the exhaust pipes for cracks at the next engine overhaul, separation of the crankcase halves, or twelve years from the effective date of this AD, whichever comes first. Use Lycoming Engines MSB No. 614A, dated October 10, 2014, Exhaust System Disassembly and Removal, paragraphs 1 through 22 to replace the bracket, and Exhaust System Inspection, paragraphs 1 through 5 to do the inspection.

(f) Installation Prohibition

After the effective date of this AD, do not return to service any TIO–540–AJ1A engine with a turbocharger mounting bracket that was removed from an engine identified in Figure 1 to paragraph (c) of this AD or that was purchased between April 5, 2012 and May 29, 2014.

(g) Credit for Previous Action

(1) If, before the effective date of this AD, you replaced the turbocharger mounting bracket with one eligible for installation you may take credit for your prior corrective action. No further turbocharger mounting bracket replacement is required.

(2) If, before the effective date of this AD, you performed the crack inspection using either of the following:

(i) Lycoming Engines MSB No. 614A, dated October 10, 2014, Exhaust System Inspection, paragraphs 1 through 5, or

(ii) Cessna Service Letter No. SEL–78–01, dated May 30, 2014, you may take credit for your prior corrective action. No further inspection is required. However, you must still replace the turbocharger mounting bracket.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, New York Aircraft Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

For more information about this AD, contact Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@faa.gov.*

(j) 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) Lycoming Engines Mandatory Service Bulletin No. 614A, dated October 10, 2014.

(ii) Reserved.

(3) For Lycoming Engines service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: 800–258–3279; fax: 570–327–7101; Internet: *www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx.*

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(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 Burlington, Massachusetts, on May 12, 2015.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–12651 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD; Amendment 39–18163; AD 2015–10–07]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding airworthiness directive (AD) 2014–01–01 for all Turbomeca S.A. Arrius 2F turboshaft engines. AD 2014–01–01 required a one-time inspection of the ejector assembly nozzle of certain serial number (S/N) lubricating devices and, if a discrepancy was found, removal and replacement of the affected ejector assembly nozzle with a part eligible for installation. This AD requires the same action as AD 2014–01–01 and expands the list of affected S/N lubricating devices. This AD was prompted by the determination that additional lubricating devices, identifiable by S/N, may have an incorrect bonding of the nozzle on the ejector assembly. We are issuing this AD to prevent failure of the ejector assembly nozzle, which could lead to an in-flight shutdown (IFSD) of the engine, damage to the engine, and damage to the helicopter.

DATES: This AD is effective June 12, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 12, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of February 6, 2014 (79 FR 3481, January 22, 2014).

We must receive any comments on this AD by July 13, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1003.

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–2013–1003; 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 mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Philip Haberlen, Aerospace Engineer,

Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Discussion

On January 2, 2014, we issued AD 2014–01–01, Amendment 39–17724 (79 FR 3481, January 22, 2014), (''AD 2014–01–01''), for all Turbomeca S.A. Arrius 2F turboshaft engines. AD 2014–01–01 required a one-time inspection of the ejector assembly nozzle of certain S/N lubricating devices and, if a discrepancy was found, removal and replacement of the affected ejector assembly nozzle with a part eligible for installation. AD 2014–01–01 resulted from an IFSD of an Arriel 1 engine. We issued AD 2014–01–01 to prevent failure of the ejector assembly nozzle, which could lead to an IFSD of the engine, damage to the engine, and damage to the helicopter.

Actions Since AD 2014–01–01 Was Issued

Since we issued AD 2014–01–01 it has been determined that additional lubricating devices, identifiable by S/N, may have the same unsafe condition, an incorrect bonding of the nozzle on the ejector assembly. Also since we issued AD 2014–01–01, the European Aviation Safety Agency (EASA) has issued AD 2015–0057, dated April 1, 2015, which requires inspection, and replacement as necessary, of the affected lubricating devices.

Related Service Information Under 1 CFR Part 51

We reviewed Turbomeca S.A. Mandatory Service Bulletin (MSB) No. 319 79 4835, Version B, dated February 12, 2015. The MSB describes procedures for inspecting the ejector assembly nozzle and, if necessary, replacing the ejector assembly nozzle. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires a one-time inspection of the ejector assembly nozzle of certain S/N lubricating devices and, for any ejector assembly nozzle that fails inspection, removal and replacement with a part eligible for installation.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the short compliance time requirement. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Costs of Compliance

We estimate that this AD affects 96 engines installed on helicopters of U.S. registry. We also estimate that it will take about 1 hour per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $563 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $62,208.

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 to the extent that it justifies making a regulatory distinction, 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 part 39 of the Federal Aviation Regulations (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 airworthiness directive (AD) 2014–01–01, Amendment 39–17724 (79 FR 3481, January 22, 2014), and adding the following new AD:

2015–10–07 Turbomeca S.A.: Amendment 39–18163; Docket No. FAA–2013–1003; Directorate Identifier 2013–NE–33–AD.

(a) Effective Date

This AD is effective June 12, 2015.

(b) Affected ADs

This AD supersedes AD 2014–01–01, Amendment 39–17724 (79 FR 3481, January 22, 2014).

(c) Applicability

This AD applies to all Turbomeca S.A. Arrius 2F turboshaft engines.

(d) Unsafe Condition

This AD was prompted by the determination that additional lubricating devices, identifiable by serial number (S/N), may have an incorrect bonding of the nozzle on the ejector assembly. We are issuing this AD to prevent failure of the ejector assembly nozzle, which could lead to an in-flight shutdown of the engine, damage to the engine, and damage to the helicopter.

(e) Compliance

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

(1) For engines equipped with a lubricating device having an S/N listed in Figure 1 to paragraph (e) of this AD, within 30 days after the effective date of this AD, inspect the ejector assembly nozzle and the tightening torque. Use paragraphs 4.4.2.1 through 4.4.2.3.4.2 of Turbomeca Mandatory Service Bulletin (MSB) No. 319 79 4835, Version B, dated February 12, 2015, to do the inspection.

(2) For any part that fails the inspection required by paragraph (e)(1) of this AD, before further flight, remove and replace the failed part with a part eligible for installation.

FIGURE 1 TO PARAGRAPH (e)—S/N'S OF AFFECTED LUBRICATING DEVICES

100	140M	185M	247	436M
105M	141M	190M	255M	443M
106	142B	191M	266M	445M
107B	146M	195M	278M	451M
109M	147M	198M	292M	467M
112B	156M	202M	304M	477M
112M	159M	204M	330M	479M
114B	164M	207M	334M	483M
124B	178	210M	369M	484M
125M	178M	213M	384M	512M
129M	180	218M	391M	526M
135B	180M	222M	392M	563M
135M	181M	244M	417M	

(f) Credit for Previous Actions

If you inspected the ejector assembly nozzle of any lubricating device having an S/N listed in Figure 1 to paragraph (e) of this AD before the effective date of this AD, using the instructions of Turbomeca S.A. MSB No. 319 79 4835, Version A, dated May 22, 2013, you met the requirements of paragraph (e) of this AD for that S/N lubricating device.

(g) Installation Prohibition

After the effective date of this AD, do not return to service any engine having a lubricating device with an S/N listed in Figure 1 to paragraph (e) of this AD, unless the engine has been inspected per the requirements of paragraph (e) of this AD.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov*.

(i) Related Information

(1) For more information about this AD, contact Philip Haberlen, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2015–0057, dated April 1, 2015, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1003.

(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.

(3) The following service information was approved for IBR on June 12, 2015.

(i) Turbomeca S.A. Mandatory Service Bulletin (MSB) No. 319 79 4835, Version B, dated February 12, 2015.

(ii) Reserved.

(4) The following service information was approved for IBR on February 6, 2014 (79 FR 3481, January 22, 2014).

(i) Turbomeca S.A. MSB No. 319 79 4835, Version A, dated May 22, 2013.

(ii) Reserved.

(5) For Turbomeca S.A. service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15.

(6) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(7) You may view this service information 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 Burlington, Massachusetts, on May 13, 2015.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–12654 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1282; Directorate Identifier 2015–NM–007–AD; Amendment 39–18157; AD 2015–10–02]

RIN 2120–AA64

Airworthiness Directives; Zodiac Seats France (Formerly Sicma Aero Seat) Passenger Seat Assemblies

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–20–11, for Zodiac Seats France 9140, 9166, 9173, 9174, 9184, 9188, 9196, 91B7, 91B8, 91C0, 91C2, 91C4, 91C5, 91C9, 9301, and 9501 series passenger seat assemblies. AD 2014–20–11 required a general visual inspection for cracking of

backrest links; replacement with new links if cracking is found; and eventual replacement of all links with new links. This AD was prompted by a determination that a model designation specified in paragraph (c)(1) of that AD was incorrect. This new AD identifies the correct model designation. We are issuing this AD to detect and correct cracks in the backrest links, which could affect the structural integrity of seat backrests. Failure of the backrest links could result in injury to an occupant during emergency landing conditions.

DATES: This AD becomes effective June 12, 2015.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 22, 2014 (79 FR 60322, October 7, 2014).

We must receive comments on this AD by July 13, 2015.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Zodiac Seats France, 7, Rue Lucien Coupet, 36100 ISSOUDUN, France; telephone +33 (0) 2 54 03 39 39; fax +33 (0) 2 54 03 39 00; email *customerservices@sicma.zodiac.com*; Internet *http://www.sicma.zodiacaerospace.com/en/*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1282; or in person at the Docket Operations office 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 street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ian Lucas, Aerospace Engineer, Boston Aircraft Certification Office (ACO) ANE–150, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7757; fax: 781–238–7170; email: *ian.lucas@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On September 23, 2014, we issued AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), to supersede AD 2011–07–05, Amendment 39–16642 (76 FR 18020, April 1, 2011). AD 2014–20–11 applied to certain Zodiac Seats France 9140, 9166, 9173, 9174, 9184, 9188, 9196, 91B7, 91B8, 91C0, 91C2, 91C4, 91C5, 91C9, 9301, and 9501 series passenger seat assemblies; identified in Annex 1, Issue 3, dated January 25, 2012, of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012. AD 2014–20–11 was prompted by a report that new seat backrest links could be affected by cracks similar to those identified on the backrest links with the previous design. AD 2014–20–11 required a general visual inspection for cracking of backrest links, which includes new seat backrest links; replacement with new links if cracking is found; and eventual replacement of all links with new links. We issued AD 2014–20–11 to detect and correct cracking of backrest links, which could affect the structural integrity of seat backrests. Failure of the backrest links could result in injury to an occupant during emergency landing conditions.

AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), corresponds to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2012–0038, dated March 12, 2012. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1282.

Since we issued AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), we have determined that, in paragraph (c)(1) of AD 2014–20–11, a model designation incorrectly specified ''A320–300'' instead of ''A330–300'' as one of the models that the affected passenger seats might be installed on. Therefore, we have determined that paragraph (c)(1) of this AD should read as follows: Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes.

We have also re-designated paragraph (l) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), as paragraph (l)(1) of this AD. We also added a new paragraph (l)(2) to this AD to provide information on the availability of service information that is not incorporated by reference in this AD.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of airplanes that are equipped with this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1282; Directorate Identifier 2015–NM–007–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 0 seat assemblies installed on, but not limited to, transport airplanes of U.S. registry.

The actions required by AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Required parts cost about $227 per product. Based on these figures, the estimated cost of the actions that were required by AD 2014–20–11 is $312 per product.

Since this AD only clarifies airplane models on which the affected passenger seat assemblies might be installed, this AD adds no additional economic burden.

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 that 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.

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 airworthiness directive (AD) 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), and adding the following new AD:

2015–10–02 Zodiac Seats France (formerly Sicma Aero Seat): Amendment 39–18157. Docket No. FAA–2015–1282; Directorate Identifier 2015–NM–007–AD.

(a) Effective Date

This AD becomes effective June 12, 2015.

(b) Affected ADs

This AD replaces AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014).

(c) Applicability

This AD applies to Zodiac Seats France 9140, 9166, 9173, 9174, 9184, 9188, 9196, 91B7, 91B8, 91C0, 91C2, 91C4, 91C5, 91C9, 9301, and 9501 series passenger seat assemblies; identified in Annex 1, Issue 3, dated January 25, 2012, of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012. These passenger seat assemblies are installed on, but not limited to, the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category.

(1) Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes.

(2) Airbus Model A340–200, A340–300, A340–500, and A340–600 series airplanes.

(3) The Boeing Company Model 777–200, 777–200LR, 777–300, 777–300ER, and 777F series airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by a report of cracks in the backrest links on certain seats and also by a determination that a model designation specified in paragraph (c)(1) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014) was incorrect. We are issuing this AD to detect and correct cracks in the backrest links, which could affect the structural integrity of seat backrests. Failure of the backrest links could result in injury to an occupant during emergency landing conditions.

(f) Compliance

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

(g) Retained Repetitive Inspections, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), with no changes. At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Do a general visual inspection for cracking of seat backrest links having part number (P/N) 90–000200–104–1, P/N 90–000200–104–2, P/N 90–000202–104–1, and P/N 90–000202–104–2, in accordance with the ''PART ONE: GENERAL INTERMEDIATE CHECKING PROCEDURE'' of the Accomplishment Instructions of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012. If no cracking is found on any link, repeat the inspection thereafter at intervals not to exceed 900 flight hours on the seat or 5 months since the most recent inspection, whichever occurs later, until the replacement specified in paragraph (i) of this AD is done.

(1) Within 6,000 flight hours on the seat or 2 years, whichever occurs later after the seat manufacturing date or after the backrest link replacement.

(2) Within 900 flight hours on the seat after October 22, 2014 (the effective date AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014)), but no later than 5 months after October 22, 2014.

(h) Retained Corrective Actions, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), with no changes.

(1) If, during any inspection required by paragraph (g) of this AD, any cracking is found on the link and no crack length exceeds the lock-out pin-hole as specified in Figure 2 or 4, as applicable, of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012: Within 600 flight hours on the seat or 3 months, whichever occurs later after crack identification, replace the cracked link with a new link, in accordance with ''PART TWO: ROUTINE REPLACEMENT PROCEDURE (EXCEPT FOR SERIES 91B7, 91B8 & 91C5)'' or ''PART THREE: ROUTINE REPLACEMENT PROCEDURE (FOR SERIES 91B7, 91B8 & 91C5)'' of the Accomplishment Instructions of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012.

(2) If, during any inspection required by paragraph (g) of this AD, any cracking is found on the link and any crack length exceeds the lock-out pin-hole as specified in Figure 2 or 4, as applicable, of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012: Before

further flight, replace the cracked link with a new link, in accordance with ''PART TWO: ROUTINE REPLACEMENT PROCEDURE (EXCEPT FOR SERIES 91B7, 91B8 & 91C5)'' or ''PART THREE: ROUTINE REPLACEMENT PROCEDURE (FOR SERIES 91B7, 91B8 & 91C5)'' of the Accomplishment Instructions of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012.

(i) Retained Replacement, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), with no changes. At the later of the times specified in paragraphs (i)(1) and (i)(2) of this AD: Replace all seat backrest links, having P/N 90–000200–104–1, P/N 90–000200–104–2, P/N 90–000202–104–1, and P/N 90–000202–104–2, with new links, in accordance with ''PART TWO: ROUTINE REPLACEMENT PROCEDURE (EXCEPT FOR SERIES 91B7, 91B8 & 91C5)'' or ''PART THREE: ROUTINE REPLACEMENT PROCEDURE (FOR SERIES 91B7, 91B8 & 91C5)'' of the Accomplishment Instructions of Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012.

(1) Within 12,000 flight hours on the seat or 4 years, whichever occurs later after the seat manufacturing date or after the backrest link replacement.

(2) Within 3,500 flight hours on the seat after October 22, 2014 (the effective date AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), but no later than 18 months after October 22, 2014.

(j) Retained Credit for Previous Actions, With No Changes

This paragraph restates the credit provided in paragraph (j) of AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), with no changes. This paragraph provides credit for actions required by paragraphs (g), (h), and (i) of this AD, if those actions were performed before October 22, 2014 (the effective date AD 2014–20–11, Amendment 39–17984 (79 FR 60322, October 7, 2014), using the service information specified in paragraph (j)(1), (j)(2), or (j)(3) of this AD.

(1) Sicma Aero Seat Service Bulletin 90–25–012, Issue 3, dated October 3, 2001, which is not incorporated by reference in this AD.

(2) Sicma Aero Seat Service Bulletin 90–25–012, Issue 4, dated December 19, 2001, which is not incorporated by reference in this AD.

(3) Sicma Aero Seat Service Bulletin 90–25–012, Issue 5, dated March 19, 2004, including Annex 1, Issue 2, dated March 19, 2004, which was incorporated by reference in AD 2011–07–05, Amendment 39–16642 (76 FR 18020, April 1, 2011).

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Boston 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 ACO, send it to ATTN: Ian Lucas, Aerospace Engineer, Boston ACO, ANE–150, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7757; fax: 781–238–7170; email: *ian.lucas@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, Boston ACO, FAA; or the European Aviation Safety Agency (EASA).

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2012–0038, dated March 12, 2012, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1282.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(4) and (m)(5) of this AD.

(m) 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 this AD specifies otherwise.

(3) The following service information was approved for IBR on October 22, 2014 (79 FR 60322, October 7, 2014).

(i) Sicma Aero Seat Service Bulletin 90–25–012, Issue 6, dated January 25, 2012, including Annex 1, Issue 3, dated January 25, 2012.

(ii) Reserved.

(4) For service information identified in this AD, contact Zodiac Seats France, 7, Rue Lucien Coupet, 36100 ISSOUDUN, France; telephone +33 (0) 2 54 03 39 39; fax +33 (0) 2 54 03 39 00; email *customerservices@sicma.zodiac.com*; Internet *http://www.sicma.zodiacaerospace.com/en/.*

(5) 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.

(6) 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 May 4, 2015.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–11392 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1216

RIN 2700–AE20

[Docket No. NASA–2015–0002]

Removal of Obsolete Regulations

AGENCY: National Aeronautics and Space Administration.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes non-substantive changes by removing regulations that are captured in NASA internal requirements. The revisions to this rule are part of NASA's retrospective plan completed in August 2011 under Executive Order (E.O.) 13563. NASA's full plan can be accessed on the Agency's open Government Web site at *http://www.nasa.gov/open/.*

DATES: This direct final rule is effective on July 27, 2015. Comments due on or before June 29, 2015. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Comments must be identified with RIN 2700–AE20 and may be sent to NASA via the *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the Internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Nanette Jennings, 202–358–0819.

SUPPLEMENTARY INFORMATION:

Direct Final Rule Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it involves non-substantive changes to remove a section from 14 CFR part 1216 that is captured in internal NASA requirements. No opposition to the changes and no significant adverse comments are expected. However, if the Agency receives a significant adverse comment, it will withdraw this direct final rule by publishing a notice in the **Federal Register**. A significant adverse comment

is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

On January 18, 2011, President Obama signed E.O. 13563, Improving Regulations and Regulatory Review, directing agencies to develop a plan for a retrospective analysis of existing regulations. NASA developed its plan and published it on the Agency's open Government Web site at *http://www.nasa.gov/open/*. The Agency conducted an analysis of its existing regulations to comply with the Order and determined that subpart 1216.2, Floodplain and Wetlands Management, should be repealed.

Subpart 1216.2 was promulgated January 4, 1979, [44 FR 1089] in response to Executive Order (E.O.) 11988, Floodplain Management, and E.O. 11990, Protection of Wetlands. Neither E.O. mandates that these requirements be codified in the CFR. For example, E.O. 11988 subsection 2(d) states in pertinent part ''. . . each agency shall issue or amend existing regulations and procedures . . .;'' and E.O. 11990 section 6 states in pertinent part ''. . . agencies shall issue or amend their existing procedures . . .'' Therefore, this subpart will be repealed because it is now captured in NASA Interim Directive (NID) 8500.100, Floodplain and Wetlands Management. NID 8500.100 is accessible at *http://nodis3.gsfc.nasa.gov/OPD_docs/NID_8500_100_.pdf.*

Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113 (a), authorizes the Administrator of NASA to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improvement Regulation and Regulation Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, harmonizing rules, and promoting flexibility. This rule has been designated as ''not significant'' under section 3(f) of E.O. 12866.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 603). This rule removes two subparts from Title 14 of the CFR that are already reflected in existing NASA internal requirements and, therefore, does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Review Under E.O. 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the E.O. Therefore, no Federalism assessment is required.

List of Subjects in 14 CFR Part 1216

Flood plains.

PART 1216—ENVIRONMENTAL POLICY

■ Accordingly, under the authority of the National Aeronautics and Space Act, as amended (51 U.S.C. 20113), NASA amends 14 CFR part 1216 by removing and reserving subpart 1216.2, consisting of §§ 1216.200 through 1216.205.

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2015–12914 Filed 5–27–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2015–N–1297]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Vibrator for Climax Control of Premature Ejaculation

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the vibrator for climax control of premature ejaculation into class II (special controls). The special controls that will apply to the device are identified in this order and will be part of the codified language for the classification of the vibrator for climax control of premature ejaculation. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective May 28, 2015. The classification was applicable on March 20, 2015.

FOR FURTHER INFORMATION CONTACT: Tuan Nguyen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G118, Silver Spring, MD 20993–0002, 301–796–5174, *tuan.nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order

finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1), the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device. On November 21, 2013, Ergon Medical, Ltd., submitted a request for classification of the Prolong™ under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on March 20, 2015, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 876.5025.

Following the effective date of this final classification order, any firm submitting a premarket notification (510(k)) for a vibrator for climax control of premature ejaculation will need to comply with the special controls named in this final order. The device is assigned the generic name vibrator for climax control of premature ejaculation, and it is identified as a device used for males who suffer from premature ejaculation. It is designed to increase the time between arousal and ejaculation using the stimulating vibratory effects of the device on the penis.

FDA has identified the following risks to health associated specifically with this type of device, as well as the measures required to mitigate these risks in table 1.

TABLE 1—VIBRATOR FOR CLIMAX CONTROL OF PREMATURE EJACULATION RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measures
Pain or Discomfort due to Misuse of Device.	Labeling.
Burns	Electrical and Thermal Safety Testing. Labeling.
Electrical Shock	Electrical Safety Testing. Labeling.
Adverse Skin Reactions.	Biocompatibility Testing.
Patient Injury due to Device Breakage or Failure.	Mechanical Safety Testing. Labeling.
Interference With Other Devices/Electrical Equipment.	Electromagnetic Compatibility Testing. Labeling.

FDA believes that the following special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of the safety and effectiveness:

- The labeling must include specific instructions regarding the proper placement and use of the device.
- The portions of the device that contact the patient must be demonstrated to be biocompatible.
- Appropriate analysis/testing must demonstrate electromagnetic compatibility safety, electrical safety, and thermal safety of the device.
- Mechanical safety testing must demonstrate that the device will withstand forces encountered during use.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the vibrator for climax control of premature ejaculation they intend to market.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov*.

1. DEN130047: De Novo Request per 513(f)(2) from Ergon Medical Ltd., dated November 21, 2013.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY—UROLOGY DEVICES

■ 1. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5025 to subpart F to read as follows:

§ 876.5025 Vibrator for climax control of premature ejaculation.

(a) *Identification.* A vibrator for climax control of premature ejaculation is used for males who suffer from premature ejaculation. It is designed to increase the time between arousal and ejaculation using the stimulating vibratory effects of the device on the penis.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The labeling must include specific instructions regarding the proper placement and use of the device.

(2) The portions of the device that contact the patient must be demonstrated to be biocompatible.

(3) Appropriate analysis/testing must demonstrate electromagnetic compatibility safety, electrical safety, and thermal safety of the device.

(4) Mechanical safety testing must demonstrate that the device will withstand forces encountered during use.

Dated: May 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12852 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 243

[Docket ID: DOD–2013–OS–0130]

RIN 0790–AJ08

Ratemaking Procedures for Civil Reserve Air Fleet Contracts

AGENCY: USTRANSCOM, DoD.

ACTION: Final rule.

SUMMARY: Section 366 of the National Defense Authorization Act for Fiscal Year 2012 directs the Secretary of Defense to determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet Program. The Department of Defense (the Department or DoD) is promulgating regulations to establish ratemaking procedures for civil reserve air fleet contracts as required by Section 366(a) in order to determine a fair and reasonable rate of payment.

DATES: This final rule is effective on June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Gates, Chief, Acquisition Law, USTRANSCOM/TCJA, (618) 220–3982 or Mr. Jeff Beyer, Chief, Business Support and Policy Division, USTRANSCOM/TCAQ, (618) 220–7021.

SUPPLEMENTARY INFORMATION:

Background

The Civil Reserve Air Fleet (CRAF) is a wartime readiness program, based on the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2601 *et seq.*), and Executive Order 13603 (National Defense Resource Preparedness), March 16, 2012, to ensure quantifiable, accessible, and reliable commercial airlift capability to augment DoD airlift and to assure a mobilization base of aircraft available to the Department of Defense for use in the event of any level of national emergency or defense-orientated situations. As a readiness program, CRAF quantifies the number of passenger and cargo commercial assets required to support various levels of wartime requirements and thus allows DoD to account for their use when developing and executing contingency operations and war plans. In addition, the CRAF program identifies how DoD gains access to these commercial assets for operations by defining the authorities and procedures for CRAF activation. Finally, the program helps ensure that the DoD has reliable lines of communication and a common understanding of procedures with the carriers.

The United States Transportation Command (USTRANSCOM) negotiates and structures award of aircraft service contracts with certificated civilian air carriers willing to participate in the CRAF program in order to ensure that a mobilization base of aircraft is capable of responding to any level of defense-orientated situations.

The ability to set rates maintains the CRAF program's great flexibility to have any air carrier in the program able to provide aircraft within 24 hours of activation to fly personnel and cargo to any location in the world at a set rate per passenger or ton mile, regardless of where the air carrier normally operates. It also provides the Secretary of Defense the ability to respond rapidly to assist in emergencies and approved humanitarian operations, both in the United States and overseas where delay could result in more than monetary losses. The Government-set rate allows contracts to any location, sometimes awarded within less than an hour, and provides substantial commercial capability on short notice.

During the initial CRAF program years (between 1955 and 1962), ratemaking to price DoD airlift service relied upon price competition to meet its commercial airlift needs. This procurement method resulted in predatory pricing issues and failed to provide service meeting safety and performance requirements. Congressional Subcommittee hearings held at the time determined price competition to be non-compensatory and destructive to the industry. As a result, the ratemaking process was implemented under the regulatory authority of the Civil Aeronautics Board (CAB). Ratemaking continued under the CAB until deregulation in 1980. At that time, civil air carriers and DoD's contracting agency for long-term international airlift, the Military Airlift Command (MAC), agreed by a memorandum of understanding (MOU) that CAB methodologies by which rates for DoD airlift were established produced fair and reasonable rates and furthered the objectives of the CRAF program; and therefore, the parties agreed to continue to use CAB methodologies for establishing MAC uniform negotiated rates under an MOU renewed every five years. MAC became Air Mobility Command (AMC) on June 1, 1992. Ratemaking continued under AMC until January 1, 2007, when DoD's contracting authority for long-term international airlift was transferred from AMC to USTRANSCOM. On December 31, 2011, the National Defense

Authorization Act for Fiscal Year 2012 (FY12 NDAA) (Pub. L. 112–81) was signed into law. Section 366 of the FY12 NDAA, codified at 10 U.S.C. 9511a, authorized and directed the Secretary of Defense to determine a fair and reasonable rate of payment made to participants in the CRAF program. This rule effectuates Section 366.

This rule broadly tracks the longstanding ratemaking procedures for CRAF contracts in all substantial elements and the ratemaking methodologies supporting the pricing of airlift services as described in previous and current MOUs between certificated civilian air carriers willing to participate in the CRAF program and USTRANSCOM and USTRANSCOM predecessor entities.

In addition to compliance with this rule, CRAF participants, consistent with past practice, will be expected to enter into a MOU with USTRANSCOM where they will be expected to furnish USTRANSCOM, as a condition of its continued participation in the CRAF program, with the financial and operational information required by USTRANSCOM to adequately make a determination of fairness and reasonableness of price. This rule will have no impact on air operators or certificated air carriers not participating in the CRAF program. Nor does it impact non-CRAF services provided by CRAF participants.

Section 366, Ratemaking Procedures for Civil Reserve Air Fleet, is being amended by adding a new section that authorizes the Secertary of Defense to determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense by air carriers who are participants in the Civil Reserve Air Fleet program; and authority to prescribe regulations to implement rate making procedures.

USTRANSCOM published a proposed rule in the **Federal Register** on May 14, 2014 (79 FR 27516). The proposed rule effectuates Section 366 of the FY12 NDAA, codified at 10 U.S.C. 9511a, which authorized and directed the Secretary of Defense to determine a fair and reasonable rate of payment made to participants in the CRAF program.

Comment and Responses

In the proposed rule, which published in the **Federal Register** on May 14, 2014 (79 FR 27516–27521), USTRANSCOM provided the public a 60-day comment period which ended July 14, 2014. USTRANSCOM received one comment.

Comment: The comment recommends clarification to the introduction provided in § 243.8, *Application of FAR Cost Principles.* The commentor believes the proposed rule, which states ''. . . procedures differ from the following provisions . . .'' is ambiguous, and recommended a clarification that portions of the cost principles identified in that section are applicable and exceptions are appropriate only when the unique ratemaking requirements of the CRAF program prohibit their application. The commentor believes this change will preserve allow-ability considerations in the cost principles not affected by the unique CRAF program requirements.

Response: The Rule provides that USTRANSCOM may utilize principles contained in the Federal Acquisition Regulations (FAR), as supplemented, in establishing the rate of payment for aircraft supporting CRAF. The Rule clearly notes that procedures used in establishing rates differ from the provisions of FAR Part 31 and DFARS Part 231 identified in § 243.8. This is necessary because airline accounting systems are established to report costs in accordance with the Department of Transportation requirements found at 14 CFR part 241. However, nothing in § 243.8 limits in any manner, USTRANSCOM's use or application of the identified cost principles or portions thereof, as appropriate, in establishing fair and reasonable rates of payment. No further clarification is required.

Description of the Regulation, by Section

Sections 243.1 through 243.3. Purpose, Applicability, and Definitions. No further descriptions are provided in this section. These sections of the regulation are self explanatory.

Section 243.4(a). In establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF, USTRANSCOM may utilize the principles contained in the Federal Acquisition Regulation, as supplemented. Specific differences are as noted at § 243.8 of the regulation.

Sections 243.4(c) and (d) Analysis and *Rates.* Details for the current ratemaking cycle can be located on FedBizOps under the Proposed Uniform Rates and Rules and Final Uniform Rates and Rules, which can be located at *https://www.fbo.gov/index?s=opportunity&mode=form&id=3ae87338a903f3e6e43a2627941dbb1c&tab=core&_cview=1.*

Sections 243.4(e)(1) through (e)(6) Components of the Rate. Additional insight in this area is included in the current Memorandum of Understanding (FY13 through FY17), which can be found at *https://www.fbo.gov/index?s=opportunity&mode=form&id=3ae87338a903f3e6e43a2627941dbb1c&tab=core&_cview=1.*

Section 243.4(f) Contingency Rates. Authority is reserved to the Commander, USTRANSCOM, to implement a higher temporary rate if USTRANSCOM determines that the established rate of payment is insufficient to allow successful mission operations. These temporary contingency rates are used at the Commander, USTRANSCOM's discretion during conditions such as outbreak of war, armed conflict, insurrection, civil or military strife, emergencies, or similar conditions and are adjusted to reflect possible limited backhaul opportunities. These rates would continue until it is determined by the Commander, USTRANSCOM that such rates are no longer needed to ensure mission accomplishment or sufficient data has been obtained to establish a new rate, after which the contingency rates would cease.

Section 243.5 Commitment of Aircraft as a Business Factor. For the purpose of rate making, the average fleet cost of aircraft proposed by the carriers for the forecast year is used. Actual awards to CRAF carriers are based upon the aircraft accepted into the CRAF program. Aircraft are assigned to stages in a manner designed to spread the risk among all carriers proportionate to the airline total commitment and capability; as an example, all air carriers are required to have a minimum of one aircraft in Stage I but each carrier's total aircraft in Stage I cannot exceed ~15% of the passenger or cargo requirement.

Section 243.6 Exclusions from the uniform negotiated rate. No further description is provided in this section. This section of the regulation is self explanatory.

Section 243.7 Inapplicable provisions of law. Consistent with the requirements of Section 366, this section provides that determining the rate of payment for an airlift service contract will not be subject to the provisions of Section 2306a of Title 10, United States Code, entitled *Cost or Pricing Data: Truth in Negotiations Act* or subsections (a) and (b) of Section 1502 of Title 41, United States Code, entitled *Cost Accounting Standards.*

Section 243.8 Application of FAR cost principles. Some FAR cost principles contained in FAR Part 31 and DFARS 231 are modified for use in the ratemaking process. There are two primary reasons for this:

First, compliance with certain principles is not possible for airline carriers. Airline accounting systems are established to report costs in accordance with the Department of Transportation

requirements found at 14 CFR part 241. These requirements generally do not allow carriers to assign costs directly to a final cost objective, or contract. Contractors who do not assign costs directly to a contract cannot comply with FAR 31.202. Additionally, 14 CFR part 241 directs an air carrier to financially account for property taxes in General and Administrative expense, whereas FAR 31.205–41(c) directs contractors to account for these taxes directly to a final cost objective. Therefore, simply by complying with requirements of 14 CFR part 241 (required by the Department of Transportation), CRAF carriers cannot be in compliance with certain principles at FAR 31 and DFARS 231.

Secondly, selected cost principles must be modified in order to maintain uniformity across the industry when developing a uniform rate of payment. An example of this can be found at FAR 31.205–11, Depreciation. This principle requires contractors limit depreciation to the amount used for financial accounting purposes and in a manner consistent with depreciation policies and procedures followed in the same segment of non-Government business. Under the Department's ratemaking process, all depreciation values are pre-established in order to maintain uniformity within the rate. These depreciation values are as indicated in the MOU. Therefore, the FAR cost principle outlining depreciation requirements cannot be applicable to the ratemaking process.

Section 243.9 Carrier site visits. No further description is provided in this section. This section of the regulation is self explanatory.

Sections 243.10 and 243.11 Disputes and *Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.* The disputes and appeals provision of the proposed ratemaking procedures follows long established protocol that was previously reflected in MOUs executed between CRAF air carrier participants and the government. In sum, carriers with ratemaking concerns are required to first present their concerns to the ratemaking team for resolution. If the matter is not resolved by the ratemaking team, the carrier can in turn request resolution by the USTRANSCOM contracting officer. If satisfactory resolution is still absent, the carrier should address their matter to the USTRANSCOM Ombudsman who is appointed to hear and facilitate resolution of such issues. If needed, the Director of Acquisition, USTRANSCOM, issues a final agency decision in unresolved matters presented by any carrier still seeking satisfactory resolution of a ratemaking issue.

Statutory Certification

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

Executive Orders (E.O.s) 12866 and 13563 directs agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E. O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that 32 CFR part 243 is not an economically significant regulatory action and is also not a major rule under 5 U.S.C. 804, nor is it a significant rule that requires review by OMB. The rule does not:

(1) Have an annual affect to the economy in excess of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in these Executive Orders.

Additionally, participation in the CRAF program is voluntary. All willing carriers meeting the technical requirements of CRAF will receive a contract. The final rule does not add additional requirements to those that have been historically required by the CRAF contract and ratemaking process. The final rule clarifies existing and historical procedures utilized by USTRANSCOM for carriers participating in the CRAF program.

Unfunded Mandates Reform Act of 1995 (Sec. 202, Pub. L. 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601 et seq.)

DoD certifies this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq,* because the rule does not change or add any policies or procedures. This rule merely implements Section 366 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) using historically established ratemaking methodologies and procedures. According to the most recent records, there are 28 certified civilian air carriers willing to participate in the CRAF program for FY2013, of which 12 qualify as small businesses. Because the rule does not change or add any policies or procedures there is not a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis was not performed. Furthermore, any airline meeting the CRAF technical requirements, regardless of business size, will be awarded a contract with rates of payment prescribed by this rule.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

The rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132 Federalism

Executive Order 13132 requires that Executive departments and agencies identify regulatory actions that have significant federalism implications. A regulation has federalism implications if it has substantial direct effects on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government.

The provisions of this part, as required by 10 U.S.C. 9511a, have no substantial direct effect on the States, on the relationship or distribution of power between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, the Department has determined that the proposed part has no federalism implications that warrant the preparation of a Federalism Assessment in accordance with Executive Order 13132.

List of Subjects in 32 CFR Part 243

Air fleet, Armed forces reserves, Contracts.

For the reasons set forth in the preamble, Title 32, Code of Federal Regulations is amended by adding part 243 to read as follows:

PART 243—DEPARTMENT OF DEFENSE RATEMAKING PROCEDURES FOR CIVIL RESERVE AIR FLEET CONTRACTS

Sec.
243.1 Purpose.
243.2 Applicability.
243.3 Definitions.
243.4 Ratemaking procedures for Civil Reserve Air Fleet contracts.
243.5 Commitment of aircraft as a business factor.
243.6 Exclusions from the uniform negotiated rate.
243.7 Inapplicable provisions of law.
243.8 Application of FAR cost principles.
243.9 Carrier site visits.
243.10 Disputes.
243.11 Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.
243.12 Required records retention.

Authority: Section 366 National Defense Authorization Act for FY12 (Pub. L. 112–81) 10 U.S.C. Chap 931, Section 9511a.

§ 243.1 Purpose.

The Secretary of Defense (Secretary) is required to determine a fair and reasonable rate of payment for airlift services provided to the Department of Defense (DoD) by civil air carriers and operators (hereinafter collectively referred to as ''air carriers'') who are participants in the Civil Reserve Air Fleet program (CRAF). This regulation provides the authority and methodology for such ratemaking and designates the United Stated Transportation Command (USTRANSCOM) as the rate setter for negotiated uniform rates for DoD airlift service contracts in support of the CRAF. This methodology supports a viable CRAF mobilization base that ensures sufficient capacity in time of war, contingency and humanitarian relief efforts.

§ 243.2 Applicability.

This section governs all contracts with the Department of Defense where awards to the air carriers, either through individual contracts or teaming arrangements, are commensurate with the relative amount of airlift capability committed to the Civil Reserve Air Fleet (CRAF).

§ 243.3 Definitions.

Air carrier. ''Air carrier'' is defined in 49 U.S.C. 40102(a)(2) as ''a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.'' Specifically to this ratemaking procedure, individuals or entities that operate commercial fixed and rotary wing aircraft in accordance with the Federal Aviation Regulations (14 CFR chapter I) or equivalent regulations issued by a country's Civil Aviation Authority (CAA) and which provide air transportation services are included. Commercial air carriers under contract with, or operating on behalf of, the DoD shall have a Federal Aviation Administration (FAA) or CAA certificate. The policy contained in this directive applies only to air carriers operating fixed wing aircraft under CRAF international airlift services.

Aircraft class. Distinct categories of aircraft with similar broad characteristics established for ratemaking purposes. These categories include aircraft such as large passenger, medium passenger, large cargo, etc. They are determined by USTRANSCOM and identified in Published Uniform Rates and Rules for International Service Appendix A (Published in FedBizOps).

Civil Reserve Air Fleet International Airlift Services. Those services provided in support of the Civil Reserve Air Fleet contract, whereby contractors provide personnel, training, supervision, equipment, facilities, supplies and any items and services necessary to perform international long-range and short-range airlift services during peacetime and during CRAF activation in support of the Department of Defense (DoD). Implements the Fly CRAF Act. See 49 U.S.C. 41106.

Civil Reserve Air Fleet (CRAF) Assured Business Guarantees. See 10 U.S.C. 9515.

Civil Reserve Air Fleet (CRAF) Program. The Civil Reserve Air Fleet (CRAF) is a wartime readiness program, based on the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2601 *et seq.*), and Executive Order 13603 (National Defense Resource Preparedness), March 16, 2012, to ensure quantifiable, accessible, and reliable commercial airlift capability to augment DoD airlift and to assure a mobilization base of aircraft available to the Department of Defense for use in the event of any level of national emergency or defense-orientated situations. As a readiness program, CRAF quantifies the number of passenger and cargo commercial assets required to support various levels of wartime requirements and thus allows DoD to account for their use when developing and executing contingency operations/war plans. The CRAF is composed of U.S. registered aircraft owned or controlled by U.S. air carriers specifically allocated (by FAA registration number) for this purpose by the Department of Transportation. As used herein, CRAF aircraft are those allocated aircraft, which the carrier owning or otherwise controlling them, has contractually committed to the DoD, under stated conditions, to meet varying emergency needs for civil airlift augmentation of the military airlift capability. The contractual commitment of the aircraft includes the supporting resources required to provide the contract airlift. In return for a commitment to the CRAF program, airlines are afforded access to day-to-day business under various DoD contracts.

Historical Costs. Those allowable costs for airlift services for a 12 month period, gathered from Department of Transportation (DOT) Uniform System of Accounts and Reports (USAR) (hereinafter referred to as ''Form 41'') reporting (required by 14 CFR parts 217 and 241).

Long-range aircraft. Aircraft equipped with navigation, communication, and life support systems/emergency equipment required to operate in trans-oceanic airspace, and on international routes, for a minimum distance of 3,500 nautical miles, while carrying a productive payload (75 percent of the maximum payload it is capable of carrying.) Additionally aircraft must be equipped and able to operate worldwide (*e.g.* in EUROCONTROL and North Atlantic Minimum Navigation Performance Specification airspace and possess the applicable VHF, Mode-S, RNP, and RVSM communication and navigation capabilities.)

Memorandum of Understanding with attachment (MOU). A written agreement between certificated air carriers willing to participate in the CRAF program and USTRANSCOM with the purpose of establishing guidelines to facilitate establishment of rates for airlift services (*e.g.* passenger, cargo, combi, and aeromedical evacuation.)

Operational data. Those statistics that are gathered from DOT Form 41 reporting, USTRANSCOM reported monthly round trip (S–1) and one-way (S–2) mileage reports, monthly fuel reports or other data deemed necessary by the USTRANSCOM contracting officer.

Participating carriers. Any properly certified and DoD approved air carrier in the CRAF program which complies with the conditions of the MOU and executes a USTRANSCOM contract.

Projected rates. The estimated rates proposed by carriers based upon historical cost and operational data as

further described in § 243.4(a) through (g).

Ratemaking methodologies. The methodologies agreed to by USTRANSCOM and air carriers in the MOU for the treatment of certain cost elements to determine the estimated price for the DoD for airlift services.

Short-range aircraft. Aircraft equipped for extended over-water operations and capable of flying a minimum distance of 1,500 nautical miles while carrying a productive payload (75 percent of the maximum payload it is capable of carrying).

§ 243.4 Ratemaking procedures for Civil Reserve Air Fleet contracts.

The ratemaking procedures contained within this section apply only to Airlift Service contracts awarded based on CRAF commitment. Competitively awarded contracts may be used by the Department of Defense when it considers such contracts to be in the best interest of the government. See §§ 243.5(b) and 243.6 for exclusions to ratemaking.

(a) *Rates of payment for airlift services.* USTRANSCOM may utilize the principles contained in the Federal Acquisition Regulation (FAR), as supplemented, in establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF. Specific exceptions to FAR are noted in § 243.8 of this rule. To facilitate uniformity within the ratemaking process, USTRANSCOM will execute a MOU with air carriers to institute the basis for methods upon which the rates will be established. An updated MOU will be executed as warranted and published for public comment on FedBizOps. Under the MOU, air carriers agree to furnish historical cost and operational data, as well as their projected rates for the ensuing fiscal year. USTRANSCOM will conduct a review of air carriers' historical and projected costs and negotiate with the carriers to establish rates using ratemaking methodologies contained in the attachment to the MOU.

(b) *Obtaining data from participating carriers.* USTRANSCOM will annually notify those participating carriers to provide data using the USTRANSCOM cost package and related instructions. The data provided includes pricing data, cost data, and judgmental information necessary for the USTRANSCOM contracting officer to determine a fair and reasonable price or to determine cost realism. Carriers will be provided 60 calendar days to act upon the request.

(c) *Analysis.* (1) USTRANSCOM will consider carrier reported DOT Form 41 costs as well as other applicable costs directly assigned to performance in USTRANSCOM service. These costs will be reviewed and analyzed by USTRANSCOM for allowability, allocability, and reasonableness. Costs may also be audited by the Defense Contract Audit Agency (DCAA), as necessary, in accordance with the DCAA Contract Audit Manual 7640.01.

(2) To determine allocation of these costs to USTRANSCOM service, USTRANSCOM considers carrier reported DOT Form 41 operational data, as well as USTRANSCOM S–1, S–2 mileage reports, fuel reports, and other relevant information requested by the contracting officer.

(d) *Rates.* Rates will be determined by aircraft class (*e.g.* large passenger, medium passenger, large cargo, etc.) based on the average efficiency of all participating carriers within the specified class. Application of these rates, under varying conditions (*e.g.* ferry, one-way, etc), are addressed in the Final Rates published in accordance with § 243.4(h).

(e) *Components of the rate*—(1) *Return on Investment (ROI).* ROI for USTRANSCOM service is intended to adequately compensate carriers for cost of capital. USTRANSCOM will apply a minimum return applied to the carrier's total operating costs. If a full return on investment applied to a carrier's capital investment base is provided in the MOU, the carrier will receive whichever is greater.

(i) *Full ROI.* The full ROI will be computed using an optimal capital structure of 45 percent debt and 55 percent equity. The cost-of-debt and cost-of-equity are calculated from revenues of major carriers as reported to the Department of Transportation.

(A) *Cost-of-Debt (COD).* COD will be calculated considering the Risk Free Rate (RFR) plus the weighted debt spread, with the formula as agreed upon in the MOU.

(B) *Cost-of-Equity (COE).* COE will be determined by a formula agreed upon in the MOU, which considers RFR, weighted betas, annualized equity risk premium and a future expected return premium.

(C) *Owned/Capital/Long-Term Leased Aircraft.* New airframes and related support parts will receive full ROI on the net book value of equipment at mid-point of forecast year. USTRANSCOM will apply the economic service life standards to aircraft as indicated in paragraph (e)(2) of this section.

(D) *Short-term leased aircraft.* As a return on annual lease payments, short-term leased equipment will receive the Full ROI less the cost of money rate per the Secretary of the Treasury under Public Law 92–41 (85 Stat. 97), as provided by the Office of Management and Budget, in accordance with the MOU.

(E) *Working capital.* Working capital will be provided in the investment base at an established number of days provided in the MOU. The investment base will be computed on total operating cash less non cash expenses (depreciation) as calculated by USTRANSCOM.

(ii) *Minimum Return.* USTRANSCOM will determine minimum return utilizing the Weighted Guidelines methodology as set forth in DFARS Subpart 215.4, Contract Pricing, or successor and as provided in the MOU.

(2) *Depreciation.* USTRANSCOM will apply economic life standards for new aircraft at 14 years, 2 percent residual (narrowbody) and 16 years and 10 percent residual (widebody) aircraft. USTRANSCOM will apply economic life standards for used aircraft as indicated in the MOU.

(3) *Utilization.* Utilization considers the number of airborne hours flown per aircraft per day. USTRANSCOM will calculate aircraft utilization in accordance with the DOT Form 41 reporting and the MOU.

(4) *Cost escalation.* Escalation is the percentage increase or decrease applied to the historical base year costs to reliably estimate the cost of performance in the contract period. Yearly cost escalation will be calculated in accordance with the MOU.

(5) *Weighting of rate.* Rates will be weighted based upon the direct relationship between contract performance and cost incurred in execution of the contract. The specific weighting will be as defined in the MOU.

(6) *Obtaining data from participating carriers.* Carriers participating in USTRANSCOM acquisitions subject to ratemaking shall provide, other than certified cost and pricing data for USTRANSCOM, rate reviews as required in the MOU.

(f) *Contingency rate.* Authority is reserved to the Commander, USTRANSCOM, at his discretion, during conditions such as outbreak of war, armed conflict, insurrection, civil or military strife, emergency, or similar conditions, to use a temporary contingency rate in order to ensure mission accomplishment. Any such temporary rate would terminate at the Commander's discretion upon his determination that such rate is no longer needed.

(g) *Proposed rate.* Once the data is analyzed and audit findings considered,

USTRANSCOM will prepare a package setting forth proposed airlift rates and supporting data. The proposed rates will be approved by the USTRANSCOM contracting officer and posted publicly on FedBizOps for comment. The comment period will be as specified in the proposed rate package.

(h) *Final rate.* Upon closing of the comment period, comments and supporting rationale will be addressed and individual negotiations conducted between USTRANSCOM and the air carriers. After negotiations have concluded, USTRANSCOM will prepare a rate package setting forth final airlift rates for each aircraft class, along with supporting data consisting of individual carrier cost elements. Comments and disposition of those comments will be included in the final rate package. The final rates will be approved by the USTRANSCOM contracting officer and publicly posted on FedBizOps for use in the ensuing contract.

§ 243.5 Commitment of aircraft as a business factor.

For the purpose of rate making, the average fleet cost of aircraft proposed by the carriers for the forecast year is used. Actual awards to CRAF carriers are based upon the aircraft accepted into the CRAF program. The Secretary may, in determining the quantity of business to be received under an airlift services contract for which the rate of payment is determined in accordance with subsection (a) of 10 U.S.C. 9511a, use as a factor the relative amount of airlift capability committed by each air carrier to the CRAF.

(a) *Adjustments in commitment to target specific needs of the contract period.* The amount of business awarded in return for commitment to the program under a CRAF contract may be adjusted prior to the award of the contract to reflect increased importance of identified aircraft categories (*e.g.,* Aeromedical Evacuation) or performance factors (*e.g.,* flyer's bonus, superior on-time performers, etc.). These adjustments will be identified in the solicitation.

(b) *Exclusions of categories of business from commitment based awards.* Where adequate competition is available and USTRANSCOM determines some part of the business is more appropriate for award under competitive procedures, the rate-making will not apply. Changes to areas of business will be reflected in the solicitation.

§ 243.6 Exclusions from the uniform negotiated rate.

Domestic CRAF is handled differently than international CRAF in that aircraft committed does not factor into the amount of business awarded during peacetime. If domestic CRAF is activated, carriers will be paid in accordance with pre-negotiated prices that have been determined fair and reasonable, not a uniform rate.

§ 243.7 Inapplicable provisions of law.

An airlift services contract for which the rate of payment is determined in accordance with subsection (a) of 10 U.S.C. 9511a shall not be subject to the provisions of 10 U.S.C. 2306a, or to the provisions of subsections (a) and (b) of 41 U.S.C. 1502. Specifically, contracts establishing rates for services provided by air carriers who are participants in the CRAF program are not subject to the cost or pricing data provision of the Truth in Negotiations Act (10 U.S.C. 2306a) or the Cost Accounting Standards (41 U.S.C. 1502). CRAF carriers will, however, continue to submit data in accordance with the MOU and the DOT, Form 41.

§ 243.8 Application of FAR cost principles.

In establishing fair and reasonable rate of payments for airlift service contracts in support of CRAF, USTRANSCOM, in accordance with10 U.S.C. 9511a, procedures differ from the following provisions of FAR Part 31 and DFARS Part 231, as supplemented:

FAR 31.202, Direct Costs
FAR 31.203, Indirect Costs
FAR 31.205–6, Compensation for Personal Services, subparagraphs (g), (j), and (k)
FAR 31.205–10, Cost of Money
FAR 31.205–11, Depreciation
FAR 31.205–18, Independent Research and Development and Bid and Proposal Costs
FAR 31.205–19, Insurance and Indemnification
FAR 31.205–26, Material Costs
FAR 31.205–40, Special Tooling and Special Test Equipment Costs
FAR 31.205–41, Taxes
DFARS 231.205–18, Independent research and development and bid and proposal costs

§ 243.9 Carrier site visits.

USTRANSCOM may participate in carrier site visits, as required to determine the reasonableness or verification of cost and pricing data.

§ 243.10 Disputes.

Carriers should first address concerns to the ratemaking team for resolution. Ratemaking issues that are not resolved to the carrier's satisfaction through discussions with the ratemaking team may be directed to the USTRANSCOM contracting officer.

§ 243.11 Appeals of USTRANSCOM Contracting Officer Decisions regarding rates.

If resolution of ratemaking issues cannot be made by the USTRANSCOM contracting officer, concerned parties shall contact the USTRANSCOM Ombudsman appointed to hear and facilitate the resolution of such concerns. In the event a ratemaking issue is not resolved through the ombudsman process, the carrier may request a final agency decision from the Director of Acquisition, USTRANSCOM.

§ 243.12 Required records retention.

The air carrier is required to retain copies of data submitted to support rate determination for a period identified in Subpart 4.7 of the Federal Acquisition Regulation, Contractor Records Retention.

Dated: May 21, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–12825 Filed 5–27–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2015–0448]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Harvey, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Harvey Canal Railroad Bascule Bridge across Gulf Intracoastal Waterway, mile 0.2 west of Harvey Lock (Harvey Canal), at Harvey, Jefferson Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for 175 consecutive hours to replace the north side bronze pinion bearing bushing to the drawbridge.

DATES: This deviation is effective from noon on Friday, June 19, 2015 until 7 p.m. on Friday, June 26, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0448] 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 Donna Gagliano, Bridge Specialist, Coast Guard; telephone 504–671–2128, email *Donna.Gagliano@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The New Orleans and Gulf Coast Railway Company has requested a temporary deviation from the operating schedule for the Harvey Canal Railroad Bascule Bridge across Gulf Intracoastal Waterway, mile 0.2 west of Harvey Lock (Harvey Canal), at Harvey, Jefferson Parish, Louisiana. The bridge has a vertical clearance of 9 feet above mean high water in the closed-to-navigation position and 75 feet above mean high water in the open-to-navigation position.

Presently, the bridge opens on signal according to operating regulation Tile 33 CFR 117.5. This deviation is effective from noon on Friday, June 19, 2015 until 7 p.m. on Friday, June 26, 2015. This deviation provides for the bridge to remain closed-to-navigation for 175 consecutive hours.

For the duration of the replacement of the bronze pinion bearing bushings, vessels will not be allowed to pass through the bridge in order to complete the needed replacement.

The closure is necessary in order to replace the north side bronze pinion bearing bushing to the drawbridge essential for the continued safe operation of the draw span of the railroad bridge. The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units. It has been determined that this closure will not have a significant effect on vessel traffic.

Navigation on the waterway consists mainly of tugs with tows. The bridge will not be able to open for emergencies and there is an alternate route available via the Gulf Intracoastal Waterway (Algiers Alternate Route) to avoid unnecessary delays.

The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge 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 regulation is authorized under 33 CFR 117.35.

Dated: May 21, 2015

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2015–12812 Filed 5–27–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0280]

RIN 1625–AA00

Safety Zone; Loading and Outbound Transit of TUG THOMAS and BARGE OCEANUS, Savannah River; Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone around the TUG THOMAS and BARGE OCEANUS during the loading and outbound transit of three oversized ship to shore (STS) cranes on the Savannah River from the Georgia Ports Authority, Garden City Terminal. This safety zone facilitates the safe loading and outbound transit of three oversized STS cranes from the Port of Savannah. A fixed safety zone will be enforced during the loading of the cranes on the barge and a moving safety zone will be enforced while the TUG THOMAS and BARGE OCEANUS are transiting outbound the Savannah River. This regulation is necessary to protect life and property on the navigable waters of the Savannah River due to the hazards associated with the transport of these oversized cranes. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

DATES: This rule is effective without actual notice from May 28, 2015 until 11:59 p.m., July 1, 2015. For the purposes of enforcement, actual notice will be used from May 14, 2015 until May 28, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0280. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Christopher McElvaine, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone (912) 652–4353 ext 221, email *Christopher.D.McElvaine@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
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)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the transit until April 6, 2015. Publishing a NPRM and delaying its effective date would be impracticable and contrary to public interest because immediate action is needed to protect the TUG THOMAS, BARGE OCEANUS, other vessels, and mariners from the hazards associated with the transit operations of three STS cranes from Georgia Ports Authority.

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** for the same reasons discussed above.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 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.

The purpose of the rule is to ensure the safety of life and vessels on a navigable waterway of the United States during the TUG THOMAS and BARGE OCEANUS ship to shore crane loading and outbound transit.

C. Discussion of the Final Rule

The Coast Guard is establishing this safety zone to facilitate the safe loading of cranes and outbound transit of the TUG THOMAS and the BARGE OCEANUS on the Savannah River. The large STS cranes pose a danger to other vessels that may meet, pass or attempt to overtake the TUG THOMAS and BARGE OCEANUS in the narrow waterway of the Savannah River. This safety zone is necessary to protect the safety of lives and persons during this transit.

A moving and fixed safety zone will be established when the TUG THOMAS and BARGE OCEANUS commence loading operations and begin outbound transit. It will cover all waters of the Savannah River one nautical mile ahead and astern of the TUG THOMAS and BARGE OCEANUS. During crane loading operations no vessel may pass TUG THOMAS and BARGE OCEANUS unless authorized by the COTP Savannah or designated representative and during the vessel's outbound transit, no other vessel may meet, pass, or overtake the TUG THOMAS and BARGE OCEANUS, unless authorized by the COTP Savannah or a designated representative.

Entry into the safety zone is prohibited for all vessels unless specifically authorized by the COTP Savannah or a designated representative. U.S. Coast Guard assets or designated representatives will enforce this safety zone, and coordinate vessel movements into the zone when safe to minimize the zone's impact on vessel movements. Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Savannah by telephone at (912) 652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative. The Coast Guard will provide notice of the safety zones by Broadcast Notice to Mariners, and on-scene designated representatives.

This rule will only be enforced during loading operations and the outbound transit of the TUG THOMAS and BARGE OCEANUS and will remain in effect until the vessels have left the harbor. The COTP Savannah or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for this safety zone.

D. Regulatory Analyses

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

The economic impact of this rule is not significant for the following reasons: This safety zone will only be enforced during times of loading operations and the outbound transit of the TUG THOMAS and BARGE OCEANUS on the Savannah River. Once the TUG THOMAS and BARGE OCEANUS have exited the Savannah River, the safety zone will be terminated. The transit of the TUG THOMAS and BARGE OCEANUS is expected to take six to eight hours.

The Coast Guard has notified the Georgia Ports Authority and Savannah Pilots Association of the needs, conditions, and effective dates and times of the safety zone so that they may schedule arriving and departing vessels that may be affected by this safety zone to minimize shipping delays. The presence of other moored vessels is not expected to impede the safe loading and outbound transit of the TUG THOMAS and BARGE OCEANUS, and sufficient channel width is anticipated while the TUG THOMAS and BARGE OCEANUS are moored so that other vessels may transit through the area.

Notifications of the enforcement periods of this safety zone will be made to the marine community through broadcast notice to mariners. Representatives of the COTP will be on-scene to coordinate the movements of vessels seeking to enter the safety zone. These representatives will authorize vessel transits into the zone to the maximum safely allowable during the TUG THOMAS and BARGE OCEANUS

2. Impact on Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the Savannah River while TUG THOMAS and BARGE OCEANUS is transiting outbound on the Savannah River and while moored at Georgia Ports Authority. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The COTP Savannah may consider granting vessels permission to enter into the moving and fixed safety zone if conditions allow for such transit to be conducted safely, and (2) the Coast Guard will issue a broadcast notice to mariners informing the public of the safety zone.

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** section above.

Small businesses may send comments on the actions of Federal employees

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of a temporary safety zone. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the 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 a temporary § 165.T07–0280 to read as follows:

§ 165.T07–0280 Safety Zone; STS Crane Loading and Outbound Transit of TUG THOMAS and BARGE OCEANUS, Savannah River, Savannah, GA.

(a) *Regulated area.* The fixed safety zone will be centered on TUG THOMAS and BARGE OCEANUS while moored and conducting loading operations, extending 500 yards in all directions. The moving safety zone will cover all waters of the Savannah River one nautical mile ahead and astern of the TUG THOMAS and BARGE OCEANUS while transiting outbound with the ship to shore (STS) cranes onboard.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Savannah in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Savannah or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zones may contact the Captain of the Port Savannah by telephone at (912) 652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners and on-scene designated representatives.

(e) *Effective period.* This rule is effective on April 21, 2015 through May 31, 2015. This rule will be enforced when STS operations commence until TUG THOMAS and BARGE OCEANUS depart the Savannah River.

Dated: May 14, 2015.

A.M. Beach,

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

[FR Doc. 2015–12637 Filed 5–27–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2009–0041–N–4]

49 CFR Part 234

RIN 2130–AC50

Systems for Telephonic Notification of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The purpose of this document is to update the current schedule of civil penalties for violations of FRA's grade crossing safety regulations by adding recommended civil penalty amounts for violations of specific requirements contained in a recently added subpart. That subpart prescribes requirements that certain railroads establish emergency notification systems (ENS) for receiving toll-free telephone calls reporting various unsafe conditions at highway-rail grade crossings and pathway grade crossings, and for taking certain actions in response to those calls.

DATES: Effective May 28, 2015.

FOR FURTHER INFORMATION CONTACT: Beth Crawford, Transportation Specialist, Grade Crossing Safety and Trespass Prevention, Office of Safety Analysis, FRA, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590 (telephone: 202–493–6288), *beth.crawford@dot.gov*; or Sara Mahmoud-Davis, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Mail Stop 10, Washington, DC 20590 (telephone: 202–366–1118), *sara.mahmoud-davis@dot.gov*.

SUPPLEMENTARY INFORMATION: FRA is revising the penalty schedule at appendix A to 49 CFR part 234 to add recommended civil penalty amounts for violations of specific requirements contained in subpart E, Emergency Notification Systems [ENS] for Telephonic Reporting of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings. (*See* FRA's final rule published on June 12, 2012, 77 FR 35164; March 15, 2013, 78 FR 16414.) The recommended civil penalties are for violations related to the various requirements of an ENS, which includes the: (1) Sign(s) placed at the grade crossing that display the information necessary for the public to report an unsafe condition to the appropriate railroad; (2) method the railroad uses to receive and process a telephone call reporting the unsafe condition; (3) remedial action the appropriate railroad or railroads take to address the report of the unsafe conditions; and (4) recordkeeping conducted by the railroad(s).

Under authority delegated from the Secretary of Transportation, FRA adds these recommended penalty amounts to the penalty schedule consistent with the requirements of 49 U.S.C. 21301(a)(2), which provides, in pertinent part, that:

> [t]he Secretary of Transportation shall include in, or make applicable to, each regulation prescribed . . . under chapter 201 of this title a civil penalty for a violation. * * * The amount of the penalty shall be at least $500 but not more than $25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $100,000.

See delegation from the Secretary to the Administrator of FRA at 49 CFR 1.89(a).

Under the separate authority of the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended, FRA has periodically adjusted for inflation the amounts of the minimum, ordinary maximum, and aggravated maximum civil penalties for a violation of this part. Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, note, as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104–134, 110 Stat. 1321–373, April 26, 1996. Currently, the minimum penalty is $650, the ordinary maximum civil penalty is $25,000; and the aggravated maximum civil penalty is $105,000. *See, e.g.,* 73 FR 76704, Dec. 30, 2008; 77 FR 24422, Apr. 24, 2012. As provided for in footnote 1 to appendix A, the Administrator specifically reserves the authority to assess the maximum penalty of $105,000 for any specific violation if the circumstances of the particular violation warrant.

After FRA issues a civil penalty against an entity, FRA may adjust or compromise the amount of the civil penalty based on a wide variety of mitigating factors, which include: (1) The nature, circumstances, extent, and gravity of the violation; (2) with respect to the entity, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and (3) other matters that justice requires. 49 U.S.C. 21301(a)(3).

FRA's revision of appendix A is a general statement of policy under 5 U.S.C. 553(b)(3)(A). Consequently, notice and an opportunity for comment are not required, and this amendment is made effective upon publication.

List of Subjects in 49 CFR Part 234

Highway safety, Penalties, Railroad safety, Reporting and recordkeeping requirements, State and local governments.

In consideration of the foregoing, FRA amends part 234 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 234—GRADE CROSSING SAFETY

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

Authority: 49 U.S.C. 20103, 20107, 20152, 20160, 21301, 21304, 21311, 22501 note; Pub. L. 110–432, Div. A., Sec. 202; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Amend appendix A to part 234 by:

■ a. Adding, after the end of the entry for subpart D, an entry for subpart E;

■ b. Revising footnote 1; and

■ c. Adding footnotes 2, 3, 4, 5, 6, and 7, to read as follows:

APPENDIX A TO PART 234—SCHEDULE OF CIVIL PENALTIES [1]

Section	Violation	Willful violation
* * * * * * *		
Subpart E—Emergency Notification Systems for Telephonic Reporting of Unsafe Conditions at Highway-Rail and Pathway Grade Crossings		
234.303 Emergency notification systems (ENS) for telephonic reporting of unsafe conditions at highway-rail and pathway grade crossings:		
(a) Dispatching railroad fails to establish and maintain a toll-free telephone service by which the railroad can directly and promptly receive telephone calls (calls) from the public of reports of unsafe conditions at crossings	15,000	25,000
(a)(1) Dispatching railroad fails to have either a live person answer calls directly and promptly, or use an automated answering system or third-party telephone service for receiving calls from the public of reports of unsafe conditions at crossings	10,000	15,000
(a)(2) Dispatching railroad improperly uses an automated answering system	10,000	15,000
(b)(1)–(2) Excepted dispatching railroad improperly uses answering machine to receive calls of unsafe conditions at crossings	5,000	7,500
(b)(2) Excepted dispatching railroad fails to use proper method to receive calls of unsafe conditions at crossings during either operational or non-operational hours	5,000	7,500
(e) Dispatching railroad improperly uses local telephone number to receive calls of unsafe conditions at crossings	5,000	7,500
234.305 Remedial actions in response to reports of unsafe conditions at highway-rail and pathway grade crossings:		
Response to credible report of warning system malfunction at a highway-rail grade crossing.		
(a)(1) Maintaining railroad fails under subpart C to follow subpart C of this part [2]	5,000	7,500
(a)(2)(i) Dispatching railroad fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported malfunction	5,000	7,500
(ii) Dispatching railroad fails to promptly contact the maintaining railroad and inform it of the reported malfunction	5,000	7,500
Response to public report of warning system malfunction at a highway-rail grade crossing.		
(b)(1)(i) Railroad with both maintaining and dispatching responsibilities fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported malfunction	5,000	7,500
(ii) Railroad with both maintaining and dispatching responsibilities fails to promptly contact the appropriate law enforcement agency and inform it of the reported malfunction	5,000	7,500
(iii) Railroad with both maintaining and dispatching responsibilities fails to promptly investigate the report, determine the nature of the malfunction, and take the appropriate remedial action	5,000	7,500
(b)(2)(i) Railroad with only dispatching responsibility fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported malfunction	5,000	7,500
(ii) Railroad with only dispatching responsibility fails to promptly contact the appropriate law enforcement agency and inform it of the reported malfunction	5,000	7,500
(iii) Railroad with only dispatching responsibility fails to promptly contact the maintaining railroad and inform it of the reported malfunction	5,000	7,500
(iv) Maintaining railroad fails to promptly investigate the report, determine the nature of the malfunction, and take the appropriate remedial action	5,000	7,500
Response to report of warning system failure at a pathway grade crossing.		
(c)(1)(i) Railroad with both maintaining and dispatching responsibilities fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported failure	5,000	7,500
(ii) Railroad with both maintaining and dispatching responsibilities fails to promptly contact the appropriate law enforcement agency and inform it of the reported failure	5,000	7,500
(iii) Railroad with both maintaining and dispatching responsibilities fails to promptly investigate the report, determine the nature of the failure, and without undue delay repair the active warning system if necessary	5,000	7,500
(c)(2)(i) Railroad with only dispatching responsibility fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported failure	5,000	7,500
(ii) Railroad with only dispatching responsibility fails to promptly contact the appropriate law enforcement agency and inform it of the reported failure	5,000	7,500
(iii) Railroad with only dispatching responsibility fails to promptly contact the maintaining railroad and inform it of the reported failure	5,000	7,500
(iv) Maintaining railroad fails to promptly investigate the report, determine the nature of the failure, and without undue delay repair the active warning system if necessary	5,000	7,500
Response to report of a disabled vehicle or other obstruction blocking a railroad track at a highway-rail or pathway grade crossing.		
(d)(1)(i) Railroad with both maintaining and dispatching responsibilities fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported obstruction	5,000	7,500
(ii) Railroad with both maintaining and dispatching responsibilities fails to promptly contact the appropriate law enforcement agency and inform it of the reported obstruction	5,000	7,500
(iii) Railroad with both maintaining and dispatching responsibilities fails to promptly investigate the report, determine the nature of the obstruction, and without undue delay take the necessary action to have the obstruction removed	5,000	7,500
(d)(2)(i) Railroad with only dispatching responsibility fails to promptly contact all trains authorized to operate through the crossing and inform them of the reported obstruction	5,000	7,500
(ii) Railroad with only dispatching responsibility fails to promptly contact the appropriate law enforcement agency and inform it of the reported obstruction	5,000	7,500

APPENDIX A TO PART 234—SCHEDULE OF CIVIL PENALTIES [1]—Continued

Section	Violation	Willful violation
(iii) Railroad with only dispatching responsibility fails to promptly contact the maintaining railroad and inform it of the reported obstruction	5,000	7,500
(iv) Maintaining railroad fails to promptly investigate the report, determine the nature of the obstruction, and without undue delay take the necessary action to have the obstruction removed	5,000	7,500
Special rule on contacting a train that is not required to have communication equipment.		
(e) Having received a report pursuant to § 234.303(c)(1), (c)(2), (d)(1), or (d)(2), railroad fails to promptly contact the occupied controlling locomotive of the train by the quickest means available consistent with § 220.13(a) of this chapter	5,000	7,500
Response to report of an obstruction of view at a highway-rail or pathway grade crossing.		
(f)(1) Railroad with both maintaining and dispatching responsibilities fails to timely investigate the report and remove the obstruction if it is lawful and feasible to do so	5,000	7,500
(f)(2)(i) Railroad with only dispatching responsibility fails to promptly contact the maintaining railroad	5,000	7,500
(ii) Maintaining railroad fails to timely investigate the report and remove the obstruction if it is lawful and feasible to do so	5,000	7,500
Response to report of other unsafe condition at a highway-rail or pathway grade crossing.		
(g)(1) Railroad with both maintaining and dispatching responsibilities fails to timely investigate the report, and timely correct the unsafe condition if it is lawful and feasible to do so	5,000	7,500
(g)(2) Railroad with only dispatching responsibility fails to promptly contact the maintaining railroad	5,000	7,500
(g)(3) Maintaining railroad fails to timely investigate the report, and timely correct the unsafe condition if it is lawful and feasible to do so	5,000	7,500
Maintaining railroad's responsibilities for receiving reports of unsafe conditions at highway-rail and pathway grade crossings.		
(h)(1)(i) Maintaining railroad fails to provide sufficient contact information to dispatching railroad, by which the dispatching railroad may timely contact the maintaining railroad upon receipt of a report	5,000	7,500
(ii) Maintaining railroad fails either to have a live person answer calls directly and promptly, or to use an automated answering system for receiving calls from the dispatching railroad of a report of an unsafe condition	10,000	15,000
(iii) Dispatching railroad improperly uses an automated answering system	10,000	15,000
(h)(2)(i)–(ii) Excepted maintaining railroad fails to use proper method to receive calls of unsafe conditions at crossings during operational or non-operational hours	5,000	7,500
234.306 Multiple dispatching or maintaining railroads with respect to the same highway-rail or pathway grade crossing; appointment of responsible railroad:		
(a)(1) Each of the dispatching railroads for the crossing fails to appoint a primary dispatching railroad for the crossing	10,000	15,000
(a)(1)(i)–(iv) The primary dispatching railroad for the crossing fails to carry out one of the prescribed duties	5,000	7,500
(a)(2) Another pertinent dispatching railroad for the crossing fails to carry out remedial action as required by § 234.305	5,000	7,500
(b)(1) Each of the maintaining railroads for the crossing fails to appoint one maintaining railroad responsible for the placement and maintenance of the ENS sign(s)	5,000	7,500
(b)(2) The assigned maintaining railroad in § 234.306(b)(1) fails to display on the ENS sign(s) the emergency telephone number of the dispatching railroad or primary dispatching railroad for the crossing	5,000	7,500
(c)(1) The dispatching railroad or primary dispatching railroad fails to promptly contact and inform the appropriate maintaining railroad(s) for the crossing of the reported problem	5,000	7,500
(c)(2) The maintaining railroad fails to carry out remedial action as required by § 234.305	10,000	15,000
234.307 Use of third-party telephone service by dispatching and maintaining railroads [3]:		
(a)(1) Dispatching railroad improperly uses third-party telephone service	10,000	15,000
(a)(2) Dispatching railroad fails to ensure third-party telephone service compliance with § 234.307	10,000	15,000
(b)(1) Maintaining railroad improperly uses third-party telephone service	10,000	15,000
(b)(2) Maintaining railroad fails to ensure third-party telephone service compliance with § 234.307	10,000	15,000
(d)(1) Railroad fails to provide sufficient contact information to third-party telephone service	2,500	5,000
(d)(2)(i) Railroad fails to inform FRA in writing before the implementation of a third-party telephone service	2,500	5,000
(ii) Railroad fails to provide FRA with contact information for the third-party telephone service	2,500	5,000
(iii) Railroad fails to provide FRA with information identifying the crossings about which the third-party telephone service will receive reports	2,500	5,000
(d)(3) Railroad fails to inform FRA in writing within 30 days following any changes in the use of, or the discontinuance of, third-party telephone service	2,500	5,000
(d)(4) [4] Dispatching or maintaining railroad fails to take appropriate action required by § 234.305.		
(e) [5] Railroad fails to ensure third-party telephone service compliance with § 234.313 or § 234.315, as applicable.		
234.309 ENS signs in general:		
(a) Dispatching railroad fails to provide ENS telephone number to the maintaining railroad a minimum of 180 days prior to the required implementation date of the ENS	2,500	5,000
(b)(1)–(3) [6] Responsible railroad fails to display minimum required information on ENS sign	5,000	7,500
(c)(1)–(4) [7] Responsible railroad fails to display ENS sign that meets size and other physical requirements	5,000	7,500
234.311 ENS sign placement and maintenance:		
(a)(1)–(2) Responsible railroad fails to place and maintain required number of sign(s) at the crossing or entrance(s) to facility	5,000	7,500
(b)(1)–(2) Responsible railroad fails to properly locate and maintain the sign(s) at the crossing	5,000	7,500
234.313 Recordkeeping:		

APPENDIX A TO PART 234—SCHEDULE OF CIVIL PENALTIES [1]—Continued

Section	Violation	Willful violation
(a)(1)–(9) Railroad fails to maintain in its records the minimum information required for each ENS report received	2,500	5,000
(c)(1)–(2) Responsible railroad(s) fail(s) to record in writing an appointment of a railroad, pursuant to § 234.306, or properly retain a copy of the document	2,500	5,000
(d)(1) Railroad fails to properly retain records	2,500	5,000
(d)(2) Railroad fails to provide FRA access to records	2,500	5,000
234.315 Electronic recordkeeping:		
(a)–(b) Railroad fails to comply with electronic recordkeeping requirements	2,500	5,000

[1] A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to $105,000 for any violation where circumstances warrant. *See* 49 CFR part 209, appendix A. To facilitate the assessment of penalty amounts, the specific types of violations of a given section are sometimes designated by the paragraph of the section (*e.g.,* ''(a)'') and a code not corresponding to the legal citation for the violation (*e.g.,* ''(1)''), so that the complete citation in the penalty schedule is *e.g.,* ''(a)(1).'' FRA reserves the right to revise the citation of the violation in the Summary of Alleged Violations issued by FRA in the event of litigation.

[2] Either this section or the parallel section of subpart C of this part may be cited, but not both.

[3] FRA does not plan to assess civil penalties against a third-party telephone service, under § 234.307(c) or (e). However, FRA plans to assess violations against the dispatching and maintaining railroads for failing to ensure that the third-party telephone service complies with the requirements of §§ 234.307, 234.313, or 234.315, if applicable. *See* § 234.307(a), (b), (e).

[4] For a violation of § 234.307(d)(4), a penalty should be assessed for the specific type of violation according to the penalty schedule for a violation of § 234.305.

[5] For a violation of § 234.307(e) pertaining to recordkeeping, a penalty should be assessed for the specific type of violation in the penalty schedule for a violation of §§ 234.313 or 234.315, as applicable.

[6] FRA reserves the right to cite a violation for each item of required information omitted from a sign.

[7] FRA reserves the right to cite a violation for each physical characteristic that is nonconforming.

Issued in Washington, DC, on May 21, 2015.

Sarah Feinberg,

Acting Administrator.

[FR Doc. 2015–12775 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 150122067–5453–02]

RIN 0648–BE83

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan. This action will change the minimum number of traps per trawl to allow fishing with a single trap in certain Massachusetts and Rhode Island state waters; and modifies the requirement to use one endline on trawls within certain areas in Massachusetts state waters. Also, this rule creates a ¼ mile buffer in waters surrounding certain islands in Maine to allow fishing with a single trap. In addition, this rule includes additional gear marking requirements for those waters allowing single traps as well as two new high use areas for humpback whales (*Megaptera novaeangliae*) and North Atlantic right whales (*Eubalaena glacialis*).

DATES: This rule is effective May 28, 2015, except for the amendment to § 229.32(b)(3), which is effective July 1, 2015, and the amendment to § 229.32(b)(1)(i) and (ii), which is effective September 1, 2015.

ADDRESSES: Copies of the supporting documents for this action, as well as the Atlantic Large Whale Take Reduction Team meeting summaries and supporting documents, may be obtained from the Plan Web site (*http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/index.html*). Written comments regarding the burden hour estimates or other aspects of the collection of information requirements contained in this final rule can be submitted to Kimberly Damon-Randall, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Dr, Gloucester, MA 10930 or Office of Information and Regulatory Affairs by email at *OIRA_submissions@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Kate Swails, NMFS Greater Atlantic Regional Fisheries Office, 978–282–8481, *Kate.Swails@noaa.gov;* or, Kristy Long, NMFS Office of Protected Resources, 206–526–4792, *Kristy.Long@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

NMFS published an amendment to the Atlantic Large Whale Take Reduction Plan (Plan) on June 27, 2014 (79 FR 36586) to address large whale entanglement risks associated with vertical line (or buoy lines) from commercial trap/pot fisheries. This amendment included gear modifications, gear setting requirements, a seasonal closure (Massachusetts Restricted Area) and gear marking for both the trap/pot and the gillnet fisheries.

In consultation with the Atlantic Large Whale Take Reduction Team (Team), NMFS developed protocols for considering modifications or exemptions to the regulations implementing the Plan. Following these protocols, on August 18, 2014, the Massachusetts Division of Marine Fisheries (DMF) submitted a proposal to modify the Massachusetts Bay Restricted Area and to exempt several areas from the gear setting requirements to address safety and economic concerns raised by their industry members.

The DMF proposal adequately addressed the Team's established protocols and criteria for considering modifications or exemptions to the Plan's regulations, which enabled NMFS to consult with the Team on the DMF proposal. We decided to address the modifications to the Massachusetts Restricted Area and the exemption of the minimum number of traps per trawl requirements separately, beginning with the Massachusetts Restricted Area. After discussions with the Team, NMFS

published an amendment to the Plan on December 12, 2014 (79 FR 73848) changing the timing and size of the Massachusetts Restricted Area.

Along with the DMF proposal, NMFS also received proposals from other state partners requesting certain waters be exempt from the minimum number of traps per trawl requirements due to safety concerns. The conservation members of the Team also submitted a proposal in an effort to offset this potential increase in vertical lines should NMFS approve the proposed state exemptions. NMFS convened the Team in January 2015 to discuss these proposals. At the conclusion of the January meeting, the Team, by near consensus, recommended that we amend the Plan as proposed by the states. The Team also recommended that the current gear marking scheme be updated to include unique marks for those fishing single traps in the proposed exempted areas and a unique mark for both gillnets and trap/pots fished in Jeffreys Ledge and Jordan Basin. The Team's recommendations form the basis for the action described below.

Changes to the Plan for Trap/Pot Gear

This action exempts Rhode Island state waters and portions of Massachusetts state waters from the minimum number of traps per trawl requirement and allow single traps to be fished in certain state waters (see Figures 1 and 2, respectively). This exemption is based on safety and financial concerns raised by the industry. In addition, in Rhode Island state waters and portions of Massachusetts state waters (particularly in Southern Massachusetts waters) the co-occurrence of fishing effort and whale distribution is minimal. According to DMF, along the Outer Cape there are dynamic tides and featureless substrate that dictate the use of single traps in this area. Massachusetts also has a student lobster permit that allows for permit holders to fish alone and with small boats. Single traps are used in this fishery and other inshore waters as a matter of safety.

In addition, those fishing in all Massachusetts state waters are required to have one endline for trawls less than or equal to three traps. The current requirement of one endline for trawls less than or equal to five traps remains in place in all other management areas. Larger trawls (*i.e.,* ≥6 traps/pots) will not be required to have only one endline.

An exemption from the minimum number of traps per trawl requirement is also granted for a ¼ mile buffer in waters surrounding the following islands in Maine—Matinicus Island Group (Metinic, Small Green, Large Green, Seal, and Wooden Ball) and Isles of Shoals Island Group (Duck, Appledore, Cedar, and Smuttynose).

Boats within this ¼ mile buffer are allowed to continue fishing single traps rather than multiple trap trawls due to safety issues since these waters are generally less than 30 fathoms deep with rocky edges and boats fishing close to shore areas are usually small. A similar exemption for the inhabited islands of Monhegan, Matinicus, and Ragged Islands was established in the June 2014 rule. The islands in this current rule have the same bottom habitat as the previously exempted islands and many residents from many island communities fish around these islands. Similarly, the New Hampshire side of the Isles of Shoals group was also exempted from the minimum number of traps per trawl requirement in the June 2014 rule. Allowing the islands in the chain that fall on the Maine side of the border to have the same exemption would provide parity to fishermen using islands on both sides of the border. Maine Department of Marine Resources (ME DMR) estimates that the fishing effort within the proposed buffer areas is small (0.3% of total vertical lines in the Northeast), consists of around 20 fishermen and has peak use in the summer months. In addition, ME DMR is pursuing funding for aerial surveys that would determine the use by marine mammals of these coastal areas and document the gear density.

Changes to the Plan for Gear Marking

This action implements a gear marking scheme that builds off the current color combinations and the size and frequency of the current gear marking requirements. In an effort to learn if entanglements occur in these newly exempted areas, this action adds a unique gear mark to those single vertical lines fished in the exempted areas of Rhode Island, Massachusetts, and Matinicus Island Group, Maine. Also, this action proposes unique trap/pot and gillnet gear marking in two important high use areas for both humpback and right whales—Jeffreys Ledge (Figure 3) and Jordan Basin (Figure 4). The mark must equal 12-inches (30.5 cm) in length and buoy lines must be marked three times (top, middle, bottom) with the appropriate unique color combination for that area.

There will be a phased-in implementation of the new gear marking. Industry would have until July 1, 2015 to mark gear fished in the newly exempted areas and until September 1, 2015 to mark gear in Jeffreys Ledge and Jordan Basin areas.

Comments and Responses

NMFS published the proposed rule to amend the Plan in the **Federal Register** on March 19, 2015 (80 FR 14345). Upon its publication, NMFS issued a press email announcing the proposed rule; posted the proposed rule on the Plan Web site; and notified affected fishermen and interested parties via several NMFS email distribution outlets. The publication of the proposed rule was followed by a 30-day public comment period, which ended on April 20, 2015. NMFS received ten substantive comments via electronic submission. All comments received were thoroughly reviewed by NMFS. Most comments were in full support of the action or in partial support of the action with some concerns. One commenter was unsupportive of the rule. The comments addressed several topics including the need for enforcement of the measures and time required to implement new gear marking scheme. The comments received are summarized below, followed by NMFS's responses.

Adequacy of Co-Occurrence Model

Comment 1: Two commenters questioned the adequacy of the co-occurrence model and the data used to develop the model. The commenters stated that the model remains flawed due to lack of updated data, inappropriate spatial scaling of data, and assumptions about whale distribution. Despite this, the commenters recognized that NMFS uses the co-occurrence model as the basis for assessing relative risk and did not object to its use for analysis of the states' proposals. The commenters suggested that NMFS update the model with new data for both whale distribution and fishing effort, being sure to factor in recent management changes to the fishing industry.

Response 1: We believe the information in the model is accurate but does have some limitations. We previously provided model documentation describing the fishing effort data upon which the model relies, including a detailed discussion of the models limitations. Despite these limitations, the data are the best information available. We updated the sightings per unit effort (SPUE) data since the previous rule and plan on updating the model with more current fishing effort information as time allows for future rulemakings.

Gear Marking

Comment 2: Most commenters were in support of the new gear marking scheme, stating it is a step in the right direction to determine specific spatial resolution of the origin of entanglements. One commenter suggested the color scheme for single traps be 'sunsetted' after five or more years if analyses reveal that inshore single trap/pot gear is not resulting in increased entanglement risk.

Response 2: We will continue to monitor the Plan via our Monitoring Strategy. This strategy includes both annual monitoring reports and a multi-year status summary intended to review the Plan's effectiveness and compliance over a 5-year timeframe. If analyses determine that the amended Plan is not achieving its goals, NMFS will review the multi-year status summary to evaluate the potential causes for not achieving the management objectives and consult with the Team on the development of appropriate actions to address any identified shortcomings of the Plan and its amendments.

Comment 3: One commenter suggested that NMFS consider allowing Massachusetts lobstermen to put the second color in the middle of the 12″ mark instead of having each mark equal 6″ as currently written.

Response 3: The two color marking scheme has been used in the Southeast fisheries since the beginning of the Plan. For consistency in marking schemes across regions we feel the current marking scheme of abutting colors is adequate. NMFS and the Team will evaluate any future gear marking scheme and make necessary adjustments through a future rulemaking if warranted.

Comment 4: One commenter disagreed with the proposed action to mark gear in Jeffreys Ledge and Jordan Basin due to their significance as 'high use areas' stating it goes against the intent of the Team to evaluate management actions in terms of co-occurrence.

Response 4: We disagree. The Team chose to develop the June 2014 vertical line management measures using the co-occurrence model. The development of the gear marking scheme in 'high use areas' was an outgrowth of discussions at the January 2015 meeting in response to exemption requests submitted by our state partners. These gear marking areas were a compromise for allowing state exemption requests to move forward and do not go against the intent of the Team when evaluating management options.

Comment 5: One commenter reluctantly agreed to the new gear marking scheme, stating that the Canadian lobster industry is not required to follow similar procedures. He stated that efforts need to be initiated to address trans-boundary aspects of this problem.

Response 5: Coordination between Canada and the U.S. concerning transboundary issues has been ongoing since the mid-1990s. We are continuing to work with the Canadian government to develop and implement protective measures for right whales in Canadian waters.

Comment 6: One commenter stated that gear marking requirements do nothing to reduce immediate entanglement risk. They recommended developing new gear marking requirements for all fishermen to mark lines on all traps and gillnets, including in all exempted areas beyond the COLREG line, which reflects a systematic, region-wide approach to maximize information on the location, fishery, and gear part of lines found on entangled whales.

Response 6: Although gear marking will not reduce entanglements by itself, it is expected to facilitate monitoring of entanglement rates and assist in designing future entanglement reduction measures in targeted areas deemed important by the Team. We feel that the proposed gear marking combined with the current gear marking scheme is sufficient and will help us target specific areas for future management if further measures are deemed necessary.

Implementation Date

Comment 7: Two commenters requested a delayed implementation date for the gear marking portion of the rule. They stated that having a start date of 30-days and 90-days from publication is operationally restrictive in the middle of a fishing year and instead suggested a start date of June 2016.

Response 7: The gear marking will go into effect 30-days from publication for those fishing singles in the proposed exempted inshore areas and 90-days from publication for those fishing in the high use areas of Jeffreys Ledge and Jordan Basin. NMFS feels this is timing is adequate, particularly because states have encouraged their inshore industry to mark their gear in anticipation of the final rule and NMFS has already provided a year for fishermen to comply with its gear marking scheme implemented in the June 2014 final rule.

Exemption Areas

Comment 8: One commenter noted that the Maine island exemption areas are not consistently identified in state and Federal rules. He also suggested that this rule be amended to clarify that islets and ledges adjacent to Matinicus Island but not within ¼ mile (Two Bush Island, No Man's Land, Ten Pound Island, Black Ledge and others) be included in the exemption request.

Response 8: We will work with our partners at Maine Department of Marine Resources to ensure that state and Federal rules mirror each other. We believe that, working with DMR, we have identified the appropriate islands and island groups for the ¼ mile island buffer provision and are not amending the exemption request.

Comment 9: One commenter stated that it is not feasible for a small vessel to fish ten trap trawls and should be allowed to fish 5 to 6 traps as is currently commonplace.

Response 9: This rule is in response to proposals from state partners to address safety concerns of small boats in inshore waters fishing singles. The proposals did not address those fishing 5 or 6 traps.

Comment 10: One commenter does not support the proposed rule. The commenter stated that the proposals requested state waters be exempt from the Plan; however, the proposals did not provide adequate measures to compensate for a potential for reduced protection of large whales as a result of these exemption requests. The commenter felt that the states' proposals should be deferred until each state had developed options that that would reduce the potential for entanglement risks (i.e, a trade-off).

Response 10: We disagree. The Team felt that there was little increase in overall entanglement risk with improved safety, economics and operational considerations for the smaller vessels. That said, some were concerned about the conservation implications of any increase in lines; therefore, the proposals triggered extensive discussions about the need for distinct and unique gear-markings to improve the NMFS ability to identify the likely source of entanglements if an increase in lines were to occur as a result of the proposals. This unique gear marking discussed at the January meeting (in particular the marking in two new 'high use areas') is the approach the Team agreed was an appropriate ''trade-off'' for the potential for an increased risk. The Team identified the need for distinct and unique gear-markings to improve the NMFS ability to identify the likely source of entanglements if an increase in lines were to occur as a result of the proposals.

Enforcement and Monitoring

Comment 11: One commenter stated that if the combination of the sinking groundline and vertical line rule do not reduce serious injuries and mortalities then NMFS will be required to take further action.

Response 11: We agree and are committed to monitoring the Plan to ensure that it is effective. See response to comment 2.

Comment 12: One commenter stated that there is a need for strict enforcement of compliance with the rules and suggested non-regulatory measures expressed at the January meeting. The commenter suggested that the Plan's provisions require robust monitoring and enforcement efforts.

Response 12: We agree that the efficacy of the Plan depends on strong monitoring and enforcement of the regulations. NMFS works closely with the U.S. Coast Guard, NOAA Office of Law Enforcement and state partners through Joint Enforcement Agreements to enforce the regulations. See response to comment 2.

NEPA/ESA Analysis

Comment 13: One commenter was concerned with the analysis the Agency conducted for this action under the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA) saying that it is not sufficient. The commenter stressed that changes to the Plan require a reinitiation of the ESA Section 7 consultation and the Draft EA omitted several factors not considered in the previous Environmental Impact Statement.

*Response 13: W*e believe that the changes to the Plan being made by this rule do not constitute a modification to the operation of the Plan that would have an effect on ESA-listed species or critical habitat that was not considered in the previous consultations. Further, we completed an ESA Section 7 consultation on the proposed modifications to the regulations implementing the Plan. We consulted previously on the Plan, resulting in our issuance of a biological opinion (Opinion) on July 15, 1997. Five subsequent informal consultations have been completed in 2004, 2008, and 2014, when we changed several measures to the Plan. Based on NMFS' analysis of the re-initiation triggers, we have determined that these proposed modifications to the Plan will not cause any effects that were not already considered in the Opinion and subsequent informal consultations. None of the other reinitiation triggers have been met; therefore, reinitiation of consultation is not necessary. The conclusions reached in the Opinion remain valid, and no further consultation is necessary at this time. Should activities under this action change or new information become available that changes the basis for this determination, then consultation will be reinitiated. Therefore, the measures in this rule do not trigger reinitiation of consultation. In addition, while we believe the analysis conducted for this action is sufficient under NEPA, we have updated sections of the Final EA to respond to the commenter's concerns.

Classification

The Office of Management and Budget (OMB) has determined that this action is not significant for the purposes of Executive Order 12866.

This action contains collection of information requirements subject to the Paperwork Reduction Act (PRA), specifically, the marking of fishing gear. The collection of information requirement was approved by OMB under control number (0648–0364). Public comment was sought regarding whether this proposed collection of information is necessary for the proper performance and function of the agency, including: the practical utility of the information; the accuracy of the burden estimate; the opportunities to enhance the quality, utility, and clarity of the information to be collected; and the ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

This revision to the collection of information requirement applies to a total of 399 vessels. The estimated number of vessels affected by the overall gear marking provisions in the Plan is 4,008. The estimated number of those vessels affected only by the proposed amendment is 399. Model vessel types were developed for gillnet fisheries, lobster trap/pot fisheries, and other trap/pot fisheries. Total burden hours for all affected vessels in the Plan are 35,571 hours over three years or 11,857 hours per year. Total cost burden for all affected vessels in the Plan is $24,758 over three years or $8,253 per year. The total cost burden for those vessels affected by the proposed amendment is $3,450 over three years or $1,150 per year. For more information, please see the PRA approval associated with this rulemaking.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

As required by the Regulatory Flexibility Act, NMFS prepared a final regulatory flexibility analysis (FRFA) for this final rule.

A description of this action, its objectives, and the legal basis for this action can be found in the Summary section and earlier in the Supplementary Information section of this final rule, and are not repeated here. This rule does not duplicate, overlap, or conflict with any other federal rules.

The small entities affected by this rule are commercial gillnet and trap/pot fishermen. The geographic range of the action is the Northeast Atlantic waters. By changing the minimum number of traps per trawl requirement to allow single traps in the lobster trap/pot fishery there are potentially 182 vessels that would be affected. Additionally, in the other trap/pot fisheries, there are potentially 123 vessels that would be affected. All vessels are assumed to be small entities within the meaning of the Regulatory Flexibility Act.

Alternatives were evaluated using model vessels, each of which represents a group of vessels that share similar operating characteristics and would face similar requirements under a given regulatory alternative. Both an upper and lower bound of annual economic savings for lobster and other trap/pot were analyzed. A summary of analysis describing the potential range of savings resulting from allowing singles to be fished follows:

1. NMFS considered a ''no action'' or status quo alternative (Alternative 1) that would result in no changes to the current measures under the Plan and, as such, would result in no additional economic effects on the fishing industry.

2. Alternative 2, the preferred alternative, will modify the Plan by allowing the use of single traps in Rhode Island state waters, in most Massachusetts state waters, and some waters around Maine Islands. This change will constitute an exemption to the minimum two-trap-per-trawl requirement specified for these areas under the 2014 vertical line rulemaking. Those who until now have fished single traps in these areas will avoid the costs associated with converting their gear

from single traps to double traps, and would also avoid other possible costs, such as a loss in revenue due to a reduction in catch. The action also revises gear marking requirements that would apply to vessels fishing in waters that would be exempt from trawling requirements, as well as to vessels fishing in two additional regions (Jordan Basin and Jeffreys Ledge). The changes will require the use of colors that will differentiate gear set in these areas from gear fished in other waters. NMFS has determined, however, that the marking requirements will introduce minimal additional burden for the affected vessels; thus, a substantial increase in compliance costs is unlikely. The rule does not include any other reporting, recordkeeping, or compliance requirements.

Overall, the economic impacts of the preferred alternative results in a vessel cost savings that will equal or range from $163,200 to $345,700 for lobster trap/pot vessels and $257,00 to $512,500 for other trap/pot vessels when compared to the no action alternative, resulting in a largely positive impact.

NMFS has determined that this action is consistent to the maximum extent practicable with the approved coastal management programs of Maine, Massachusetts, New Hampshire, and Rhode Island. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. The following state agreed with NMFS's determination: New Hampshire. Maine, Massachusetts, and Rhode Island did not respond; therefore, consistency is inferred.

This final rule contains policies with federalism implications as that term is defined in Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs provided notice of the proposed action to the appropriate official(s) of affected state, local, and/or tribal governments. No concerns were raised by the states contacted; hence, NMFS will infer that these states concur with the finding that the regulations for amending the Plan were consistent with fundamental federalism principles and federalism policymaking criteria.

An informal consultation under the ESA for this final rule to modify the Plan was concluded on March 30, 2015. As a result of the informal consultation, the Regional Administrator determined that the measures to modify the Plan do not meet the triggers for reinitiation of consultation. NMFS completed an ESA Section 7 consultation on the implementation of the Plan on July 15, 1997, and concluded that the action was not likely to adversely affect any ESA-listed species under NMFS jurisdiction. Two subsequent consultations were completed in 2004 and 2008, when NMFS changed some of the measures in the Plan. An informal consultation on the most recent vertical line rule was completed on August 16, 2013. NMFS, as both the action agency and the consulting agency, reviewed the changes and determined that the measures as revised through rulemaking would not affect ESA-listed species under NMFS jurisdiction in a manner that had not been previously considered.

The Assistant Administrator finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. The contents of this action serve to remove existing commercial fishing restrictions and to prevent negative safety impacts from otherwise occurring as the current minimum trap per trawl requirements would have been effective beginning June 1, 2015. Delaying the effectiveness of this rule is contrary to the public interest, because any delay will prevent the removal of the ban on single traps in certain state waters implemented by this rule, thereby increasing safety risk, and providing no additional meaningful benefit to large whales. Accordingly, the 30-day delay in effectiveness is both unnecessary and contrary to the public interest, and as such, portions of this rule will become effective immediately.

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Figure 1. Rhode Island Exempted Waters

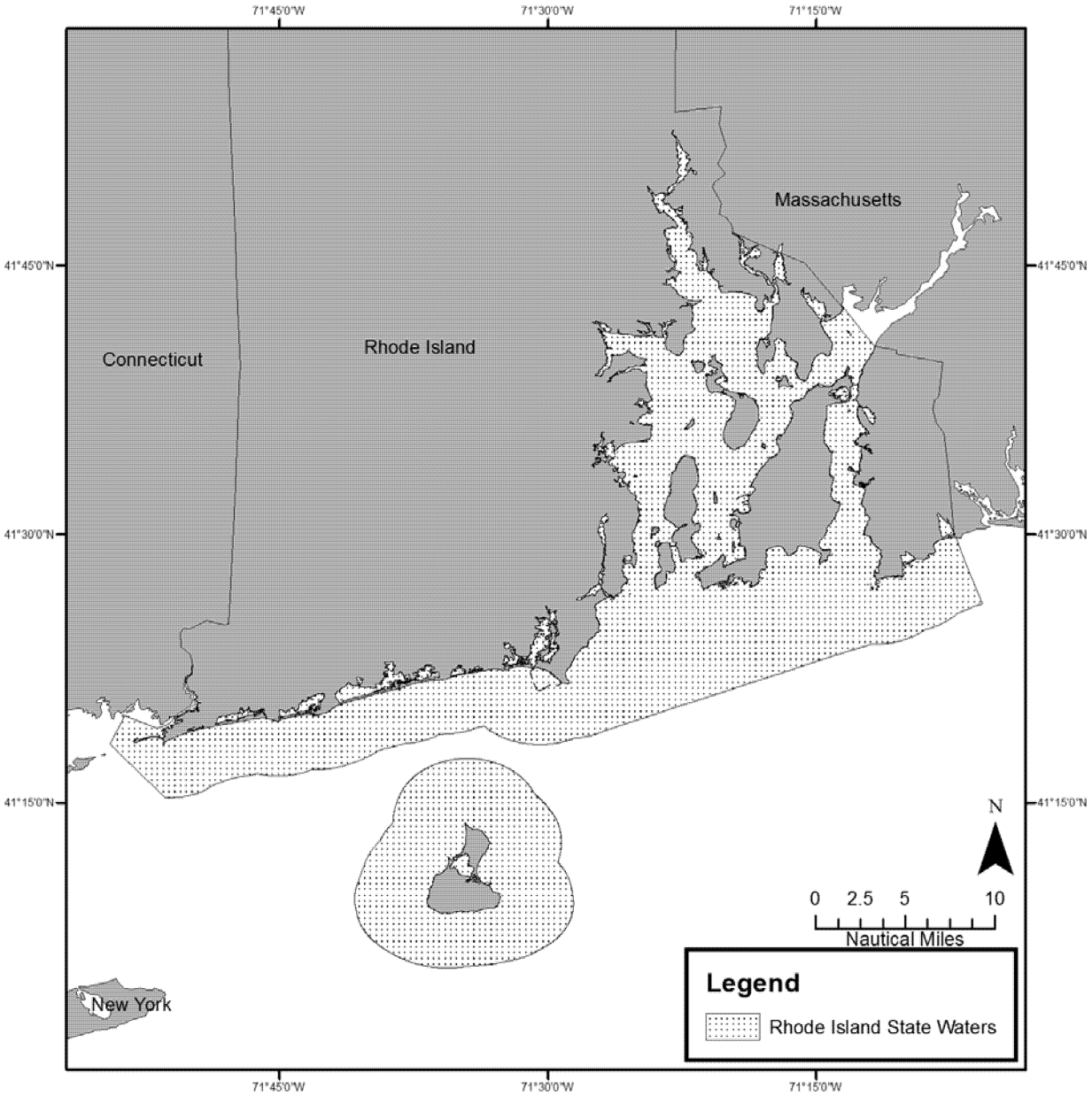


Figure 2. Massachusetts Exempted Waters

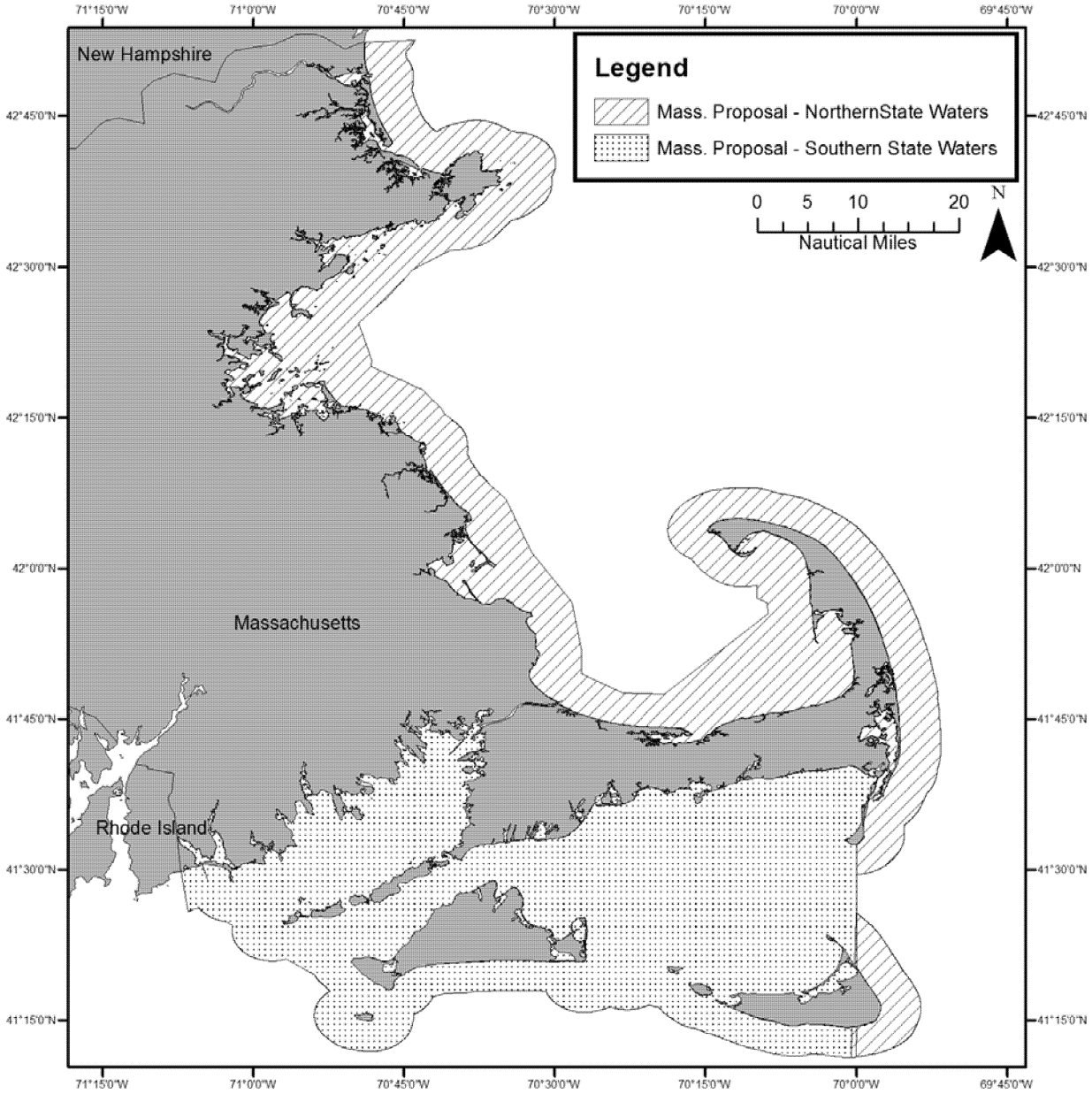


Figure 3. Jeffreys Ledge Area for Trap/Pot and Gillnet Gear Marking

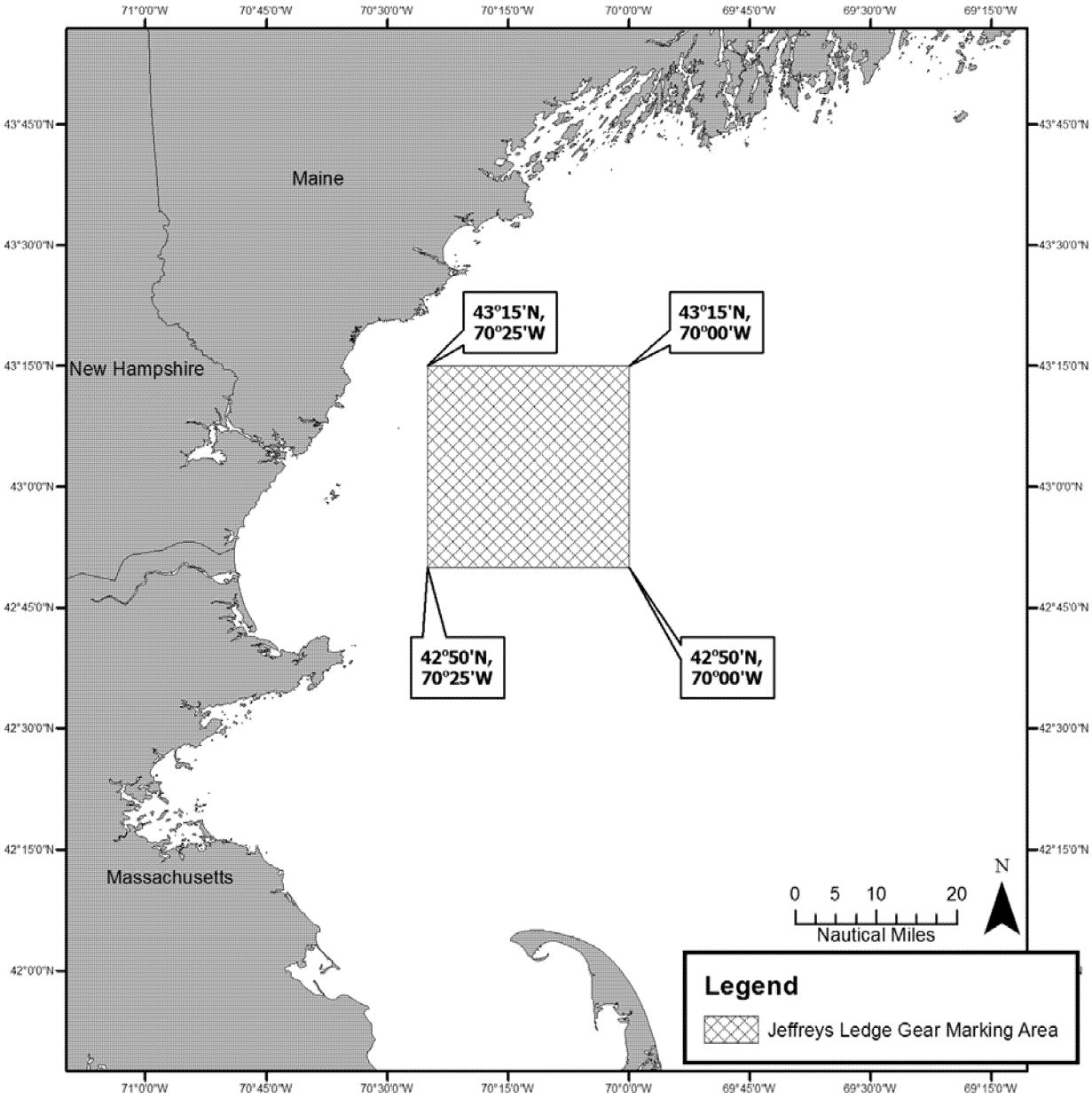
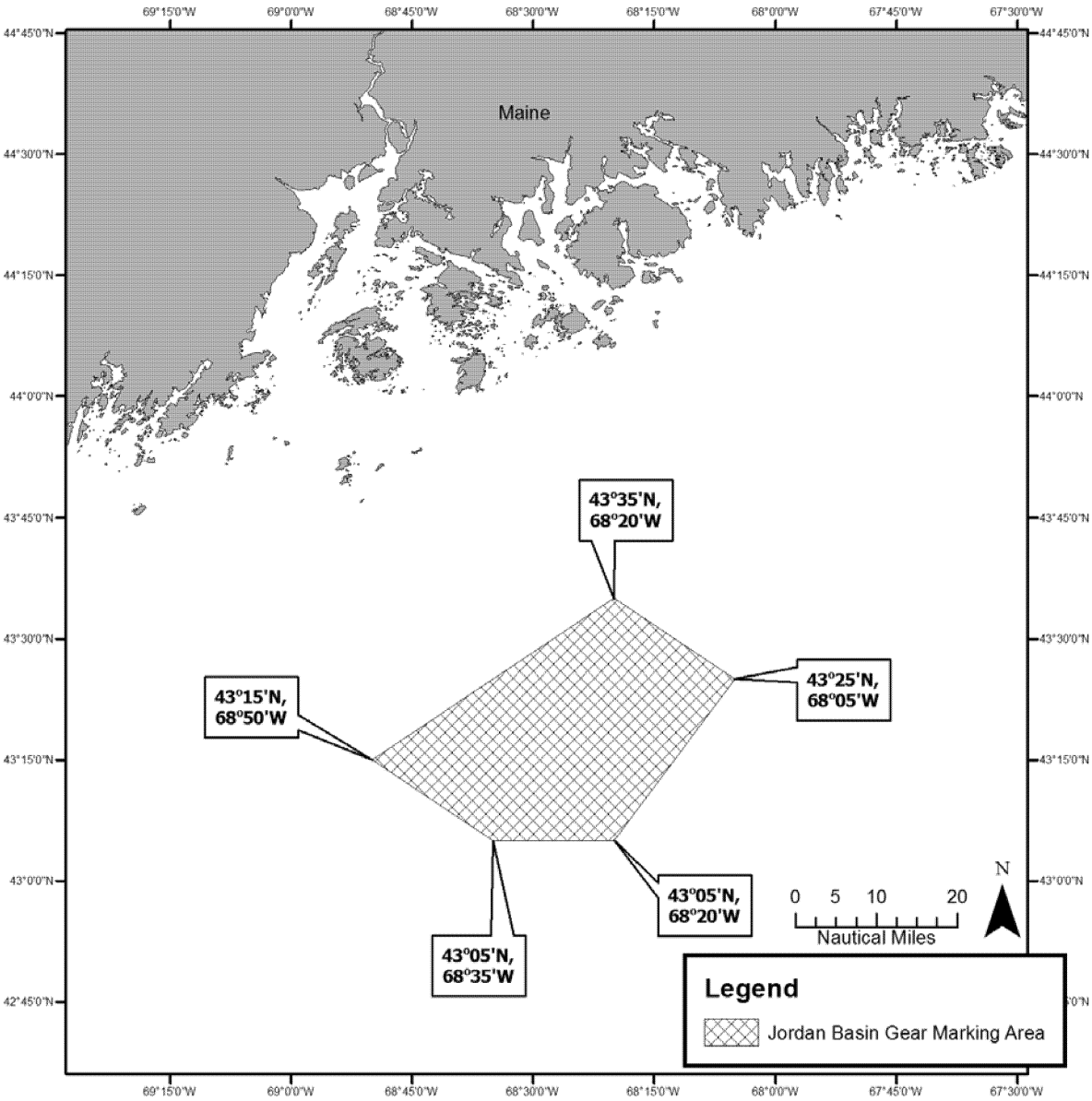


Figure 4. Jordan Basin Area for Trap/Pot and Gillnet Gear Marking



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List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: May 22, 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 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

■ 1. The authority citation for 50 CFR part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.;* § 229.32(f) also issued under 16 U.S.C. 1531 *et seq.*

■ 2. In § 229.32, paragraphs (a)(3), (a)(6), (b), and (c)(2) are revised to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(a) * * *

(3) *Exempted waters.* (i) The regulations in this section do not apply to waters landward of the 72 COLREGS demarcation lines (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80 with the exception of the COLREGS lines for Casco Bay (Maine), Portsmouth Harbor (New Hampshire), Gardiners Bay and Long Island Sound (New York), and the state of Massachusetts.

(ii) *Other exempted waters.*

Maine

The regulations in this section do not apply to waters landward of a line connecting the following points (Quoddy Narrows/US-Canada border to Odiornes Pt., Portsmouth, New Hampshire):

44°49.67′ N. lat., 66°57.77′ W. long. (R N ''2'', Quoddy Narrows)
44°48.64′ N. lat., 66°56.43′ W. long. (G ''1'' Whistle, West Quoddy Head)
44°47.36′ N. lat., 66°59.25′ W. long. (R N ''2'', Morton Ledge)
44°45.51′ N. lat., 67°02.87′ W. long. (R ''28M'' Whistle, Baileys Mistake)
44°37.70′ N. lat., 67°09.75′ W. long. (Obstruction, Southeast of Cutler)
44°27.77′ N. lat., 67°32.86′ W. long. (Freeman Rock, East of Great Wass Island)
44°25.74′ N. lat., 67°38.39′ W. long. (R ''2SR'' Bell, Seahorse Rock, West of Great Wass Island)
44°21.66′ N. lat., 67°51.78′ W. long. (R N ''2'', Petit Manan Island)
44°19.08′ N. lat., 68°02.05′ W. long. (R ''2S'' Bell, Schoodic Island)
44°13.55′ N. lat., 68°10.71′ W. long. (R ''8BI'' Whistle, Baker Island)
44°08.36′ N. lat., 68°14.75′ W. long. (Southern Point, Great Duck Island)
43°59.36′ N. lat., 68°37.95′ W. long. (R ''2'' Bell, Roaring Bull Ledge, Isle Au Haut)
43°59.83′ N. lat., 68°50.06′ W. long. (R ''2A'' Bell, Old Horse Ledge)
43°56.72′ N. lat., 69°04.89′ W. long. (G ''5TB'' Bell, Two Bush Channel)
43°50.28′ N. lat., 69°18.86′ W. long. (R ''2 OM'' Whistle, Old Man Ledge)
43°48.96′ N. lat., 69°31.15′ W. long. (GR C ''PL'', Pemaquid Ledge)
43°43.64′ N. lat., 69°37.58′ W. long. (R ''2BR'' Bell, Bantam Rock)
43°41.44′ N. lat., 69°45.27′ W. long. (R ''20ML'' Bell, Mile Ledge)
43°36.04′ N. lat., 70°03.98′ W. long. (RG N ''BS'', Bulwark Shoal)
43°31.94′ N. lat., 70°08.68′ W. long. (G ''1'', East Hue and Cry)
43°27.63′ N. lat., 70°17.48′ W. long. (RW ''WI'' Whistle, Wood Island)
43°20.23′ N. lat., 70°23.64′ W. long. (RW ''CP'' Whistle, Cape Porpoise)
43°04.06′ N. lat., 70°36.70′ W. long. (R N ''2MR'', Murray Rock)
43°02.93′ N. lat., 70°41.47′ W. long. (R ''2KR'' Whistle, Kittery Point)
43°02.55′ N. lat., 70°43.33′ W. long. (Odiornes Pt., Portsmouth, New Hampshire)

New Hampshire

New Hampshire state waters are exempt from the minimum number of traps per trawl requirement in paragraph (c)(2)(iii) of this section. Harbor waters landward of the following lines are exempt from all the regulations in this section.

A line from 42°53.691′ N. lat., 70°48.516′ W. long. to 42°53.516′ N. lat., 70°48.748′ W. long. (Hampton Harbor)
A line from 42°59.986′ N. lat., 70°44.654′ W. long. to 42°59.956′ N., 70°44.737′ W. long. (Rye Harbor)

Rhode Island

Rhode Island state waters are exempt from the minimum number of traps per trawl requirement in paragraph (c)(2)(iii) of this section. Harbor waters landward of the following lines are exempt from all the regulations in this section.

A line from 41°22.441′ N. lat., 71°30.781′ W. long. to 41°22.447′ N. lat., 71°30.893′ W. long. (Pt. Judith Pond Inlet)
A line from 41°21.310′ N. lat., 71°38.300′ W. long. to 41°21.300′ N. lat., 71°38.330′ W. long. (Ninigret Pond Inlet)
A line from 41°19.875′ N. lat., 71°43.061′ W. long. to 41°19.879′ N. lat., 71°43.115′ W. long. (Quonochontaug Pond Inlet)
A line from 41°19.660′ N. lat., 71°45.750′ W. long. to 41°19.660′ N. lat., 71°45.780′ W. long. (Weekapaug Pond Inlet)
A line from 41°26.550′ N. lat., 71°26.400′ W. long. to 41°26.500′ N. lat, 71°26.505′ W. long. (Pettaquamscutt Inlet)

New York

The regulations in this section do not apply to waters landward of a line that follows the territorial sea baseline through Block Island Sound (Watch Hill Point, RI, to Montauk Point, NY).

Massachusetts

The regulations in this section do not apply to waters landward of the first bridge over any embayment, harbor, or inlet in Massachusetts. The following Massachusetts state waters are exempt from the minimum number of traps per trawl requirement in paragraph (c)(2)(iii) of this section:

From the New Hampshire border to 70° W longitude south of Cape Cod, waters in EEZ Nearshore Management Area 1 and the Outer Cape Lobster Management Area (as defined in the American Lobster Fishery regulations under § 697.18 of this title), from the shoreline to 3 nautical miles from shore, and including waters of Cape Cod Bay southeast of a straight line connecting 41° 55.8′ N lat., 70°8.4′ W long. and 41°47.2′ N lat., 70°19.5′ W long.

From 70° W longitude south of Cape Cod to the Rhode Island border, all Massachusetts state waters in EEZ Nearshore Management Area 2 and the Outer Cape Lobster Management Area (as defined in the American Lobster Fishery regulations under § 697.18 of this title), including federal waters of Nantucket Sound west of 70° W longitude.

South Carolina

The regulations in this section do not apply to waters landward of a line connecting the following points from 32°34.717′ N. lat., 80°08.565′ W. long. to 32°34.686′ N. lat., 80°08.642′ W. long. (Captain Sams Inlet)

* * * * *

(6) *Island buffer.* Those fishing in waters within ¼ nautical miles of the following Maine islands are exempt from the minimum number of traps per trawl requirement in paragraph (c)(2)(iii) of this section: Monhegan Island, Matinicus Island Group (Metinic Island, Small Green Island, Large Green Island, Seal Island, Wooden Ball Island, Matinicus Island, Ragged Island) and Isles of Shoals Island Group (Duck Island, Appledore Island, Cedar Island, Smuttynose Island).

(b) *Gear marking requirements*—(1) *Specified areas.* The following areas are specified for gear marking purposes: Northern Inshore State Trap/Pot Waters, Cape Cod Bay Restricted Area, Massachusetts Restricted Area, Stellwagen Bank/Jeffreys Ledge Restricted Area, Northern Nearshore Trap/Pot Waters Area, Great South Channel Restricted Trap/Pot Area, Great South Channel Restricted Gillnet Area, Great South Channel Sliver Restricted Area, Southern Nearshore Trap/Pot Waters Area, Offshore Trap/Pot Waters Area, Other Northeast Gillnet Waters Area, Mid/South Atlantic Gillnet Waters Area, Other Southeast Gillnet Waters Area, Southeast U.S. Restricted Areas, and Southeast U.S. Monitoring Area.

(i) *Jordan Basin.* The Jordan Basin Restricted Area is bounded by the following points connected by straight lines in the order listed:

Point	N. Lat.	W. Long.
JBRA1	43°15′	68°50′
JBRA2	43°35′	68°20′
JBRA3	43°25′	68°05′
JBRA4	43°05′	68°20′
JBRA5	43°05′	68°35′
JBRA1	43°15′	68°50′

(ii) *Jeffreys Ledge Restricted Area*—The Jeffreys Ledge Restricted Area is bounded by the following points connected by a straight line in the order listed:

Point	N. Lat.	W. Long.
JLRA1	43°15′	70°25′
JLRA2	43°15′	70°00′
JLRA3	42°50′	70°00′
JLRA4	42°50′	70°25′
JLRA1	43°15′	70°25′

(2) *Markings.* All specified gear in specified areas must be marked with the color code shown in paragraph (b)(3) of this section. The color of the color code must be permanently marked on or along the line or lines specified below under paragraphs (b)(2)(i) and (ii) of this section. Each color mark of the color codes must be clearly visible when the gear is hauled or removed from the water, including if the color of the rope is the same as or similar to the respective color code. The rope must be marked at least three times (top, middle, bottom) and each mark must total 12-inch (30.5 cm) in length. If the mark consists of two colors then each color mark may be 6-inch (15.25 cm) for a total mark of 12-inch (30.5 cm). In marking or affixing the color code, the line may be dyed, painted, or marked with thin colored whipping line, thin colored plastic, or heat-shrink tubing, or other material; or a thin line may be woven into or through the line; or the line may be marked as approved in writing by the Assistant Administrator. A brochure illustrating the techniques for marking gear is available from the Regional Administrator, NMFS, Greater Atlantic Region upon request.

(i) *Buoy line markings.* All buoy lines must be marked as stated above. Shark gillnet gear in the Southeast U.S. Restricted Area S, Southeast U.S. Monitoring Area and Other Southeast Gillnet Waters, greater than 4 feet (1.22 m) long must be marked within 2 feet (0.6 m) of the top of the buoy line (closest to the surface), midway along the length of the buoy line, and within 2 feet (0.6 m) of the bottom of the buoy line.

(ii) *Net panel markings.* Shark gillnet gear net panels in the Southeast U.S. Restricted Area S, Southeast U.S. Monitoring Area and Other Southeast Gillnet Waters is required to be marked. The net panel must be marked along both the floatline and the leadline at least once every 100 yards (91.4 m).

(iii) *Surface buoy markings.* Trap/pot and gillnet gear regulated under this section must mark all surface buoys to identify the vessel or fishery with one of the following: The owner's motorboat registration number, the owner's U.S. vessel documentation number, the Federal commercial fishing permit number, or whatever positive identification marking is required by the vessel's home-port state. When marking of surface buoys is not already required by state or Federal regulations, the letters and numbers used to mark the gear to identify the vessel or fishery must be at least 1 inch (2.5 cm) in height in block letters or arabic numbers in a color that contrasts with the background color of the buoy. A brochure illustrating the techniques for marking gear is available from the Regional Administrator, NMFS, Greater Atlantic Region upon request.

(3) *Color code.* Gear must be marked with the appropriate colors to designate gear types and areas as follows:

COLOR CODE SCHEME

Plan management area	Color
Trap/Pot Gear	
Massachusetts Restricted Area	Red.
Northern Nearshore	Red.
Northern Inshore State	Red.
Stellwagen Bank/Jeffreys Ledge Restricted Area	Red.
Great South Channel Restricted Area overlapping with LMA 2 and/or Outer Cape	Red.
Exempt RI state waters (single traps)	Red and Blue.
Exempt MA state waters in LMA 1 (single traps)	Red and White.
Exempt MA state waters in LMA 2 (single traps)	Red and Black.
Exempt MA state waters in Outer Cape (single traps)	Red and Yellow.
Isles of Shoals, ME (single traps)	Red and Orange.
Southern Nearshore	Orange.
Southeast Restricted Area North (State Waters)	Blue and Orange.
Southeast Restricted Area North (Federal Waters)	Green and Orange.
Offshore	Black.
Great South Channel Restricted Area overlapping with LMA 2/3 and/or LMA 3	Black.
Jordan Basin	Black and Purple (LMA 3); Red and and Purple (LMA 1).
Jeffreys Ledge	Red and Green.
Gillnet excluding shark gillnet	
Cape Cod Bay Restricted Area	Green.
Stellwagen Bank/Jeffreys Ledge Restricted Area	Green.
Great South Channel Restricted Area	Green.
Great South Channel Restricted Sliver Area	Green.
Other Northeast Gillnet Waters	Green.
Jordan Basin	Green and Yellow.
Jeffreys Ledge	Green and Black.
Mid/South Atlantic Gillnet Waters	Blue.
Southeast US Restricted Area South	Yellow.
Other Southeast Gillnet Waters	Yellow.
Shark Gillnet (with webbing of 5″ or greater)	
Southeast US Restricted Area South	Green and Blue.
Southeast Monitoring Area	Green and Blue.
Other Southeast Waters	Green and Blue.

* * * * *

(c) * * *

(2) *Area specific gear requirements.* Trap/pot gear must be set according to the requirements outlined below and in the table in paragraph (c)(2)(iii) of this section.

(i) *Single traps and multiple-trap trawls.* All traps must be set according to the configuration outlined in the Table (c)(2)(iii) of this section. Trawls up to and including 5 or fewer traps must only have one buoy line unless specified otherwise in Table (c)(2)(iii) of this section.

(ii) *Buoy line weak links.* All buoys, flotation devices and/or weights (except traps/pots, anchors, and leadline woven into the buoy line), such as surface buoys, high flyers, sub-surface buoys, toggles, window weights, etc., must be attached to the buoy line with a weak link placed as close to each individual buoy, flotation device and/or weight as operationally feasible and that meets the following specifications:

(A) The breaking strength of the weak links must not exceed the breaking strength listed in paragraph (c)(2)(iii) of this section for a specified management area.

(B) The weak link must be chosen from the following list approved by NMFS: swivels, plastic weak links, rope of appropriate breaking strength, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator. A brochure illustrating the techniques for making weak links is available from the Regional Administrator, NMFS, Greater Atlantic Region upon request.

(C) Weak links must break cleanly leaving behind the bitter end of the line. The bitter end of the line must be free of any knots when the weak link breaks. Splices are not considered to be knots for the purposes of this provision.

(iii) Table of Area Specific Gear Requirements

Location	Mgmt area	Minimum number traps/trawl	Weak link strength
ME State and Pocket Waters [1]	Northern Inshore State	2 (1 endline)	≤600 lbs.
ME Zones A–G (3–6 miles) [1]	Northern Nearshore	3 (1 endline)	≤600 lbs.
ME Zones A–C (6–12 miles) [1]	Northern Nearshore	5 (1 endline)	≤600 lbs.
ME Zones D–G (6–12 miles) [1]	Northern Nearshore	10	≤600 lbs.
ME Zones A–E (12+ miles)	Northern Nearshore and Offshore	15	≤600 lbs (≤1500 lbs in offshore, 2,000 lbs if red crab trap/pot).
ME Zones F–G (12+ miles)	Northern Nearshore and Offshore	15 (Mar 1–Oct 31) 20 (Nov 1–Feb 28/29).	≤600 lbs (≤1500 lbs in offshore, 2,000 lbs if red crab trap/pot).
MA State Waters [2]	Northern Inshore State and Massachusetts Restricted Area.	No minimum number of traps per trawl. Trawls up to and including 3 or fewer traps must only have one buoy line.	≤600 lbs.
Other MA State Waters	Northern Inshore State and Massachusetts Restricted Area.	2 (1 endline) Trawls up to and including 3 or fewer traps must only have one buoy line.	≤600 lbs.
NH State Waters	Northern Inshore State	No minimum trap/trawl	≤600 lbs.
LMA 1 (3–12 miles)	Northern Nearshore and Massachusetts Restricted Area and Stellwagen Bank/Jeffreys Ledge Restricted Area.	10	≤600 lbs.
LMA 1 (12+ miles)	Northern Nearshore	20	≤600 lbs.
LMA1/OC Overlap (0–3 miles)	Northern Inshore State and Massachusetts Restricted Area.	No minimum number of traps per trawl.	≤600 lbs.
OC (0–3 miles)	Northern Inshore State and Massachusetts Restricted Area.	No minimum number of traps per trawl.	≤600 lbs.
OC (3–12 miles)	Northern Nearshore and Massachusetts Restricted Area.	10	≤600 lbs.
OC (12+ miles)	Northern Nearshore and Great South Channel Restricted Area.	20	≤600 lbs.
RI State Waters	Northern Inshore State	No minimum number of traps per trawl..	≤600 lbs.
LMA 2 (3–12 miles)	Northern Nearshore	10	≤600 lbs.
LMA 2 (12+ miles)	Northern Nearshore and Great South Channel Restricted Area.	20	≤600 lbs.
LMA 2/3 Overlap (12+ miles)	Offshore and Great South Channel Restricted Area.	20	≤1500 lbs (2,000 lbs if red crab trap/pot).
LMA 3 (12+ miles)	Offshore waters North of 40° and Great South Channel Restricted Area.	20	≤1500 lbs (2,000 lbs if red crab trap/pot).
LMA 4,5,6	Southern Nearshore		≤600 lbs.
FL State Waters	Southeast US Restricted Area North [i].	1	≤200 lbs.
GA State Waters	Southeast US Restricted Area North [3].	1	≤600 lbs.
SC State Waters	Southeast US Restricted Area North [3].	1	≤600 lbs.
Federal Waters off FL, GA, SC	Southeast US Restricted Area North [3].	1	≤600 lbs.

[1] The pocket waters and 6-mile line as defined in paragraphs (a)(2)(ii)–(a)(2)(iii) of this section.
[2] MA State waters as defined as paragraph (a)(3)(iii) of this section.
[3] See § 229.32(f)(1) for description of area.

* * * * *

[FR Doc. 2015–12869 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150205118–5443–02]

RIN 0648–BE87

Fisheries of the Northeastern United States; Small-Mesh Multispecies Specifications

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

ACTION: Final rule.

SUMMARY: This final rule implements the New England Fishery Management Council's recommended fishing year 2015–2017 specifications and management measures for the small-mesh multispecies fishery, clarifies what measures can be modified in a specifications package, and corrects the northern red hake accountability measure. This action is necessary to ensure that catch of these species does not exceed applicable limits.

DATES: Effective May 28, 2015.

ADDRESSES: Copies of the specifications document, consisting of an Environmental Assessment (EA) and other supporting documents, are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: *www.greateratlantic.fisheries.noaa.gov/ or www.nefmc.org.* Copies of the small entity compliance guide are available from John K. Bullard, Regional Administrator, Greater Atlantic Region, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2298.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, (978) 281–9177.

SUPPLEMENTARY INFORMATION:

Background

The small-mesh multispecies fishery is managed primarily through a serious of exemptions from the Northeast Multispecies Fishery Management Plan (FMP). The small-mesh multispecies fishery is composed of five stocks of three species of hakes (northern and southern silver hake, northern and southern red hake, and offshore hake). It is managed separately from the other stocks of groundfish such as cod, haddock, and flounders, primarily because the fishing is done with much smaller mesh and the fishery does not generally catch these other stocks. Amendment 19 to the Northeast Multispecies FMP (April 4, 2013; 78 FR 20260) established a process and framework for setting the small-mesh multispecies catch specifications.

The New England Fishery Management Council's Scientific and Statistical Committee (SSC) met on August 26, 2014, to discuss the specifications and to recommend ABCs for the 2015–2017 small-mesh fishery. The FMP's implementing regulations require the involvement of an SSC in the specification process. Following the SSC, the Whiting Oversight Committee met on September 9 and October 30, 2014, to discuss and recommend small-mesh specifications. The Council approved the final specifications for recommendation to NMFS on November 17, 2014.

The purpose of this action is to set the specifications for small-mesh multispecies for the 2015–2017 fishing years. These specifications include overfishing limit (OFL), acceptable biological catch (ABC), and total allowable landings (TAL) for each of the small-mesh multispecies stocks. In 2012 and 2013, northern red hake catch rates exceeded the annual catch limits (ACL) and the ABC. Northern red hake was also determined to be experiencing overfishing. To reduce the risk of continued overfishing on this stock and better constrain catch to the ACL, this action implements the Council's recommended reduction of the northern red hake possession limit from 5,000 lb (2,268 kg) to 3,000 lb (1,361 kg) per trip. It also creates a new trigger point at which possession limits are reduced inseason such that when landings of northern red hake reach 45 percent of the TAL, the possession limit will be reduced to 1,500 lb (680 kg). The possession limits and inseason trigger accountability measures for the other stocks of small-mesh multispecies remain unchanged from 2012–2014.

This final rule also includes a correction to the small-mesh accountability measures and clarifies what measures can be modified in a small-mesh multispecies specifications action.

Final Measures

1. 2015–2017 Small-Mesh Multispecies Specifications

The Council process for developing its specifications recommendations for small-mesh multispecies can be found in the proposed rule for this action published in the **Federal Register** on April 8, 2015 (80 FR 18801), and is not repeated here. These specifications remain effective for fishing years 2015–2017 unless otherwise changed during that time.

TABLE 1—SUMMARY OF THE SMALL-MESH MULTISPECIES SPECIFICATIONS FOR 2015–2017

[All weights in metric tons]

Stock	OFL	ABC	ACL	Percent change from 2012–2014	Discard rate (percent)	TAL	Percent change from 2012–2014
N. Silver Hake	43,608	24,383	23,161	85	11.2	19,948.7	122.3
N. Red Hake	331	287	273	2.6	60.6	104.2	15.4
S. Whiting *	60,148	31,180	29,621	−8.2	17.1	23,833.4	−12.6
S. Red Hake	3,400	3,179	3,021	−2.4	55.3	1,309.4	−2.0

* Southern whiting includes southern silver hake and offshore hake.

2. Northern Red Hake Possession Limit Reduction

This action reduces the northern red hake possession limit from 5,000 lb (2,268 kg) in place for fishing year 2014 to 3,000 lb (1,361 kg) for fishing years 2015–2017. This reduction in possession limit is intended to delay the in-season accountability measure (AM) until later in the year and to reduce the potential for northern red hake catches

to exceed the ACL (as occurred in fishing years 2012 and 2013).

3. Additional Northern Red Hake Possession Limit Reduction Trigger

This measure implements an additional inseason possession limit reduction trigger for northern red hake when 45 percent of the TAL is reached. For fishing years 2015–2017 the northern red hake possession limit will be reduced from 3,000 lb (1,361 kg) to 1,500 lb (680 kg) when landings reach this point.

4. Clarification on Modifications in a Specifications Action

When developing the rulemaking for this action, we determined that the current regulations governing the specifications process do not fully reflect the Council's intent in Amendment 19 regarding the scope of measures that can be implemented through the specifications process. Amendment 19 specified that the Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock as well as the corresponding possession limits, including inseason possession limit triggers to be consistent with the revised specification recommendations and estimates of scientific and management uncertainty from the SSC. However, the implementing regulations for Amendment 19 did not specify that adjustments to possession limits and the inseason possession limit triggers were among the items that could be modified in a specifications action. Consistent with section 305(d) of the Magnuson-Stevens Act, this rule corrects this inconsistency by including possession limits and inseason possession limit triggers in small-mesh multispecies specifications regulations.

5. Regulatory Correction

When the specifications were being developed, the Whiting Plan Development Team identified an error in the previous set of specifications (*i.e.,* for fishing years 2012–2014). The details of this error can be found in the proposed rule for this action published in the **Federal Register** on April 8, 2015 (80 FR 18801), and are not repeated here. Using Magnuson-Stevens Act section 305(d) authority, this action corrects the AM. This changes the possession limit reduction trigger point for reducing the possession limit for northern red hake to 400 lb (181 kg) from 45 to 62.5 percent of the TAL. Future AMs for fishing years in which the catch exceeds the ACL will be deducted from the corrected 62.5-percent trigger, as outlined in the small-mesh AM regulations at § 648.90.

Comments and Responses

On April 8, 2015, NMFS published proposed specifications for public notice and comment. One comment was received. This comment was not relevant to the rule.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that this final rule is necessary for the conservation and management of the small-mesh multispecies fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Office of Management and Budget has determined that this action is not significant for the purpose of E.O. 12866.

The Assistant Administrator also finds good cause under authority contained in 5 U.S.C. 553(d)(3) to waive the otherwise effective 30-day delay in effective date. Because the fishing year began on May 1, 2015, delaying the effectiveness of this action, particularly the northern red hake measures (possession limit reduction, implement additional possession limit trigger, correct accountability measures trigger rate) would not be in the best interest of the fishery resource or vessels fishing for small-mesh multispecies. NMFS could not promulgate this rule sooner because necessary information from the Council was not delivered until the end of March 2015. Although some of the northern red hake measures are restrictive in nature because they reduce the possession limit and implement an additional possession limit reduction trigger, they are designed to slow catch rates and thus increase the length of the overall season for the benefit of the fishermen and the fishery. Delaying implementation of these red hake measures could undermine in the short-term the intended benefits of extending the fishing season and creating better market conditions. In 2012 and 2013, northern red hake catch rates exceeded the ACL and ABC and the possession limit was reduced to the incidental level earlier in the season than anticipated. Delaying these measures again could result in northern red hake ABC and ACL overages and the reduction of the northern red hake possession limits to incidental levels earlier in the season than desired as occurred in 2012 and 2013, thus undermining the intent of the rule. Therefore, although the northern red hake measures impose some restrictions, having the measures effective upon publication is expected to be beneficial for the industry by extending the season and beneficial for the resource by helping to prevent ACL and ABC overages.

Because the specifications for the three other stocks remain the same or, as for northern silver hake, increased, a delay is not needed because they automatically remain in place or relieve a restriction. Thus there would be no benefit to delaying the effectiveness of the specifications because they do not impose any new restrictions.

A Final Regulatory Flexibility Analysis (FRFA) was prepared pursuant to 5 U.S.C. 604(a), and incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action. A copy of the EA/IRFA is available from the Council (see **ADDRESSES**).

The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated here.

Final Regulatory Flexibility Analysis

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

NMFS received no comments in response to the IRFA. One comment was received on this rule, which was not relevant to the rule or the IRFA.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

On June 12, 2014, the Small Business Administration (SBA) issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467). The rule increased the size standard from $19.0 million to $20.5 million for finfish fishing, from $5.0 to $5.5 million for shellfish fishing, and from $7.0 million to $7.5 million for other marine fishing, for-hire businesses, and marinas. The small-mesh multispecies fishery falls under the finfish category and, thus, has a threshold of $20.5 million for determining small versus large entities. However, having different size standards for different types of commercial fishing activities creates difficulties in categorizing business that participate in multiple fishing related activities, which is typically the case in the fishing industry.

In order to fish for small-mesh multispecies, a vessel owner must be

issued either one of the limited access category Northeast multispecies permits or an open access Northeast Multispecies Category K Permit; however, there are many vessels issued both of these types of permits that may not actually fish for small-mesh multispecies. Based on ownership data for 2011–2013, there were 1,087 distinct ownership entities based on calendar year 2013 permits that could potentially target small mesh multispecies. Of these, 1,069 are categorized as small and 18 are categorized as large entities per the SBA guidelines. While 1,087 commercial entities are directly regulated by the proposed action, not all of these entities land small-mesh multispecies and are not likely to be directly impacted by this rule. To estimate the number of commercial entities that may experience impacts from the proposed action, active small-mesh multispecies entities are defined as those entities containing permits that are directly regulated and that landed any silver hake or red hake in 2013 for commercial sale. There are 298 potentially impacted, directly regulated commercial entities, 295 of which are classified as small entities.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

During the development of these specifications, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. The specifications and alternatives are described in detail in the specifications document, which includes an EA, RIR, and IRFA (available at **ADDRESSES**). The measures implemented by this final rule minimize the economic impacts on small entities to the extent practicable.

This action revises the ACL specifications for northern and southern stocks of silver and red hakes for fishing years 2015–2017. The specifications are largely unchanged from previous years with the exception of northern silver hake, which is significantly increased. The specifications do not reduce the quotas and are therefore not restrictive in nature and, therefore, are not expected to result in significant positive or minor economic impacts on small entities.

In general, the remainder of the measures in this action involves preventing northern red hake overages. Overall, this rule minimizes economic impacts by slowing the catch rate of northern red hake while still allowing small-mesh vessels to land northern red hake at more sustainable levels. The previous measures were resulting in ABC and ACL overages and the implementation of restrictive accountability measure possession limit reductions earlier in the fishing season than desired. The red hake measures in this action are designed to slow catch rates and extend the length of the season creating the anticipated more consistent market conditions and prices that are expected should be beneficial for the small-mesh fishery. Alternatives to these measures were analyzed and the final combination of northern red hake measures in this rule were determined to be the optimum combination of alternatives to prevent future ACL and ABC overages and minimize the economic impact on small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 21, 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 § 648.86, paragraphs (d)(1)(i) introductory text, (d)(1)(ii) introductory text, (d)(1)(iii) introductory text, and (d)(4) introductory text are revised and paragraph (d)(5) is added to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 in (6.35 cm).* Owners or operators of a vessel may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 3,500 lb (1,588 kg) of combined silver hake and offshore hake, if either of the following conditions apply:

* * * * *

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 in (6.35 cm) but less than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 7,500 lb (3,402 kg) of combined silver hake and offshore hake if either of the following conditions apply:

* * * * *

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the Gulf of Maine or Georges Bank Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the Southern New England or Mid-Atlantic Exemption Areas, as described in § 648.80(b)(10) and (c)(5), respectively, if both of the following conditions apply:

* * * * *

(d) * * *

(4) *Accountability Measure In-season adjustment of small-mesh multispecies possession limits.* If the Regional Administrator projects that an in-season adjustment TAL trigger level for any small-mesh multispecies stock, as specified in § 648.90(b)(5)(iii), has been reached or exceeded, the Regional Administrator shall reduce the possession limit of that stock to the incidental level for that stock, as specified in this paragraph (d)(4), for the remainder of the fishing year through notice consistent with the Administrative Procedure Act, unless such a reduction in the possession limit would be expected to prevent the TAL from being reached.

* * * * *

(5) *In-season adjustment of Northern Red Hake Possession Limits.* In addition to the accountability measure in-season adjustment of small-mesh multispecies possession limits specified in paragraph (d)(4) of this section, if the Regional Administrator projects that 45 percent of the northern red hake TAL has been reached or is exceeded, the Regional Administrator shall reduce the possession limit for northern red hake to

1,500 lb (680 kg) for the remainder of the fishing year unless further reduced to the incidental possession limit according to the accountability measure in-season adjustment of small-mesh multispecies possession limits specified in paragraph (d)(4) of this section.

* * * * *

■ 3. In § 648.90, paragraphs (b)(4)(i) and (b)(5)(iii) are revised to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(b) * * *

(4) *Specifications package.* (i) The Whiting PDT shall prepare a specification package, including a SAFE Report, at least every 3 years. Based on the specification package, the Whiting PDT shall develop and present to the Council recommended specifications as defined in paragraph (a) of this section for up to 3 fishing years. The specifications package shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the small-mesh multispecies fishery. The specifications package shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP. The specifications package may include modifications to the OFL, ABC, ACL, TAL, possession limits, and in-season possession limit triggers.

* * * * *

(5) * * *

(iii) *Small-mesh multispecies in-season adjustment triggers.* The small-mesh multispecies inseason accountability measure adjustment triggers are as follow:

Species	In-season adjustment trigger (percent)
Northern Red Hake	62.5
Northern Silver Hake	90
Southern Red Hake	90
Southern Whiting	90

* * * * *

[FR Doc. 2015–12871 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 102
Thursday, May 28, 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.

FEDERAL RESERVE SYSTEM

12 CFR Part 249

[Docket No. R–1514; Regulation WW]

RIN 7100 AE–32

Liquidity Coverage Ratio: Treatment of U.S. Municipal Securities as High-Quality Liquid Assets

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites public comment on a proposed rule (proposed rule) that would amend the Board's liquidity coverage ratio requirement (LCR) to include certain U.S. municipal securities as high-quality liquid assets (HQLA). This proposed rule includes as level 2B liquid assets under the LCR general obligation securities of a public sector entity that meet the same criteria as corporate debt securities that are included as level 2B liquid assets, subject to limits that are intended to address the unique structure of the U.S. municipal securities market. This proposed rule would apply to all Board-regulated institutions that are subject to the LCR, which include: (1) Bank holding companies, certain savings and loan holding companies, and state member banks that, in each case, have $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure; (2) state member banks with $10 billion or more in total consolidated assets that are consolidated subsidiaries of bank holding companies described in (1); and (3) nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision to which the Board has applied the LCR by rule or order. This proposed rule would also permit bank holding companies and certain savings and loan holding companies, in each case with $50 billion or more in total consolidated assets that are subject to the Board's modified liquidity coverage ratio to rely on the proposed expanded definition of HQLA.

DATES: Comments on this notice of proposed rulemaking must be received by July 24, 2015.

ADDRESSES: When submitting comments, please consider submitting your comments by email or fax because paper mail in the Washington, DC area and at the Board may be subject to delay. You may submit comments, identified by Docket No. R–1514, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert de V. 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/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, 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 NW. (between 18th and 19th Street NW.), Washington, DC 20006 between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Constance Horsley, Assistant Director, (202) 452–5239, Adam S. Trost, Senior Supervisory Financial Analyst, (202) 452–3814, or J. Kevin Littler, Senior Supervisory Financial Analyst, (202) 475–6677, Risk Policy, Division of Banking Supervision and Regulation; Dafina Stewart, Counsel, (202) 452–3876, or Adam J. Cohen, Senior Attorney, (202) 912–4658, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

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I. Background

On September 3, 2014, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (collectively, the agencies) adopted a final rule that implemented a quantitative liquidity requirement [1] (LCR) consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision (Basel III Liquidity Framework).[2] The LCR is designed to promote the short-term resilience of the liquidity risk profile of large and internationally active banking organizations, and to further improve the measurement and management of liquidity risk, thereby improving the banking sector's ability to absorb shocks arising during periods of significant stress. The LCR requires a company subject to the rule to maintain an

[1] 79 FR 61440 (October 10, 2014).

[2] Basel Committee on Banking Supervision, "Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools" (January 2013), available at *http://www.bis.org/publ/bcbs238.htm.*

amount of high-quality liquid assets (HQLA) (the numerator of the ratio)[3] that is no less than 100 percent of its total net cash outflows over a prospective 30 calendar-day period of significant stress (the denominator of the ratio). Community banking organizations are not subject to the LCR.[4]

Under the LCR, only a limited number of asset classes that have historically been used as a source of liquidity in the United States during periods of significant stress and have a demonstrable record of liquidity are included as HQLA. In identifying the types of assets that qualify as HQLA under the Basel III Liquidity Framework the Basel Committee on Banking Supervision considered several factors, including the asset's risk profile and characteristics of the market for the asset (*e.g.*, active sale or repurchase markets at all times, significant diversity in market participants, and high trading volume). The agencies considered similar factors in developing the LCR. In addition, the agencies developed certain other criteria, such as operational requirements, that assets must meet for inclusion as eligible HQLA.

The LCR divides HQLA into three categories of assets: Level 1, level 2A, and level 2B liquid assets. Specifically, level 1 liquid assets are limited to balances held at a Federal Reserve Bank and foreign central bank withdrawable reserves, all securities issued or unconditionally guaranteed as to timely payment of principal and interest by the U.S. Government, and certain highly liquid, high credit quality sovereign, international organization and multilateral development bank debt securities. Level 1 liquid assets, which are the highest quality and most liquid assets, may be included in a covered company's HQLA amount without limit and without haircuts. Level 2A and 2B liquid assets have characteristics that are associated with being relatively stable and significant sources of liquidity, but not to the same degree as level 1 liquid assets. Level 2A liquid assets include certain obligations issued or guaranteed by a U.S. government-sponsored enterprise (GSE) and certain obligations issued or guaranteed by a sovereign entity or a multilateral development bank that are not eligible to be treated as level 1 liquid assets. The LCR subjects level 2A liquid assets to a 15 percent haircut and limits the aggregate of level 2A and level 2B liquid assets to no more than 40 percent of the total HQLA amount. Level 2B liquid assets, which are liquid assets that generally exhibit more volatility than level 2A liquid assets, are subject to a 50 percent haircut and may not exceed 15 percent of the total HQLA amount. Under the LCR, level 2B liquid assets include certain corporate debt securities and certain common equity shares of publicly traded companies. Level 2 liquid assets, including all level 2B liquid assets, must be liquid and readily marketable as defined in the LCR to be included as HQLA.[5] Other classes of assets, such as debt securities issued or guaranteed by a U.S. public sector entity (U.S. municipal securities), are not treated as HQLA. The LCR final rule defines a public sector entity to include any state, local authority, or other governmental subdivision below the U.S. sovereign entity level.[6]

The agencies received a substantial number of comments in connection with the LCR rulemaking[7] from U.S. and foreign firms, public officials (including state and local governments and members of the U.S. Congress), public interest groups, private individuals, and other interested parties requesting that U.S. municipal securities be treated as HQLA. Commenters asserted that U.S. municipal securities exhibit liquidity characteristics consistent with those considered by the agencies in identifying assets as HQLA and presented data to demonstrate the liquidity of U.S. municipal securities. In particular, some commenters indicated that certain U.S. municipal securities trade more often and in greater volumes than some corporate debt securities that qualify as HQLA under the LCR. In addition, commenters argued that the exclusion of U.S. municipal securities from HQLA could lead to higher funding costs for U.S. municipalities, which could affect local economies and infrastructure.

In the **SUPPLEMENTARY INFORMATION** section to the LCR final rule, the agencies expressed concern that covered companies would be limited in their ability to rapidly monetize U.S. municipal securities during a period of significant stress. For example, the funding of many U.S. municipal securities in the repurchase market is limited, which lessens the opportunity for companies to convert the securities to cash quickly during a period of significant stress. Accordingly, the LCR final rule did not include U.S. municipal securities as HQLA.

However, the Board indicated a willingness to continue to study the question of whether at least some U.S. municipal securities should be permitted under some circumstances to be included as HQLA. The Board now proposes to allow Board-regulated institutions to include as level 2B liquid assets under the LCR U.S. general obligation municipal securities that exhibit characteristics that are comparable to other asset classes included as level 2B liquid assets. The proposal contains a variety of criteria and limitations designed to ensure that U.S. general obligation municipal securities included as HQLA are liquid and appropriately valued for purposes of the LCR.

This proposed rule would apply to all Board-regulated institutions that are subject to the LCR, which include: (1) Bank holding companies, certain savings and loan holding companies, and state member banks that, in each case, have $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure; (2) state member banks with $10 billion or more in total consolidated assets that are consolidated subsidiaries of bank holding companies subject to the LCR described in (1); and (3) nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision to which the Board has applied the LCR by rule or order. This proposed rule would also allow bank holding companies and certain savings and loan holding companies, in each case with $50 billion or more in total consolidated assets, that are subject to the Board's modified minimum liquidity coverage ratio to take advantage of the proposed expanded definition of HQLA.

[3] A company's HQLA amount is calculated according to section 249.21 of the LCR.

[4] The LCR applies to large and internationally active banking organizations, generally: (1) Bank holding companies, certain savings and loan holding companies, and depository institutions that, in each case, have $250 billion or more in total assets or $10 billion or more in on-balance sheet foreign exposure; (2) depository institutions with $10 billion or more in total consolidated assets that are consolidated subsidiaries of bank holding companies and savings and loan holding companies described in (1); and (3) nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision to which the Board has applied the LCR by rule or order. In addition, the Board adopted a modified minimum liquidity coverage ratio requirement for bank holding companies and certain savings and loan holding companies that, in each case, have $50 billion or more in total consolidated assets but that do not meet the threshold for large and internationally active firms (together with the entities described in (1), (2), (3) above, covered companies).

[5] The liquid and readily marketable standard is defined in section 249.3 of the LCR final rule and is discussed in section II.B.2 of the Supplementary Information section. 79 FR 61440, 61451 (October 10, 2014).

[6] 12 CFR 249.3.

[7] 78 FR 71818 (November 29, 2013).

II. Proposed Criteria for Inclusion of U.S. Municipal Securities as Eligible HQLA

As described in more detail below, this proposed rule would include limited amounts of U.S. general obligation municipal securities as level 2B liquid assets under the LCR if the securities meet certain criteria. The Board invites comment on all aspects of the proposal including whether these criteria and limitations are appropriate, reasonable, and achieve their intended purposes.

The Board proposes to include U.S. general obligation municipal securities as level 2B liquid assets, rather than as level 2A liquid assets. Municipal securities are less liquid than assets that are included as level 2A liquid assets. For example, the daily trading volume of securities issued or guaranteed by U.S. GSEs far exceeds that of U.S. municipal securities.

As a threshold matter, to qualify as HQLA under the proposal, U.S. general obligation municipal securities must be liquid and readily marketable and meet other criteria consistent with the criteria for corporate debt securities that are included as level 2B liquid assets. These criteria help to ensure comparable treatment between U.S. general obligation municipal securities and corporate debt securities included as HQLA.[8] In addition, to help ensure sufficient liquidity of the U.S. general obligation municipal securities that are included in the total HQLA amount, this proposed rule would impose certain limits on the amount of U.S. general obligation municipal securities that a Board-regulated institution may include as eligible HQLA.[9] This proposed rule would not limit the amount of U.S. municipal securities a Board-regulated institution could hold for other purposes.

A. Criteria for Inclusion as Level 2B Liquid Assets

1. U.S. General Obligation Municipal Securities

Under this proposed rule, U.S. municipal securities would qualify as HQLA only if they are general obligations of the issuing entity. General obligations of U.S. public sector entities, which include bonds or similar obligations that are backed by the full faith and credit of the public sector entities, are assigned a 20 percent risk weight under the Board's risk-based capital rules.[10] This provision, which is consistent with the Basel III Liquidity Framework, is designed to limit the liquidity and credit risk associated with U.S. municipal securities included in the HQLA amount.

Revenue obligations, which include bonds or similar obligations that are obligations of U.S. public sector entities, but which the public sector entities have committed to repay with revenues from a specific project rather than from general tax funds, are assigned a 50 percent risk weight under the Board's risk-based capital rules.[11] Revenue obligations are assigned a higher risk weight than general obligations because repayment of revenue obligations is dependent on revenue from an underlying project without an obligation from a public sector entity to repay these obligations from other revenue sources.[12] The Board has proposed to exclude revenue obligations because, during a period of significant stress, revenue derived from a particular project, such as a stadium, may fall dramatically as domestic consumption declines and the associated revenue bond may experience significant price declines and become less liquid.

2. Investment Grade U.S. General Obligation Municipal Securities

Consistent with the requirements for corporate debt securities included as level 2B liquid assets, this proposed rule would require that U.S. general obligation municipal securities be ''investment grade'' under 12 CFR part 1 as of the calculation date.[13] This criterion requires an issuer of a U.S. general obligation municipal security to have adequate capacity to meet its financial commitments under the security for the projected life of the security, which is met by showing a low risk of default and an expectation of the timely repayment of principal and interest.

3. Proven Record as a Reliable Source of Liquidity

Consistent with the requirements for corporate debt securities included as level 2B liquid assets under the LCR, this proposed rule would require that U.S. general obligation municipal securities included as level 2B liquid assets be issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during a period of significant stress. A Board-regulated institution would be required to demonstrate this record of liquidity reliability and lower volatility during periods of significant stress by showing that the market price of the U.S. general obligation municipal securities or equivalent securities of the issuer declined by no more than 20 percent during a 30 calendar-day period of significant stress, or that the market haircut demanded by counterparties to secured lending and secured funding transactions that were collateralized by such debt securities or equivalent securities of the issuer increased by no more than 20 percentage points during a 30 calendar-day period of significant stress. This percentage decline in value and percentage increase in haircut is the same as those applicable to corporate debt securities included as level 2B liquid assets under the LCR.[14] This limitation is meant to exclude volatile U.S. municipal securities because their volatility indicates these assets may not hold their value during a period of significant stress, thereby over-estimating the amount of HQLA actually available to the banking entity.

As discussed in the Supplementary Information section to the LCR final rule, a Board-regulated institution may demonstrate a historical record that meets this criterion through reference to historical market prices and available funding haircuts of the U.S. general obligation municipal security during periods of significant stress, such as the 2007–2009 financial crisis.[15] Board-regulated institutions should also look to other periods of systemic and idiosyncratic stress to see if the asset under consideration has proven to be a reliable source of liquidity. As noted above, HQLA include only those assets that have demonstrated an ability to maintain relatively stable prices such that they can be rapidly sold by a Board-regulated institution to meet its

[8] *See* 12 CFR 249.20(c)(1).

[9] The LCR final rule defines eligible HQLA as those high-quality liquid assets that meet the requirements set forth in section 249.22.

[10] *See* 12 CFR part 217.

[11] *Id.*

[12] 78 FR 62018, 62086 (October 11, 2013).

[13] 12 CFR 1.2(d). In accordance with section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act, this regulation does not rely on credit ratings as a standard of credit-worthiness. Rather, the regulation relies on an assessment by the bank of the capacity of the issuer to meet its financial commitments.

[14] Under the LCR, equity securities included as level 2B liquid assets have a similar criteria. However, the covered company would be required to demonstrate that the market price of the security or equivalent securities of the issuer declined by no more than 40 percent during a 30 calendar-day period of significant stress, or that the market haircut demanded by counterparties to securities borrowing and lending transactions that are collateralized by the publicly traded common equity shares or equivalent securities of the issuer increased by no more than 40 percentage points, during a 30 calendar-day period of significant stress.

[15] 79 FR 61440, 61459 (October 10, 2014).

obligations during a period of significant stress.

4. Not an Obligation of a Financial Sector Entity or Its Consolidated Subsidiaries

Under this proposed rule, U.S. general obligation municipal securities would qualify as HQLA only if they are not obligations of a financial sector entity and not obligations of a consolidated subsidiary of a financial sector entity. For purposes of this provision, the Board considers a security that is issued or guaranteed by a financial sector entity to be an obligation of the financial sector entity. The LCR defines a financial sector entity to include a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or a company that the Board has determined should be treated the same as the foregoing for the purposes of the LCR. Thus, if a bond insurer insures the general obligation municipal securities of a U.S. public sector entity (such insurance is commonly referred to as a ''wrap''), the securities would not be eligible for inclusion in HQLA. The Board has proposed to include this criterion in order to exclude U.S. general obligation municipal securities that are valued, in part, based on guarantees provided by financial sector entities, because these financial sector entity guarantees could exhibit similar risks and correlation with Board-regulated institutions (wrong-way risk) during a liquidity stress period, thus overestimating the amount of HQLA that would be available to the banking entity during a liquidity stress period. This criterion is consistent with the Basel III Liquidity Framework and with the requirements imposed on corporate debt securities and publicly traded common equity shares that are included as level 2B liquid assets under the LCR.

1. How should the Board supplement or amend the proposed criteria for including U.S. general obligation municipal securities as HQLA?

2. Is it appropriate to exclude U.S. general obligation municipal securities that are guaranteed (or ''wrapped'') by bond insurers or other financial sector entities from HQLA because of wrong-way risk? Why or why not? How else could the Board address concerns regarding the wrong-way risk associated with such securities?

B. Limitations on a Company's Inclusion of U.S. General Obligation Municipal Securities as Eligible HQLA

This proposed rule would limit the amount of U.S. general obligation municipal securities a Board-regulated institution could include as eligible HQLA based on the total amount outstanding of U.S. general obligation municipal securities with the same CUSIP number, on the average daily trading volume of general obligation municipal securities issued by a particular U.S. municipal issuer, and on a percentage of the institution's total HQLA amount. These limitations are intended to address the unique structure of the U.S. municipal securities market and designed to help ensure sufficient liquidity of the U.S. general obligation municipal securities included in the HQLA amount under the LCR.

1. Limitation on the Inclusion of U.S. General Obligation Municipal Securities With the Same CUSIP Number as Eligible HQLA

Individual issuances of U.S. municipal securities (those with the same CUSIP number) by a single public sector entity are frequently far smaller and more numerous than issuances of debt securities by a single corporate issuer and exhibit a diverse array of maturity dates and interest rates. This is in part due to legal and other restrictions on the size of individual issuances by public sector entities and because U.S. municipal securities are frequently marketed to retail or smaller institutional investors. For example, a very large issuer of U.S. municipal securities (such as a state or large city) may have several hundred individual issuances outstanding. In contrast, a single corporate issuer may have a comparable dollar amount of securities outstanding but with only 20 to 30 individual issuances outstanding. Investors in U.S. municipal securities sometimes purchase a large percentage, including more than 50 percent of the outstanding amount, of the individual issuance.

The Board is concerned that a Board-regulated institution would not be able to monetize a concentration in the holding of a particular issuance of U.S. general obligation municipal securities during a period of significant stress without a material impact on the securities' price. This proposed rule therefore would permit a Board-regulated institution to count U.S. general obligation municipal securities as eligible HQLA only to the extent the fair value of the institutions' securities with the same CUSIP number do not exceed a maximum of 25 percent of the total amount of outstanding securities with the same CUSIP number. Under the proposal, this threshold for inclusion as eligible HQLA would be calculated prior to application of the 50 percent haircut applicable to level 2B liquid assets that is set forth in § 249.21(a)(3) of the LCR final rule. This requirement is designed to ensure that a Board-regulated institution does not include in its HQLA amount a concentration of an individual issuance of U.S. general obligation municipal securities.

2. Limitation on the Inclusion of the U.S. General Obligation Municipal Securities of a Single Issuer as Eligible HQLA

The Board is proposing a limit on the amount of securities issued by a single U.S. public sector entity that a Board-regulated institution may include as eligible HQLA, based on the trading volume that the secondary market for the entity's general obligation municipal securities could be expected to withstand before prices materially decline. For each U.S. public sector entity, this proposed rule would limit the aggregate fair value of the general obligation securities that a Board-regulated institution could include as eligible HQLA to two times the average daily trading volume, as measured over the previous four quarters, of all general obligation municipal securities issued by that public sector entity.

The LCR was designed to include as eligible HQLA assets that remain relatively liquid and have multiple buyers and sellers during periods of significant stress, as a covered company may be expected to sell HQLA to meet its cash outflows during such periods. To remain consistent with the design of the LCR, the proposal seeks to include U.S. general obligation municipal securities as eligible HQLA to the extent that they would exhibit liquidity without dramatic loss in value during periods of significant stress. The U.S. municipal securities market includes a large diversity of issuers, size of issuances, and volumes of secondary market trading. The Board analyzed data on the historical trading volume of municipal securities in order to determine the general level of increased sales of municipal securities that could be absorbed by the market during periods of significant stress before prices would materially decline. The proposal would limit the aggregate fair value of the U.S. general obligation municipal securities of a public sector entity that may be included as eligible HQLA to two times the average daily trading volume of all U.S. general obligation municipal securities issued by that public sector entity because, based on the Board's analysis, a holding of two times the average daily trading volume could likely be absorbed by the market within a 30 calendar-day period

of significant stress without materially disrupting the functioning of the market.

Rather than proposing an average daily trading volume limitation on a per-security basis, the Board is proposing a limitation based on the average daily trading volume of all U.S. general obligation municipal securities issued by the public sector entity. Due to the smaller size of many U.S. municipal securities issuances, applying this limit on a per-security basis may unnecessarily restrict a covered company's ability to invest in a particular security that meets the Board-regulated institution's investment criteria and liquidity needs. However, as discussed above, the Board has proposed a separate limitation on the amount of an individual issuance that may be included as eligible HQLA to address the concern that a high concentration of an individual U.S. general obligation municipal security could be included as eligible HQLA.

3. Limitation on the Amount of U.S. General Obligation Municipal Securities That Can Be Included in the HQLA Amount

The Board is proposing to limit the amount of U.S. general obligation municipal securities that are included in a Board-regulated institution's HQLA amount to no more than five percent of its total HQLA amount. This limit is in addition to the 40 percent limit on the aggregate amount of level 2A and level 2B liquid assets and the 15 percent limit on level 2B liquid assets that can be included in the HQLA amount. It also complements the other two limits on U.S. general obligation municipal securities described above, which relate solely to a particular issuance and individual issuers. Although the Board has concluded that certain U.S. general obligation municipal securities are sufficiently liquid to be included as eligible HQLA, the Board proposes to limit the aggregate amount of all U.S. general obligation municipal securities that may be included in the HQLA amount to ensure appropriate diversification of asset classes within a Board-regulated institution's HQLA amount. Consistent with the LCR's limits on level 2A and level 2B liquid assets, this proposed five percent limit applies both on an unadjusted basis and after adjusting the composition of the HQLA amount upon the unwind of certain secured funding transactions, secured lending transactions, asset exchanges and collateralized derivatives transactions.[16]

The proposed five percent limit would be applied to the calculation of the HQLA amount by amending the definitions of the unadjusted excess HQLA amount and the adjusted excess HQLA amount.[17] Under this proposed rule, the unadjusted excess HQLA amount would equal the sum of the level 2 cap excess amount, the level 2B cap excess amount and the public sector entity security cap excess amount. The method of calculating the public sector entity security cap excess amount is set forth in § 249.21(f) of this proposed rule. Under this provision, the public sector entity security cap excess amount would be calculated as the greater of: (1) The public sector entity security liquid asset amount minus the level 2 cap excess amount minus level 2B cap excess amount minus 0.0526 (or 5/95, which is the ratio of the maximum allowable public sector entity security liquid assets to the level 1 liquid assets and other level 2 liquid assets) times the sum of (i) the level 1 liquid asset amount, (ii) the level 2A liquid asset amount, and (iii) the level 2B liquid asset amount minus the public sector entity security liquid asset amount; or (2) zero.

Under this proposed rule, the adjusted excess HQLA amount would equal the sum of the adjusted level 2 cap excess amount, the adjusted level 2B cap excess amount, and the adjusted public sector entity cap excess amount. The method of calculating the adjusted public sector entity security cap excess amount is set forth in § 249.21(k) of this proposed rule. Under this provision, the adjusted public sector entity security cap excess amount would be calculated as the greater of: (1) The adjusted public sector entity security liquid asset amount minus the adjusted level 2 cap excess amount minus the adjusted level 2B cap excess amount minus 0.0526 (or 5/95, which is the ratio of the maximum allowable adjusted public sector entity security liquid assets to the adjusted level 1 liquid assets and other adjusted level 2 liquid assets) times the sum of (i) the adjusted level 1 liquid asset amount, (ii) the adjusted level 2A liquid asset amount, and (iii) the adjusted level 2B liquid asset amount minus the adjusted public sector entity security liquid asset amount; or (2) zero.

3. What additional or alternative limitations should the Board consider relating to the inclusion of individual and aggregate issuances of U.S. public sector entities as eligible HQLA and in a Board-regulated institution's HQLA amount? How else could the Board address concerns regarding concentrations and minimizing market price movements associated with sales of HQLA?

III. Plain Language

Section 722 of the Gramm-Leach Bliley Act (Pub L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the Board to use plain language in all proposed and final rules published after January 1, 2000. The Board invites your comments on how to make this proposal easier to understand. For example:

- Has the Board organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed rule clearly stated?
- If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the Board do to make the regulation easier to understand?

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act[18] (RFA), requires an agency to either provide an initial regulatory flexibility analysis with a proposed rule for which a general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banks with assets less than or equal to $550 million). In accordance with section 3(a) of the RFA, the Board is publishing an initial regulatory flexibility analysis with respect to this proposed rule. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after commenters received during the public comment period have been considered.

As discussed above, this proposed rule would amend the liquidity coverage ratio rule to include certain high-quality general obligation U.S. municipal securities as high-quality

[16] *See* 12 CFR 249.21(g).

[17] *See* 12 CFR 249.21(c) and (f).

[18] 5 U.S.C. 601 *et seq.*

liquid assets for the purposes of the LCR.

Under regulations issued by the Small Business Administration, a ''small entity'' includes a depository institution, bank holding company, or savings and loan holding company with total assets of $550 million or less (a small banking organization). As of December 31, 2014, there were approximately 664 small state member banks, 3,832 small bank holding companies, and 275 small savings and loan holding companies.

This proposed rule does not apply to ''small entities'' and would apply only to Board-regulated institutions subject to the LCR, which include: (1) Bank holding companies, certain savings and loan holding companies, and state member banks that, in each case, have $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure; (2) state member banks with $10 billion or more in total consolidated assets that are consolidated subsidiaries of bank holding companies subject to the LCR; and (3) nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision to which the Board has applied the LCR by rule or order. This proposed rule also would apply to bank holding companies and certain savings and loan holding companies with $50 billion or more in total consolidated assets, which are subject to the modified minimum liquidity coverage ratio. Companies that are subject to this proposed rule therefore substantially exceed the $550 million asset threshold at which a banking entity is considered a ''small entity'' under SBA regulations.

As noted above, because this proposed rule is not likely to apply to any company with assets of $550 million or less, if adopted in final form, it is not expected to apply to any small entity for purposes of the RFA. The Board is aware of no other Federal rules that duplicate, overlap, or conflict with this proposed rule. In light of the foregoing, the Board does not believe that this proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised and therefore believes that there are no significant alternatives to this proposed rule that would reduce the economic impact on small banking organizations supervised by the Board.

The Board welcomes comment on all aspects of its analysis. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

V. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Board reviewed this proposed rule and determined that it would not introduce any new collection of information pursuant to the PRA.

List of Subjects in 12 CFR Part 249

Administrative practice and procedure; Banks, banking; Federal Reserve System; Holding companies; Liquidity; Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the Supplementary Information section, the Board proposes to amend part 249 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 249—LIQUIDITY RISK MEASUREMENT STANDARDS (REGULATION WW)

■ 1. The authority citation for part 249 continues to read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1467a(g)(1), 1818, 1828, 1831p–1, 1831o–1, 1844(b), 5365, 5366, 5368.

■ 2. Amend § 249.20, by redesignating paragraph (c)(2) as paragraph (c)(3) and adding new paragraph (c)(2) to read as follows:

§ 249.20 High-quality liquid asset criteria.

* * * * *

(c) * * *

(2) A general obligation security issued by, or guaranteed as to the timely payment of principal and interest by, a public sector entity where the security is:

(i) Investment grade under 12 CFR part 1 as of the calculation date;

(ii) Issued or guaranteed by a public sector entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, as demonstrated by:

(A) The market price of the security or equivalent securities of the issuer declining by no more than 20 percent during a 30 calendar-day period of significant stress; or

(B) The market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the security or equivalent securities of the issuer increasing by no more than 20 percentage points during a 30 calendar-day period of significant stress; and

(iii) Not an obligation of a financial sector entity and not an obligation of a consolidated subsidiary of a financial sector entity.

* * * * *

■ 3. Amend § 249.21, by:

■ a. Adding paragraph (b)(4);

■ b. Removing the period at the end of paragraph (c)(2) and adding in its place a semicolon and the word ''plus'';

■ c. Adding paragraph (c)(3);

■ d. Redesignating paragraphs (f) through (i) and as paragraphs (g) through (j) respectively and adding new paragraph (f);

■ e. Adding paragraph (g)(4);

■ f. Removing the period at the end of paragraph (h)(2) and adding in its place a semicolon and the word ''plus'';

■ g. Adding paragraphs (h)(3); and (k);

The additions read as follows:

§ 249.21 High-quality liquid asset amount.

* * * * *

(b) * * *

(4) Public sector entity security liquid asset amount. The public sector entity security liquid asset amount equals 50 percent of the fair value of all general obligation securities issued by, or guaranteed as to the timely payment of principal and interest by, a public sector entity that are eligible HQLA.

(c) * * *

(3) The public sector entity security cap excess amount.

* * * * *

(f) *Calculation of the public sector entity security cap excess amount.* As of the calculation date, the public security entity security cap excess amount equals the greater of:

(1) The public sector entity security liquid asset amount minus the level 2 cap excess amount minus level 2B cap excess amount minus 0.0526 times the sum of:

(i) The level 1 liquid asset amount;

(ii) The level 2A liquid asset amount; and

(iii) The level 2B liquid asset amount minus the public sector entity security liquid asset amount; or

(2) 0.

(g) * * *

(4) *Adjusted public sector entity security liquid asset amount.* A [BANK]'s adjusted public sector entity security liquid asset amount equals 50 percent of the fair value of all general obligation securities issued by, or guaranteed as to the timely payment of principal and interest by, a public sector entity that would be eligible HQLA and would be held by the [BANK] upon the unwind of any secured funding

transaction (other than a collateralized deposit), secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date where the [BANK] will provide an asset that is eligible HQLA and the counterparty will provide an asset that will be eligible HQLA.

(h) * * *

(3) The adjusted public sector entity security cap excess amount.

* * * * *

(k) *Calculation of the adjusted public sector entity security cap excess amount.* As of the calculation date, the adjusted public sector entity security cap excess amount equals the greater of:

(1) The adjusted public sector entity security liquid asset amount minus the adjusted level 2 cap excess amount minus the adjusted level 2B cap excess amount minus 0.0526 times the sum of:

(i) The adjusted level 1 liquid asset amount;

(ii) The adjusted level 2A liquid asset amount: and

(iii) The adjusted level 2B liquid asset amount minus the adjusted public sector entity security liquid asset amount; or

(2) 0.

■ 4. Amend § 249.22, by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

§ 249.22 Requirements for eligible high-quality liquid assets.

* * * * *

(c) *Securities of public sector entities as eligible HQLA.* A Board-regulated institution may include as eligible HQLA a general obligation security issued by, or guaranteed as to the timely payment of principal and interest by, a public sector entity if each of the following is satisfied:

(1) The fair value of a single issuance of securities that are included as eligible HQLA by the Board-regulated institution is no greater than 25 percent of the total amount of outstanding securities with the same CUSIP number at the calculation date; and

(2) The fair value of the aggregate amount of securities of a single public sector entity issuer that are included as eligible HQLA by the Board-regulated institution is no greater than two times the average daily trading volume during the previous four quarters of all general obligation securities issued by that public sector entity.

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 18, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–12850 Filed 5–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA–2015–1771; Notice No. 33–15–01–SC]

Special Conditions: Pratt and Whitney Canada, PW210A; Flat 30-Second and 2-Minute One Engine Inoperative Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Pratt and Whitney Canada PW210A engine model. This engine will have a novel or unusual design feature—an additional one engine inoperative (OEI) rating that combines the 30-second and 2-minute OEI ratings into a single rating. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before June 8, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–1771 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule, contact Tara Fitzgerald, ANE–111, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5213; telephone (781) 238–7130; facsimile (781) 238–7199. For legal questions concerning this proposed rule, contact Vincent Bennett, ANE–7, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7044; facsimile (781) 238–7055; email *vincent.bennett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments received in the docket on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On February 14, 2013, Pratt and Whitney Canada applied for an amendment to Type Certificate No. E00083EN–E to include the new PW210A engine model. The PW210A, which is a derivative of the PW210S

currently approved under E00083EN–E, is intended for rotorcraft use. For their PW210A engine model, Pratt and Whitney Canada requests an additional OEI rating that combines the 30-second and 2-minute OEI rating into a single rating to satisfy the rotorcraft requirements for increased power in OEI scenarios. This additional OEI rating is named ''Flat 30-second and 2-minute OEI.''

These special conditions are necessary because the applicable airworthiness regulations do not contain adequate or appropriate safety standards for combining the requirements of the flat 30-second and 2-minute OEI rating.

Type Certification Basis

Under the provisions of § 21.101, Pratt and Whitney Canada must show that the PW210A meets the applicable provisions of 14 CFR part 33, as amended by Amendments 33–1 through 33–30. These regulations will be incorporated into Type Certificate No. E00083EN after type certification approval of the PW210A. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. E00083NE are as follows:

Title 14 of the Code of Federal Regulations (14 CFR part 33), effective February 1, 1965, Amendments 33–1 through 33–24 and two special conditions: 33–008–SC: For on ground engine operation in auxiliary power unit (APU) mode, and 33–009–SC: For 30-minutes all engines operating (AEO) hovering power engine rating.

For the PW210A the certification basis is:

1. Airworthiness Standards: 14 CFR part 33, effective February 1, 1965, Amendments 33–1 through 33–30, inclusive.

2. Environmental Standards: 14 CFR part 34, effective September 10, 1990, as amended by 34–1 through 34–4 and 40 CFR part 87, effective (ICAO Annex 16, Volume II—Aircraft Engine Emissions, as amended up to and including Amendment 6).

In addition, the certification basis includes other regulations, special conditions and exemptions that are not relevant to these proposed special conditions. Type Certificate No. E00083EN will be updated to include a complete description of the certification basis for this model engine.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 33) do not contain adequate or appropriate safety standards for the PW210A because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

Accordingly, should type certificate E00083EN be amended to include another model that incorporates the ''Flat 30-second and 2-minute OEI,'' the special conditions as defined would apply to models whose certification basis is amendment 33–25 or later.

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

Novel or Unusual Design Features

The PW210A will incorporate the following novel or unusual design features: The design feature is a ''Flat 30-second and 2-minute'' one engine inoperative (OEI) rating. The Flat 30-second and 2-minute OEI rating represents a case where the power levels and associated operating limitations for the 30-second OEI and 2-minute OEI ratings (defined in Part 33) are the same.

Discussion

These proposed special conditions are necessary because current part 33 regulations do not contain airworthiness standards for extending the 2-minute OEI rating for 30-seconds. These special conditions extend the time dependent requirements applicable to the 30-second OEI or 2-minute OEI to the 2.5 minutes time duration of the ''Flat 30-second and 2-minute OEI'' Power.

The 2.5 minutes time duration for the rating may affect the engine's structural and operational characteristics that are time dependent, such as the values for transients, time duration for stabilization to steady state, and part growth due to deformation. To address these aspects, we propose special conditions based on revised requirements of §§ 33.27, 33.87(a)(7), and 33.88(b).

The 2.5 minutes time duration for the rating affects the test conducted for the endurance test. For the 30-second OEI and 2-minute OEI the test schedule of § 33.87(f) is divided among the two ratings. We propose special conditions based on revised requirements of § 33.87(f) to ensure the test will be run for 2.5 minutes duration with no interruption.

The 2.5 minutes time duration for the rating necessitates extending the time duration requirement of § 33.28(k) applicable to the 30-second OEI rating from 30 seconds to 2.5 minutes. This proposed requirement is for automatic availability and control of the engine for the entire duration of the rating's usage.

The 2.5 minutes time duration for the rating necessitates extending the requirements of § 33.29(c) that are applicable to 30-second OEI and 2-minute OEI ratings to the single Flat 30-second and 2-minute OEI Power rating. We propose special conditions to ensure that the instrumentation requirements normally reserved for 30-second OEI and 2-minute OEI ratings are applied to the Flat 30-second and 2-minute OEI Power rating over its whole duration. The pilot does not have to be alerted at the end of 30 seconds use of the Flat 30-second and 2-minute OEI Power rating, only after the entire 2 minutes 30 seconds has expired.

Paragraph 2.(e)(3) of these special conditions states that the engine must provide means or provision of means to alert maintenance of use of the Flat 30-second and 2-minute OEI Power rating, 'alert' means after the aircraft lands, so any required maintenance actions can be completed before next flight.

Applicability

As discussed above, these special conditions are applicable to the PW210A. Should Pratt and Whitney Canada apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Certification of the PW210A is currently scheduled for May 1, 2015. The substance of these special conditions has been subject to the notice and public-comment procedure in a prior instance. Therefore, because a delay would significantly affect the applicant's both installation of the system and certification of the airplane, we are shortening the public-comment period to 10 days.

Conclusion

This action affects only the Flat 30-second and 2-minute OEI design features on the PW210A engine model. It is not a rule of general applicability and applies only to Pratt and Whitney Canada, who requested FAA approval of this engine feature.

List of Subjects in 14 CFR Part 33

Air Transportation, Aircraft, Aviation, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Pratt and Whitney Canada PW210A engine model.

Flat 30-Second and 2-Minute OEI

1. Part 1.1 Definitions

''Rated Flat 30-second and 2-minute One Engine Inoperative (OEI) Power,'' with respect to rotorcraft turbine engines, means (1) a single rating for which the shaft horsepower and associated operating limitations of the 30-second OEI and 2-minute OEI ratings are equal, and (2) the shaft horsepower is that developed under static conditions at the altitude and temperature for the hot day, and within the operating limitations established under Part 33. The rating is for continuation of flight operation after the failure or shutdown of one engine in multiengine rotorcraft, for up to three periods of use no longer than 2.5 minutes each in any one flight, and followed by mandatory inspection and prescribed maintenance action.

2. Part 33 Requirements

(a) The airworthiness standards in Part 33 Amendment 30 for the 30-second OEI and 2-minute OEI ratings are applicable to the Flat 30-second and 2-minute OEI Power rating. In addition the following special conditions apply;

(b) Section 33.7 Engine ratings and operating limitations. Flat 30-second and 2-minute OEI Power rating and operating limitations are established for power, torque, rotational speed, gas temperature, and time duration.

(c) Section 33.27 Turbine, compressor, fan, and turbosupercharger rotor overspeed. The requirements of § 33.27, except that following the test, the rotor may not exhibit conditions such as cracking or distortion which preclude continued safe operation.

(d) Section 33.28 Engine controls systems. Must incorporate a means, or a provision for a means, for automatic availability and automatic control of the Flat 30-second and 2-minute OEI Power within the declared operating limitations.

(e) Section 33.29 Instrument Connection. In lieu of the requirements of 33.29(c) the PW210A must incorporate a means or a provision for a means to:

(1) Alert the pilot when the engine is at the Flat 30-second and 2-minute OEI Power level, when the event begins, and when the time interval expires;

(2) Automatically record each usage and duration of power at the Flat 30-second and 2-minute OEI Power rating;

(3) Following each flight when the Flat 30-second and 2-minute OEI Power rating is used, alert maintenance personnel in a positive manner that the engine has been operated at the Flat 30-second and 2-minute OEI Power level, and permit retrieval of the recorded data; and

(4) Enable routine verification of the proper operation of the above means.

(f) Section 33.87 Endurance test. The requirements applicable to 30-second and 2-minute OEI ratings, except for:

(1) The test of § 33.87(a)(7) for the purposes of temperature stabilization, must be run with a test period time of 2.5 minutes.

(2) The tests in § 33.87(f)(2) and (3) must be run continuously for the duration of 2.5 minutes, and

(3) The tests in § 33.87(f)(6) and (7) must be run continuously for the duration of 2.5 minutes.

(g) Section 33.88 Engine overtemperature test. The requirements of § 33.88(b) except that the test time is 5 minutes instead of 4 minutes.

Issued in Burlington, Massachusetts, on May 18, 2015.

Carlos Pestana,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–12986 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1425; Directorate Identifier 2014–NM–185–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 188 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that a certain circumferential fuselage splice is subject to widespread fatigue damage (WFD). This proposed AD would require an inspection for corrosion and previous repairs, severed stringers, cracking, and loose or distressed fasteners of the forward and aft ends of the stringer splices of certain stringers, inspection for cracking and modification of certain fastener holes common to the stringer and splice member at the forward and aft ends of the splice, and related investigative and corrective actions if necessary. We are proposing this AD to prevent loss of residual strength of a certain circumferential fuselage splice, which could lead to rapid decompression of the cabin and potential loss of the airplane.

DATES: We must receive comments on this proposed AD by July 13, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed 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; phone: 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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1425; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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: 404–474–5605; email: *carl.w.gray@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–1425; Directorate Identifier 2014–NM–185–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as WFD. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

This proposed AD was prompted by an evaluation by the DAH indicating that the circumferential fuselage splice at fuselage-station (FS) 695 is subject to WFD. The root cause of this WFD is fatigue cracks manifesting and growing simultaneously at similar structural details and stress levels at the circumferential fuselage splice. Fatigue cracking is increasingly likely as the airplane is operated and aged, and without intervention, fatigue cracking could lead to loss of residual strength of the circumferential fuselage splice at FS 695, which could lead to rapid decompression of the cabin area and potential loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014. This service bulletin describes procedures for doing the following actions:

- A general visual inspection (GVI) for corrosion and previous repairs, severed stringers, cracking, and loose or distressed fasteners of the forward and aft ends of the stringer splices of stringers 1–7 and 66–72, and corrective actions if necessary.
- At stringers 1–7 and 66–72, removing the four rivets common to the stringer and splice member at the forward and aft ends of the splice and doing a bolt hole eddy current (BHEC) inspection or an equivalent inspection procedure for cracking in each of the fastener holes, and corrective actions if necessary.
- Corrective actions for cracked holes include reaming to the maximum permissible hole diameter of the next larger size rivet. If a crack indication remains after reaming, this service information specifies repairing the cracked stringer.
- If a severed stringer is found during the GVI, doing related investigative actions of an eddy current surface scan inspection for cracking of the fuselage skin at the skin-to-stringer attachments immediately forward and aft of the stringer break and confirming skin cracks with a dye penetrant inspection. Corrective actions include repairing the severed stringer or skin cracks.
- For holes without crack indications, other specified actions include modifying the fastener holes by reaming to a certain maximum permissible hole diameter of the same size rivet and installing replacement fasteners; or if original hole is larger than the maximum permissible diameter, installing the next rivet size and type.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described

previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

Differences Between This Proposed AD and the Service Information

Although Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, specifies that crack indications should be confirmed by an alternate inspection method, this proposed AD would not require that action.

Operators should note that, although the Accomplishment Instructions of Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, describe procedures for submitting a report of damage, this proposed AD would not require that action.

Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, does not describe corrective actions if any corrosion or previous repair is found, and if any loose or distressed fastener is found. This proposed AD would require repair.

Explanation of Proposed Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 4 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections and Modification	18 work-hours × $85 per hour = $1,530	$5,000	$6,530	$26,120

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Docket No. FAA–2015–1425; Directorate Identifier 2014–NM–185–AD.

(a) Comments Due Date

We must receive comments by July 13, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 188A and 188C airplanes, certificated in any category, serial numbers 1001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the circumferential fuselage splice at fuselage-station (FS) 695 is subject to widespread fatigue damage (WFD). We are issuing this AD to prevent loss of residual strength of the circumferential fuselage splice at FS 695, which could lead to rapid decompression of the cabin and potential loss of the airplane.

(f) Compliance

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

(g) Inspections, Modification, Related Investigative Actions, and Corrective Actions

Before the accumulation of 38,200 total flight hours or within 30 days after the effective date of this AD, whichever occurs later: Do a general visual inspection for corrosion and previous repairs, severed stringers, cracking, and loose or distressed fasteners of the forward and aft ends of the stringer splices of stringers 1–7 and 66–72; remove the four rivets common to the stringer and splice member at the forward and aft ends of the splice and do a bolt hole eddy current inspection or an equivalent inspection procedure for cracking in each of the fastener holes; modify the fastener holes;

and do all applicable related investigative and corrective actions and other specified actions; in accordance with the Accomplishment Instructions of Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, except as specified in paragraph (h) of this AD. Do all applicable related investigative and corrective actions and other specified actions before further flight. If any repairs exceed the repair limits specified in Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Corrective Action

(1) If, during any inspection required by paragraph (g) of this AD, any corrosion or previous repair is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) If, during any inspection required by paragraph (g) of this AD, any loose or distressed fastener is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Exception

Although Lockheed Martin Electra Service Bulletin 88/SB–722, dated April 30, 2014, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta 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 (j)(1) 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.

(k) Related Information

(1) For more information about this AD, Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5554; fax: 404–474–5605; email: *carl.w.gray@faa.gov.*

(2) 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; phone: 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 service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 19, 2015.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–12859 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2015–1746; Notice No. 15–05]

RIN 2120–AK54

Changes to the Application Requirements for Authorization to Operate in Reduced Vertical Separation Minimum Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action would revise the FAA's requirements for an application to operate in Reduced Vertical Separation Minimum (RVSM) airspace. This proposal would eliminate the burden and expense of developing, processing, and approving RVSM maintenance programs. As a result of this proposed revision, an applicant to operate in RVSM airspace would no longer be required to develop and submit an RVSM maintenance program solely for the purpose of an RVSM authorization. Because of other, independent FAA airworthiness regulations, all aircraft operators would nevertheless continue to be required to maintain RVSM equipment in an airworthy condition.

DATES: Send comments on or before July 27, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–1746 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Charles Fellows, Aviation Safety Inspector, Avionics Branch, Aircraft Maintenance Division, Flight Standards Services, AFS–360, Federal Aviation Administration, 950 L'Enfant Plaza North SW., Washington, DC 20024; telephone (202) 267–1706; email *Charles.Fellows@faa.gov.*

For legal questions concerning this action, contact Benjamin Jacobs, Attorney-Advisor, Office of Chief Counsel, AGC–200, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–7240; email *Benjamin.Jacobs@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Sections 106(f), 40113, and 44701 authorize the FAA Administrator to prescribe regulations necessary for aviation safety. Section 40103 authorizes the Administrator to prescribe regulations to enhance the efficiency of the national airspace. This rulemaking is within the scope of these authorities because it would remove existing safety and airspace-related regulations that the FAA no longer finds necessary to protect aviation safety.

I. Executive Summary

A. Summary of Proposed Rule

This Notice of Proposed Rulemaking (NPRM) proposes to remove the requirement in Appendix G of part 91 of Title 14 of the Code of Federal Regulations (14 CFR) that any operator seeking Reduced Vertical Separation Minimum (RVSM) authorization must

develop and submit an RVSM maintenance program for FAA approval. Currently, any applicant for RVSM authorization must include such a program as part of the application. This requirement was first promulgated in 1997, when most aircraft required significant design changes or inspections to qualify for RVSM operation. The FAA, therefore, required operators to submit for FAA approval a detailed plan for the maintenance of RVSM systems and equipment. Since then, RVSM operations have become much more common. RVSM systems are now incorporated into aircraft type designs or supplemental type designs, and operators must properly maintain those systems as part of their airworthiness obligations.

In light of these developments, the requirement that RVSM applicants submit specialized maintenance plans to the FAA is no longer necessary. Eliminating this requirement would reduce both operators' costs and FAA workload, while maintaining the existing high level of safety.

B. Summary of Costs and Benefits

This proposed rulemaking is a retrospective regulatory review. Because the RVSM maintenance plan requirement is no longer necessary, this proposed rulemaking would eliminate the considerable burden and expense of developing, processing, and approving RVSM maintenance programs. The proposed rulemaking, therefore, promotes cost savings for both part 91 operators and the FAA. The total cost savings are estimated to be $76.1 million over a five-year period ($66.8 million present value).

II. Background

A. Scope of the Problem

As RVSM technology has become integral to the design of aircraft capable of flying in RVSM airspace, the current requirement that any aircraft operator seeking RVSM authorization must submit an RVSM maintenance plan to the FAA is no longer necessary. More specifically, now that RVSM technology is incorporated into aircraft type designs, the FAA's airworthiness and maintenance regulations require any operator of an aircraft incorporating that technology to maintain the RVSM equipment in a condition for safe operation. The FAA, with input from industry, has determined that eliminating the redundant maintenance plan component of RVSM authorization will improve efficiency and reduce costs for both the agency and operators.

B. History of Vertical Separation Standards

Vertical separation standards establish the vertical distance that must separate aircraft routes in the national airspace system. In the early 1970's, rising air-traffic volume and fuel costs sparked an interest in reducing vertical separation standards for aircraft operating above flight level (FL) 290. Above 18,000 feet, flight levels are a measure of altitude assigned in 500-feet increments; FL290 represents an altitude of 29,000 feet. At the time, the FAA required aircraft operating above FL290 to maintain a minimum of 2000 ft. of vertical separation between routes. These high-altitude routes were desirable, because the diminished atmospheric drag at high altitudes results in a corresponding decrease in fuel consumption. Operators, therefore, sought and continue to seek not only the most direct routes, but also the most efficient altitudes for their aircraft. Higher demand for these high-altitude routes resulted in greater congestion.

In 1973, the Air Transport Association of American petitioned the FAA to reduce the vertical separation of high altitude routes to 1000 feet. The FAA denied the petition in 1977, in part, because of insufficient standards and technology, including aircraft altitude-keeping standards, maintenance and operational standards, and altitude correction technology. In mid-1981, however, the FAA initiated the Vertical Studies Program. This program, in conjunction with the RTCA (formerly the Radio Technical Commission for Aeronautics) Special Committee (SC)-150 and the International Civil Aviation Organization (ICAO) Review of General Concept of Separation Panel (RGCSP), determined:

- RVSM was ''technically feasible without imposing unreasonably demanding technical requirements on the equipment'';
- RVSM could provide ''significant benefits in terms of economy and en-route airspace capacity''; and
- Implementation of RVSM would require ''sound operational judgment supported by an assessment of system performance based on: aircraft altitude-keeping capability, operational considerations, system performance monitoring, and risk assessment.'' [1]

Following these determinations, the FAA began a two-phase implementation of RVSM operations for aircraft registered in the United States (U.S.). In 1997, in the first phase, the FAA published two amendments to part 91 of 14 CFR. The first amendment added appendix G (Operations in Reduced Vertical Separation Minimum (RVSM) Airspace), containing a set of operational, aircraft design, and other standards applicable to operators and those seeking to operate in RVSM airspace. Among other things, appendix G requires all applicants for RVSM authorization to submit to the FAA an approved RVSM maintenance plan. In addition, the FAA promulgated § 91.706 (Operations within airspace designed as Reduced Vertical Separation Minimum Airspace), which, among other things, allows operators of U.S.-registered aircraft to fly in RVSM airspace outside of the U.S., in accordance with the requirements of appendix G.

The second phase of RVSM implementation occurred in October 2003, with a second RVSM-related FAA rulemaking. The 2003 rule introduced RVSM airspace over the U.S. and, like the 1997 rulemaking, requires all U.S.-registered RVSM operators to comply with the application, operations, and aircraft design requirements of part 91, appendix G.[2] The FAA's RVSM program allows for 1000 feet of vertical separation for aircraft between FL290 and FL410. Before the 2003 rule, air traffic controllers could only assign Instrument Flight Rules (IFR) aircraft flying at FL290 and above to FL290, 310, 330, 350, 370, 390, and 410 because the existing vertical separation standard was 2000 feet. After the rule changes, IFR aircraft could also fly at FL300, 320, 340, 360, 380, and 400—nearly doubling capacity within this particular segment of airspace. The changes both mitigated the fuel penalties attributed to flying at sub-optimum altitudes, and increased the flexibility of air traffic control.

In 2008, the FAA reviewed its RVSM program and operator authorization policies. At the time, the FAA database contained more than 7,000 active RVSM authorizations, covering in excess of 15,000 U.S.-registered aircraft. The FAA's evaluation found the existing processes ensured compliance with the RVSM operating requirements.

At the same time, FAA representatives began meeting with the National Business Aviation Association (NBAA) to develop ways to streamline the RVSM application process to lower operators' burden to obtain authorization and reduce the FAA's workload associated with processing and granting authorizations. The parties formed the RVSM Process Enhancement Team (PET), tasking it to focus on changes that could be accomplished

[1] *Reduced Vertical Separation Minimum Operations,* 62 FR 17480, 17481 (Apr. 9, 1997).

[2] *Reduced Vertical Separation Minimum in Domestic* Airspace, 68 FR 61304 (Oct. 27, 2003).

without rulemaking. The PET completed its tasks in 2013. Among other things, it revised existing policies and guidance to facilitate more efficient processing of operators' requests to change existing authorizations, and created a job aid to assist inspectors and standardize their review of operator applications.

III. Discussion of the Proposal

This proposed rulemaking would address another element identified by the PET: reducing the burden on part 91 operators to create and obtain approval of an RVSM-specific maintenance program. The PET could not address this issue because the workgroup's charter limited the PET to changes that could be made through guidance and without rulemaking action. However, both the FAA and the NBAA agreed that RVSM-related airworthiness standards, applicable to all part 91 operators, should be treated more like other, substantially similar aircraft maintenance requirements, while maintaining an equivalent level of safety.

Under current requirements, section 3 (Operator Authorization) of appendix G contains application requirements for an operator seeking RVSM authorization. As described above, this section requires any RVSM applicant to develop and submit for FAA approval an RVSM maintenance program. The program must outline service and maintenance procedures and include acceptable maintenance practices, a quality assurance program for test equipment, and procedures for return to service.

During the early implementation of RVSM, most aircraft required upgrades, modifications, or the application of service bulletins to meet the FAA's RVSM system safety standards. In 1997, requiring operators to create RVSM maintenance programs was essential to ensure that operators satisfied these standards and, by extension, the continued airworthiness of their aircraft. Today, however, nearly 17 years since first implementation, RVSM systems are the standard among aircraft capable of operating between FL290 and FL410. Additionally, most RVSM-capable aircraft are either newly built or have been modified, under a supplemental type certificate, to meet RVSM performance requirements by original design. All of these aircraft designs have Instructions for Continued Airworthiness (ICA)—maintenance instructions to which aircraft operators must adhere—providing operators with detailed instructions for maintaining any RVSM equipment. And, most importantly, the continued airworthiness of RVSM-capable aircraft is also ensured by the FAA's airworthiness regulations, which require operators to maintain each aircraft in accordance with its type design and in a condition for safe operation.

The specific terms of the FAA's maintenance requirements vary according to the type of operator involved. Commercial operators are required to use a structured, organizational approach to maintenance that may include named oversight personnel, manuals, and an FAA-approved maintenance program. Both currently and under this proposal, these maintenance programs must account for the maintenance of RVSM equipment. On the other hand, non-commercial operators—such as those operating privately—are not required to create an organizational maintenance structure, but are instead required (both currently and if this proposal goes into effect) to have their aircraft inspected in accordance with part 91, and to have repairs executed in accordance with part 43. Ultimately, all operators' RVSM-related obligations under these airworthiness regulations are substantially identical to the independent maintenance requirements of section 3 of appendix G. The FAA has determined, therefore, that an independent requirement to develop and submit RVSM-specific maintenance programs for FAA approval is no longer necessary or justified.

In light of the foregoing, the FAA proposes to revise section 3 of appendix G by removing the requirement that an applicant submit an approved RVSM maintenance program, currently codified as § 3(b)(1)–(3). The FAA proposal would reserve § 3(b)(1) and leave in place the other application-related requirements and paragraphs. The FAA does not intend for this proposal to affect the other elements of an application for RVSM authorization.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

DOT Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. Because this proposed rulemaking is a retrospective regulatory review, the expected outcome would be a cost savings with positive net benefits. The FAA has, therefore, determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures. The FAA requests comments with supporting justification about the FAA determination of the proposed rule providing a cost savings. The reasoning for this determination follows:

This proposed rulemaking would remove the requirement in Appendix G of part 91 that operators seeking RVSM authorization must develop and submit an RVSM maintenance plan for FAA approval. It would eliminate the considerable burden and expense to operators and FAA safety inspectors of developing, processing, and approving RVSM maintenance plans.

When the current requirement was established, RVSM systems were yet to be incorporated into aircraft type design. This is no longer the case. RVSM systems are now incorporated into aircraft type designs and supplemental type designs, and operators must properly maintain these systems as part of their airworthiness obligation. In light of these developments, the requirement in Appendix G of part 91 for RVSM applicants to submit specialized maintenance plans is redundant.

To quantify the relief to part 91 operators and FAA safety inspectors from the streamlining of regulations, the FAA has estimated three variables, which are: (1) The number of RVSM maintenance programs approved for calendar year (CY) 2014, (2) the costs

per operator of submitting an RVSM maintenance program for FAA approval, and (3) the average number of hours expended by an FAA safety inspector to review and approve an RVSM maintenance program. The value for each of these variables is shown below.

CY 2014—Number of maintenance programs submitted to FAA for approval [3]	Operator cost for submitting a maintenance program to the FAA for approval [4]	Hours expended by FAA safety inspectors reviewing maintenance programs for approval [5]
2,821	$5,000 [6]	12

Applying these estimates, the FAA anticipates that operators would experience cost savings of approximate $14.1 million in year one of implementation. We calculated this figure by multiplying the estimated number of maintenance approvals submitted to the FAA during CY 2014 (2,821 approvals) by each operator's cost for submitting a RVSM maintenance program to the FAA for approval ($5,000).

In addition to the cost savings realized by operators, eliminating the requirement would free 33,852 hours for FAA safety inspectors to perform alternative tasks during year one of implementation. The hours are calculated by multiplying the average number of hours FAA safety inspectors expend reviewing and approving each RVSM maintenance program submitted (12 hours) by the number of RVSM maintenance program approvals estimated for CY 2014 (2,821 approvals). The annual cost savings of $1.1 million to the FAA equals the 33,852 hours multiplied by the FAA fully-burdened wage of $33.06.[7]

Based on these calculations, the cost savings to operators during the first five years of the rule's implementation would be approximately $70.5 million ($61.9 million present value), and the FAA cost savings would total $5.6 million ($4.9 million present value). The results are presented below.

COST SAVINGS DUE TO PROPOSED RULE—MILLIONS OF $

	2014	2015	2016	2017	2018	Total
Operator Cost Savings	$14.1	$14.1	$14.1	$14.1	$14.1	$70.5
Present Value 7%—(Millions of $)	14.1	13.2	12.3	11.5	10.8	61.9
FAA Cost Savings	1.1	1.1	1.1	1.1	1.1	5.6
Present Value 7%—(Millions of $)	1.1	1.0	1.0	0.9	0.9	4.9

Note: Details may not add due to rounding.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.''

The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If an agency anticipates such an impact, the agency must prepare a regulatory flexibility analysis as described in the RFA. Section 603 of the RFA requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the impact of proposed rule on small entities. This rule is relieving. The FAA is issuing this rule to eliminate duplicative requirements. The FAA estimates that this rule would reduce firm's costs by $5,000 to develop and submit an RVSM maintenance plan. Under Section 603(b), this initial analysis must account for the following issues, which are addressed below:

• Description of Reasons the Agency Is Considering the Action

All part 91 operator RVSM-related obligations are required by FAA airworthiness regulations to maintain RVSM equipment in an airworthy condition. Thus, the requirement in section 3 of Appendix G, that operators seeking RVSM authorization to develop and submit an RVSM maintenance plan for FAA approval342 is redundant. The FAA estimates that the removal of this redundant requirement will save each affected small entity $5,000 per RVSM authorization.

[3] FAA National Program Tracking and Reporting Subsystem (NPTRS). Actual data was available through October. Estimates were made for November and December.

[4] National Business Aviation Association—Part 91 Operator Cost for Submitting an RVSM Approval.

[5] FAA Safety Inspectors involved in RVSM authorization processing at FAA Flight Standards District Offices (FSDO).

[6] This amount consists of $3,123 in operator costs for submitting an application form and supporting documentation to a RVSM manual preparation service, and then reading, understanding, signing, and submitting the completed RVSM maintenance program manual to the FAA for approval. The remaining $1,977 is an approximation of the amount paid by an operator for RVSM manual preparation services. The estimate of $1,977 is an average of quotes provided on the Internet by seven companies providing this service. These seven quotes ranged from $795 to $3,850.

[7] 2014 General Schedule Salary Table as published by the U. S. Office of Personnel Management. The salary used for calculating costs savings is the fully-burdened hourly wage for a GS 12 Step 5, which is the mid-range salary for this position.

• Statement of the Legal Basis and Objectives for the Proposed Rule

The FAA's authority to issue rules regarding aviation safety is found in 49 U.S.C. Sections 106, 40113, and 44701 therein authorize the FAA Administrator to prescribe regulations necessary for aviation safety. Section 40103 authorizes the Administrator to prescribe regulations to enhance the efficiency of the national airspace. This rulemaking is within the scope of these authorities because it removes existing safety and airspace-related regulations that the FAA no longer finds necessary to protect aviation safety.

• Description of the Recordkeeping and Other Compliance Requirements of the Proposed Rule

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

• All Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The FAA is not aware of any Federal rules that would duplicate, overlap or conflict with this proposed change. This rule would reduce duplicative requirements saving firms about $5,000.

• Description and an Estimated Number of Small Entities to Which the Proposed Rule Would Apply

Under the RFA, the FAA must determine whether a proposed rule significantly affects a substantial number of small entities. This determination is typically based on small entity size and revenue thresholds that vary depending on the affected industry.[8] In most cases, the FAA cannot determine the size of part 91 operators because financial and employment data for privately held entities is sparse. Nevertheless, we believe the number of small business entities is substantial.

• Alternatives Considered

Alternative 1: Do Nothing.

Analysis: Without changes to Appendix G of part 91, any operator seeking RVSM authorization would continue to be required to develop and submit an RVSM maintenance program. A non-commercial operator with no requirement to hold a maintenance program for any other performance-based authorization would nevertheless be required to develop and obtain FAA approval of an RVSM maintenance program—despite the fact that the operator is already required by FAA regulations to maintain RVSM equipment in accordance with its type designation and in a condition for safe operation. Furthermore, the review and approval of this information would continue to consume FAA resources.

Alternative 2: Replace the current Appendix G requirement that operators include an ''approved RVSM maintenance program'' with a requirement that operators ''identify practices'' for the maintenance of RVSM equipment

Analysis: Relaxing Appendix G application requirements to allow operators to ''identify practices'' for the maintenance of RVSM equipment would allow a non-commercial operator to cite the applicable manufacturer's maintenance manual or instructions for continued airworthiness. This alternative would likely reduce the time and resources spent by operators and the FAA in compiling and reviewing RVSM applications. This alternative is undesirable, however, because it fails to address the absence of any safety benefits associated with continuing to require RVSM maintenance programs as a component of an RVSM application.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. This rule would eliminate an existing duplicative requirement. In doing so, this rule would, reduce a firm's costs by $5,000; hence the rule reduces costs. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities because this rule is cost relieving.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would have the same impact on domestic and international entities and thus has a neutral trade impact.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)) requires the FAA to consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined no PRA requirement for information collection associated with this proposed rule. Specifically, the cost of preparing and obtaining approval of a maintenance program was never evaluated as a paperwork burden in the original PRA Supporting Statement of RVSM (OMB Control no. 2120–0679).

F. International Compatibility and Cooperation

(1) In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

(2) Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory

[8] Thresholds are based on the North American Industry Classification System (NAICS). The NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues, and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312d (regulatory documents covering administrative or procedural requirements) and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this NPRM. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD–ROM, mark the outside of the disk or CD–ROM, and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under DOT procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Amend Appendix G, Section 3 by removing and reserving paragraph (b)(1).

Issued under authority provided by 49 U.S.C. 106(f), 40113 and 44701 in Washington, DC, on May 20, 2015.

John S. Duncan,

Director, Flight Standards Service.

[FR Doc. 2015–12816 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2015–OSERS–0048]

Proposed Priority—Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance

[CFDA Number: 84.263B.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Experimental and Innovative Training program. The Assistant Secretary may

use this priority for competitions in fiscal year (FY) 2015 and later years. We take this action to focus Federal financial assistance on an identified national need. We intend the priority to support a Training and Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance (PEQA).

DATES: We must receive your comments on or before June 29, 2015.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Don Bunuan, U.S. Department of Education, 400 Maryland Avenue SW., Room 5046, Potomac Center Plaza (PCP), Washington, DC 20202–2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Don Bunuan. Telephone: (202) 245–6616 or by email: *don.bunuan@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.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice by accessing regulations.gov. You may also inspect the comments in person in room 5040, 550 12th Street SW., PCP, Washington, DC 20202–2800, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid 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**.

Purpose of Program: This program is designed to (a) develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; and (b) develop new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Program Regulations: 34 CFR parts 385 and 387.

Proposed Priority:

This notice contains one proposed priority.

Training and Technical Assistance Center for Vocational Rehabilitation Agency Program Evaluation and Quality Assurance (PEQA).

Background:

Federal agencies are increasingly being called upon to implement accountability systems designed to assess and improve the effectiveness and efficiency of the programs they administer. Legislation such as the Government Performance and Results Act of 1993 (GPRA) and the GPRA Modernization Act of 2010 have provided a performance management framework that holds Federal agencies accountable for achieving program results.

The recently enacted Workforce Innovation and Opportunity Act (WIOA) made major changes to improve accountability for performance of the core programs of the Federal workforce system, including the State Vocational Rehabilitation (VR) Services program. In particular, WIOA amendments to section 106 of the Rehabilitation Act eliminate the VR program's evaluation standards and indicators and make the program subject to the common performance accountability measures, established in section 116(b) of WIOA, that are applicable to all core programs of the workforce development system.

In addition to required evaluation activities under the Rehabilitation Act, section 116(e)(1) of WIOA requires States, in coordination with local boards and the State agencies responsible for the administration of the core programs, to conduct ongoing evaluations of activities carried out under such programs ''in order to promote, establish, implement, and utilize methods for continuously improving core program activities in order to achieve high-level performance within, and high-level outcomes from, the workforce development system.''

To carry out the WIOA performance accountability and evaluation requirements, State VR agencies will need to build their capacity to develop and evaluate methods to achieve high-level performance and program outcomes, including the effective and efficient use of program resources. In particular, State VR agencies will need personnel with the knowledge and skills to improve agency performance management systems through rigorous program evaluation and the implementation of quality assurance systems.

In anticipation of the increased focus on improving performance management, in 2011, the 36th Institute on Rehabilitation Issues (IRI) study group recommended that (1) the Rehabilitation Services Administration (RSA) work with the rehabilitation field to improve performance management systems and tools, and (2) State agencies embrace continuous improvement practices to properly inform public policy development and measurement of effectiveness (IRI, 2011). The 36th IRI described how bolstering program evaluation and quality assurance within State agencies could improve the quality of service delivery and better achieve successful employment for VR consumers. For example, trained evaluators could provide agencies with valuable data and analysis to use in

planning and forecasting, to tailor training to meet the needs of staff, to evaluate staff performance, to respond to policy initiatives, and to monitor overall performance of the agency. As a result, State VR agencies will be more accountable, efficient, and successful.

The demand for program evaluation and quality assurance skill development is also evidenced by the growing number of grassroots communities of practice. These communities of practice, which usually consist of VR agency staff, have identified that one of the greatest needs of State VR agencies is structured program evaluation training specifically tailored for existing staff.

For State VR agencies, a workforce with skills focused on performance evaluation and quality assurance is essential. There is a demonstrated interest and need in the field for additional, structured training opportunities for new and existing State VR agency staff, and RSA believes a training and technical assistance center would be ideally suited to meet this need.

Reference:

Institute on Rehabilitation Issues (2011). Performance management: Program evaluation and quality assurance in vocational rehabilitation. Hot Springs, AR: University of Arkansas CURRENTS.

Proposed Priority:

The purpose of this proposed priority is to fund a cooperative agreement for a training and technical assistance center that will assist State vocational rehabilitation (VR) agencies to improve performance management by building their capacity to carry out high quality program evaluations and quality assurance practices that promote continuous program improvement.

The Training and Technical Assistance Center for Program Evaluation and Quality Assurance (PEQA) will assist State VR agencies in building this capacity through professional education and training of vocational rehabilitation evaluators. To this end, PEQA will:

(a) Provide educational opportunities for State VR staff from recognized experts in program evaluation and quality assurance;

(b) Develop interagency collaboration networks and work teams committed to the improvement of quality assurance systems and tools; and

(c) Deliver technical, professional, and continuing educational support to State VR program evaluators.

Project Activities:

To meet the requirements of this priority, the PEQA must, at a minimum, conduct the following activities:

Basic Certification Program:

(a) Develop a one-year certificate program in VR program evaluation that will result in increasing the numbers and qualifications of program evaluators in State VR agencies. At a minimum, this certificate program must:

(1) Be designed to develop key competencies necessary for successful implementation of program evaluation and quality assurance activities, including, but not limited to:

(i) Knowledge of the State-Federal VR program;

(ii) Data collection methodologies;

(iii) Data analysis and interpretation;

(iv) Making evaluative judgments and recommendations;

(v) Effective communication of results (including presentations, drafting reports, and building partnerships); and

(vi) Ethical practice.

(2) Be responsive to the prior knowledge and skills of participants;

(3) Incorporate adult learning principles and opportunities for practice into training;

(4) Be delivered through multiple modalities and in an accessible format;

(5) Assess, at regular intervals, the progress of training participants toward attainment of the key competencies; and

(6) Require the completion of a capstone project in order to successfully complete the program. The capstone project must:

(i) Be completed within one year of the completion of formal coursework for the certificate program;

(ii) Be conducted on a topic responsive to the needs of the State VR agency and agreed to by the PEQA, the participant, and the State VR agency; and

(iii) Be completed as part of the normal work duties of the participant in the State VR agency.

(7) Be provided at no cost to participants, excluding travel and per diem costs, which may be provided by the sponsoring agency.

(b) Provide training through the certificate program to a cohort of eight to ten working professionals in each year of the project.

(c) Select participants for the certificate program based, in part, on the considered recommendation of their employing State VR agencies.

Special Topical Training:

(a) Develop a series of special training opportunities for intermediate-level program evaluators. These training opportunities must, at a minimum:

(1) Be designed to develop higher-level knowledge, skills, and abilities of program participants;

(2) Be focused on a range of topics determined by the PEQA with input from State VR agencies and other relevant groups or organizations;

(3) Provide opportunities for hands-on application of the competencies discussed in the trainings;

(4) Be of sufficient duration and intensity to ensure that participants obtain the competencies discussed in the trainings; and

(5) Assess the progress of program participants in attaining the competencies discussed in the trainings.

Note: For purposes of this priority, an ''intermediate-level program evaluator'' is a program evaluator working for a State VR agency with the knowledge, skills, and abilities typically expected of a professional who has been in such a position for at least five years.

(b) Conduct no fewer than four special training opportunities each year of the project.

Coordination Activities:

(a) Establish a community of practice that will act as a vehicle for communication, exchange of information among program evaluation professionals, and a forum for sharing the results of capstone projects that are in progress or have been completed. This community of practice must be focused on challenges facing project evaluation professionals and the development of key competencies to address such challenges;

(b) Maintain a Web site that, at a minimum:

(1) Provides a central location for later reference and use of capstone projects, resources from special training opportunities, and other relevant materials; and

(2) Ensures peer-to-peer access between State VR project evaluation professionals.

(c) Communicate and coordinate, on an ongoing basis, with other relevant Department-funded projects and those supported by the Departments of Labor, Commerce, and Health and Human Services; and

(d) Maintain ongoing communication with the RSA project officer and other RSA staff as required.

Application Requirements:

To be funded under this priority, applicants must meet the application and administrative requirements in this priority. RSA encourages innovative approaches to meet these requirements, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address State VR agencies' capacity to conduct high quality program evaluation and data analysis

activities. To address this requirement, the applicant must:

(i) Demonstrate knowledge of emerging and best practices in program evaluation and quality assurance;

(ii) Demonstrate knowledge of current State VR and other efforts designed to improve evaluation and performance management practices.

(2) Increase the number of program evaluators working in State VR agencies who have obtained a certificate in their field of work and the number and quality of program evaluation activities performed by State VR agencies.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes;

(ii) A plan for how the proposed project will achieve its intended outcomes; and

(iii) A plan for communicating and coordinating with relevant training programs and communities of practice, State VR agencies, and other RSA partners.

(2) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

(3) Be based on current research and make use of evidence-based practices. To meet this requirement, the applicant must describe:

(i) How the current research about adult learning principles and implementation science will inform the proposed training; and

(ii) How the proposed project will incorporate current research and evidence-based practices in the development and delivery of its products and services.

(4) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) Its proposed curriculum for a certificate program for VR evaluation professionals;

(ii) Its proposed plan for recruiting and selecting trainees for the certification program;

(iii) Its proposed plan for collecting information on the impact of capstone projects;

(iv) Its proposed plan for identifying, selecting and addressing the special topical program evaluation and quality assurance related training needs of State VR agency staff;

(v) Its proposed plan for annual follow-up with participants in special training opportunities;

(5) Develop products and implement services to maximize the project's efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes; and

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration.

(c) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how the proposed project will—

(1) Measure and track the effectiveness of the training provided. To meet this requirement, the applicant must describe its proposed approach to—

(i) Collecting data on the effectiveness of training activities;

(ii) Analyzing and reporting data on the effectiveness of training, including any proposed standards or targets for determining effectiveness;

(2) Collect and analyze data on specific and measurable goals, objectives, and intended outcomes of the project, including measuring and tracking the effectiveness of the training provided. To address this requirement, the applicant must describe—

(i) Its proposed evaluation methodologies, including instruments, data collection methods, and analyses;

(ii) Its proposed standards or targets for determining effectiveness;

(iii) How it will use the evaluation results to examine the effectiveness of its implementation and its progress toward achieving the intended outcomes; and

(iv) How the methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project and individual training activities achieved their intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed project will encourage 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, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes, including an assurance that such personnel will have adequate availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, technical assistance providers, researchers, and policy makers, among others, in its development and operation.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563: Regulatory Impact Analysis:

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that would maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only on a reasoned determination that their benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of a grant under the Rehabilitation Training program have been established over the years through the successful completion of similar training projects funded for the purpose of improving the skills of State VR agency staff. The proposed priority would specifically improve the skills of State VR agency evaluators. A project of this type will be particularly beneficial to State VR agencies in this era of increased emphasis on accountability and program results.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document 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**.

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.

Dated: May 21, 2015.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–12824 Filed 5–27–15; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0269; FRL–9928–33–Region 7]

Partial Approval and Disapproval of Nebraska Air Quality Implementation Plans; Revision to the State Implementation Plan Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards; Revocation of the PM_{10} Annual Standard and Adoption of the 24 Hour $PM_{2.5}$ National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on three Nebraska State Implementation Plan (SIP) submissions. First, EPA is proposing to partially approve and partially disapprove portions of two SIP submissions from the state of Nebraska addressing the applicable requirements of the Clean Air Act (CAA) for the 1997 and 2006 National Ambient Air Quality Standards (NAAQS) for fine particulate matter ($PM_{2.5}$). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated or revised by the EPA. These SIPs are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is proposing to disapprove Nebraska's SIP as it relates to section 110 with respect to visibility, for the 1997 and 2006 $PM_{2.5}$ NAAQS. EPA is also proposing to approve an additional SIP submission from Nebraska, addressing the revocation of the PM_{10} annual standard and adoption of the 24 hour $PM_{2.5}$ standard.

DATES: Comments must be received on or before June 29, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0269, by one of the following methods:

1. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
2. *Email: crable.gregory@epa.gov*.
3. *Mail:* Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.
4. *Hand Delivery or Courier:* Deliver your comments to Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0269. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment 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 should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Crable, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551–7391; *fax number:* (913) 551–7065; *email address: crable.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer to EPA. This section provides additional information by addressing the following questions:

I. What is being addressed in this document?
II. What are the applicable elements under Sections 110(a)(1) and (2) related to the 1997 and 2006 $PM_{2.5}$ NAAQS?
III. What is EPA's approach to the review of infrastructure SIP submissions?
IV. What is EPA's evaluation of how the state addressed the relevant elements of Sections 110(a)(1) and (2)?
V. What are the additional provisions of the November 14, 2011 SIP submission that EPA is proposing to take action on?
VI. What action is EPA proposing?
VII. Statutory and Executive Order Review
VIII. Statutory Authority

I. What is being addressed in this document?

In this proposed rulemaking, EPA is proposing to take action on three Nebraska SIP submissions. EPA received the first submission on April 3, 2008, addressing the infrastructure SIP requirements relating to the 1997 $PM_{2.5}$ NAAQs. EPA received the second SIP submission on August 29, 2011, addressing the infrastructure SIP requirements relating to the 2006 $PM_{2.5}$ NAAQs. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). If EPA takes final action as proposed, we will have acted on both the April 3, 2008 and August 8, 2011 SIP submission in their entirety.

The third submission was received by EPA on November 14, 2011, as a part of a larger submission dealing with various title 129 revisions, which we will address at a later date. This submission revises Chapter 4, Title 129 of the Nebraska Administrative Code. The change will repeal the annual NAAQS for PM_{10} which was revoked by the EPA on December 2006 and adopt the new 24-hour $PM_{2.5}$ NAAQS which was issued by EPA in December 2006.

II. What are the applicable elements under sections 110(a)(1) and (2) related to the 1997 and 2006 $PM_{2.5}$ NAAQS?

On October 2, 2007, EPA issued guidance to address infrastructure SIP elements required under sections 110(a)(1) and (2) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.[1] On September 25, 2009, EPA issued guidance to address infrastructure SIP elements required under sections 110(a)(1) and (2) for the 2006 24-hour $PM_{2.5}$ NAAQS.[2] EPA will address these elements below under the following headings: (A) Emission limits and other control measures; (B) Ambient air quality monitoring/data system; (C) Program for enforcement of control measures (PSD, New Source Review for nonattainment areas, and construction and modification of all stationary sources); (D) Interstate and international transport; (E) Adequate authority, resources, implementation, and oversight; (F) Stationary source monitoring system; (G) Emergency authority; (H) Future SIP revisions; (I) Nonattainment areas; (J) Consultation with government officials, public notification, prevention of significant deterioration (PSD), and visibility protection; (K) Air quality and modeling/data; (L) Permitting fees; and (M) Consultation/participation by affected local entities.

III. What is EPA's approach to the review of infrastructure SIP submissions?

On July 18, 1997, EPA promulgated new $PM_{2.5}$ primary and secondary NAAQS (62 FR 38652). On October 17, 2006, EPA made further revisions to the primary and secondary NAAQS for $PM_{2.5}$ (71 FR 61144). EPA is proposing action on Nebraska's April 3, 2008, 1997 $PM_{2.5}$ infrastructure SIP submission and the 2006 $PM_{2.5}$ infrastructure SIP, submitted August 29, 2011. The April 3, 2008, SIP submission became complete as a matter of law on October 3, 2008, while the August 29, 2011 submittal was reviewed and found to be administratively and technically complete on August 30, 2011.

The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[3] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission. The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[4] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years or in some cases three years, for such designations to be promulgated.[5] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section

[1] William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' Memorandum to EPA Air Division Directors, Regions I–X, October 2, 2007 (2007 Memo).

[2] William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS),'' Memorandum to EPA Regional Air Division Directors, Regions I–X, September 25, 2009 (2009 Memo).

[3] For example: section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[4] See, *e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[5] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.,* that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[6] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[7]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The state's attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[8]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[9] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[10] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. While today's proposed action relies on the specific guidance issued for the 1997 and 2006 NAAQS, we have also considered this more recent 2013 guidance where applicable (although not specifically issued for the $PM_{2.5}$ NAAQS) and have found no conflicts between the issued guidance and our review of Nebraska's SIP submissions. Within the 2013 guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[11] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers.

[6] See, *e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[7] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[8] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[9] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[10] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

[11] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and New Source Review (NSR) pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[12] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

With respect to element[s] C and J, EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Nebraska has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including greenhouse gases (GHGs).

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs

[12] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)). EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

At present, EPA has determined the Nebraska's SIP is sufficient to satisfy elements C, D(i)(II), and J with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although Nebraska's approved PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy elements C, (D)(i)(II), and J. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of Nebraska's infrastructure SIP as to the requirements of elements C, D(i)(II), and J.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[13] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[14] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[15]

IV. What is EPA's evaluation of how the state addressed the relevant elements of sections 110(a)(1) and (2)?

On April 3, 2008, EPA Region 7 received Nebraska's infrastructure SIP submission for the 1997 $PM_{2.5}$ standard. On August 29, 2011, EPA Region 7 received Nebraska's infrastructure SIP submission for the 2006 $PM_{2.5}$ standard. EPA has reviewed Nebraska's infrastructure SIP submissions and the relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Nebraska's SIP. Below is EPA's evaluation of how the state addressed the relevant elements of section 110(a)(2) for both the 1997 and 2006 $PM_{2.5}$ NAAQS.

(A) Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each NAAQS.[16]

The state of Nebraska's statutes and Air Quality Regulations authorize the Nebraska Department of Environmental Quality (NDEQ) to regulate air quality and implement air quality control regulations. Section 81–1504 of the Nebraska Revised Statutes authorizes NDEQ to act, among other things, as the state air pollution control agency for all purposes of the CAA and to develop comprehensive programs for the prevention, control and abatement of new or existing pollution to the air of the state. Air pollution is defined in section 81–1502 of the Nebraska Revised Statutes as the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business.

Section 81–1505(1) of the Nebraska Revised Statutes authorizes the Nebraska Environmental Quality Council (EQC) to adopt and promulgate rules which set air standards that will protect public health and welfare. The EQC is also authorized to classify air contaminant sources according to levels and types of discharges, emissions or other characteristics.

The 1997 $PM_{2.5}$ NAAQS specified in 40 CFR 50.7 was proposed and adopted into Nebraska title 129 chapter 4, section *001.02* of the Nebraska

[13] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[14] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[15] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

[16] The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 1997 or 2006 $PM_{2.5}$ NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

Administrative Code, by the EQC on September 7, 2001, with an effective date of April 1, 2002. The 2006 $PM_{2.5}$ NAAQS specified in 40 CFR 50.13 was proposed and adopted into Nebraska title 129 chapter 4, section *001.02* of the Nebraska Administrative Code, by the EQC on July 1, 2008, with an effective date of August 18, 2008. Therefore, $PM_{2.5}$ is an air contaminant which may be regulated under Nebraska law.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses the requirements of section 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve this element in the April 3, 2008 and August 29, 2011 SIP submissions.

(B) Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and making these data available to EPA upon request.

To address this element, section 81–1505(12)(o) of the Nebraska Revised Statutes provides the enabling authority necessary for Nebraska to fulfill the requirements of section 110(a)(2)(B). This provision gives the EQC the authority to promulgate rules and regulations concerning the monitoring of emissions. The Air Quality Division within NDEQ implements these requirements. Along with their other duties, the monitoring program within NDEQ's Air Compliance and Enforcement Program collects air monitoring data, quality assures the results, and reports the data. In accordance with the requirements of 40 CFR part 58 appendix D, section 4.7.1(b), Nebraska operates seven $PM_{2.5}$ monitors throughout the state.

NDEQ submits annual monitoring network plans to EPA for approval, including plans for its $PM_{2.5}$ monitoring network, as required by 40 CFR 58.10. Prior to submission to EPA, Nebraska makes the plans available for public review on NDEQ's Web site. See, *http://deq.ne.gov/Publica.nsf/Pubs_Air_Amb.xsp*, for NDEQ's 2014 Ambient Air Monitoring Network Plan. This Plan includes, among other things, the locations for the $PM_{2.5}$ monitoring network. On February 9, 2015, EPA approved Nebraska's 2014 ambient air network monitoring plan. NDEQ also conducts five-year monitoring network assessments, including the $PM_{2.5}$ monitoring network, as required by 40 CFR 58.10(d). Title 129, chapter 4, section *001.02* of the NAC requires that attainment with the $PM_{2.5}$ standard be determined in accordance with the applicable Federal regulations in 40 CFR part 50, appendix N. Nebraska submits air quality data to EPA's Air Quality System (AQS) quarterly, pursuant to the provisions of work plans developed in conjunction with EPA grants to the state.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP meets the requirements of section 110(a)(2)(B) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve this element in the April 3, 2008 and August 29, 2011 submissions.

(C) Program for enforcement of control measures (PSD, New Source Review for nonattainment areas, and construction and modification of all stationary sources): Section 110(a)(2)(C) requires states to include the following three elements in the SIP: (1) A program providing for enforcement of all SIP measures described in section 110(a)(2)(A); (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.,* state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).[17]

(1) *Enforcement of SIP Measures.* With respect to enforcement of requirements of the SIP, the Nebraska statutes provide authority to enforce the requirements of section 81–1504(1) of the Nebraska Revised Statutes provide authority for NDEQ to enforce the requirements of the Nebraska Environmental Protection Act, and any regulations, permits, or final compliance orders issued under the provisions of that law. In addition, section 81–1504(7) authorizes NDEQ to issue orders prohibiting or abating discharges of waste into the air and requiring the modification, extension or adoption of remedial measures to prevent, control, or abate air pollution. Section 81–1507 authorizes NDEQ to commence an enforcement action for any violations of the Environmental Protection Act, any rules or regulations promulgated thereunder, or any orders issued by NDEQ. This enforcement action can not only seek civil penalties, but also require that the recipient take corrective action to address the violation. *See* section 81–1507(1) and 81–1508.02. Section 81–1508.01 provides for criminal penalties for knowing or willful violations of the statute, regulations or permit conditions, in addition to other acts described in that section.

(2) *Minor New Source Review.* Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. With respect to smaller state-wide minor sources (Nebraska's major source permitting program is discussed in (3) below), Nebraska has a program under title 129, chapter 17 of the NAC that requires such sources to first obtain a construction permit from NDEQ. The permitting process is designed to ensure that new and modified sources will not interfere with NAAQS attainment. NDEQ has the authority to require the source applying for the permit to undergo an air quality impact analysis. If NDEQ determines that emissions from a constructed or modified source interfere with attainment of the NAAQS, it may deny the permit until the source makes the necessary changes to obviate the objections to the permit issuance. *See* chapter 17, sections *008* and *009* of the NAC.

EPA has determined that Nebraska's minor new source review (NSR) program adopted pursuant to section 110(a)(2)(C) of the Act regulates emissions of NAAQS pollutants. EPA has also determined that certain provisions of the state's minor NSR program adopted pursuant to section 110(a)(2)(C) of the Act likely do not meet all the requirements found in EPA's regulations implementing that provision. *See* 40 CFR 51.160–51.164. EPA previously approved Nebraska's minor NSR program into the SIP, and at the time there was no objection to the provisions of this program. *See* 37 FR 10842 (May 31, 1972) and 60 FR 372 (January 4, 1995). Since then, the state and EPA have relied on the existing state minor NSR program to assure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS.

In this action, EPA is proposing to approve Nebraska's infrastructure SIP for the 1997 and 2006 $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a

[17] As discussed previously, this infrastructure SIP rulemaking will not address the Nebraska program for nonattainment area related provisions, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. In this action, EPA is not proposing to approve or disapprove the state's existing minor NSR program to the extent that it is inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element (C) (*e.g.,* 76 FR 41076–76 FR 41079).

(3) *Prevention of Significant Deterioration (PSD) permit program.* Nebraska also has a program approved by EPA as meeting the requirements of part C, relating to prevention of significant deterioration of air quality. In order to demonstrate that Nebraska has met this sub-element, this PSD program must cover requirements not just for the 1997 and 2006 $PM_{2.5}$ NAAQS, but for all other regulated NSR pollutants as well.

Nebraska's implementing rule, title 129, chapter 19, Prevention of Significant Deterioration of Air Quality, incorporates the relevant portions of the Federal rule, 40 CFR 52.21 by reference. In this action, EPA is not proposing to approve or disapprove any state rules with regard to NSR reform requirements. EPA will act on NSR reform submittals through a separate rulemaking process. For Nebraska, we have previously approved Nebraska's NSR reform rules for attainment areas, *see* 76 FR 15852 (March 22, 2011).

The Nebraska SIP also contains a permitting program for major sources and modifications in nonattainment areas (see Title 129, chapter 17, section *013*). This section is currently not applicable to Nebraska because all areas of Nebraska are currently in attainment with the NAAQS. Even if it were applicable, the SIP's discussion of nonattainment areas is not addressed in this rulemaking (see discussion of the section 110(a)(2)(I) requirements for nonattainment areas, below).

With respect to the PSD program, title 129, chapter 19, of the NAC provides for the permitting of construction of a new major stationary source or a major modification of an existing major stationary source. Further, chapter 19, section *010* of the NAC establishes threshold emissions for establishing whether the construction project is a major source of regulated NSR pollutants, including but not limited to $PM_{2.5}$.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Nebraska's SIP, with respect to the requirements of section 110(a)(2)(C) for the 1997 and 2006 $PM_{2.5}$ NAAQS, EPA is proposing to approve this element in the April 3, 2008 and August 29, 2011, submissions.

(D) Interstate and international transport: Section 110(a)(2)(D)(i) includes four requirements referred to as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I); Prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II). Section 110(a)(2)(D)(i)(I) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of any NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or to protect visibility.

With respect to 110(a)(2)(D)(i)(I)—prongs 1 and 2, EPA acted on this issue as it relates to Nebraska on August 8, 2011. *See* 76 FR 48208.

With respect to the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3, EPA notes that Nebraska's satisfaction of the applicable infrastructure SIP PSD requirements for attainment/unclassifiable areas of the 1997 and 2006 $PM_{2.5}$ NAAQS have been detailed in the section addressing section 110(a)(2)(C). As discussed above for element (C)(3), EPA has previously approved Nebraska's NSR reform rules for attainment areas, and, as previously stated, Nebraska currently has no nonattainment areas *See* 76 FR 15852 (March 22, 2011). EPA also notes that the proposed action in that section related to PSD is consistent with the proposed approval related to PSD for section 110(a)(2)(D)(i)(II). Therefore, EPA is proposing to approve the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3.[18]

EPA is proposing to disapprove Nebraska's SIP as it relates to section 110(a)(2)(D)(i)(II) with respect to visibility, or ''Prong 4'' of the requirements of section 110(a)(2)(D). In its SIP submittal, Nebraska refers to its submittal of a SIP revision in July, 2011, addressing the regional haze requirements. An approved regional haze SIP that fully meets the regional haze requirements in 40 CFR 51.308 would satisfy the requirements of section 110(a)(2)(D)(i)(II) for visibility protection as such a SIP would ensure that emissions from the state will not interfere with measures required to be included in other state SIPs to protect visibility. EPA has not, however, fully approved Nebraska's Regional Haze SIP.

On July 6, 2012, after reviewing Nebraska's submittal of a Regional Haze SIP, EPA published the ''Approval, Disapproval and Promulgation of Implementation Plans; State of Nebraska; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology Determination; Final Rule'' (77 FR 40150). In that action, EPA partially approved the SIP revision as meeting the applicable regional haze requirements set forth in sections 169A and 169B of the Act and in the Federal regulations codified at 40 CFR 51.308, and the requirements of 40 CFR part 51, subpart F and appendices V and Y. EPA disapproved the SO_2 BART determinations for units 1 and 2 of the Gerald Gentleman Station (GGS) because they do not comply with EPA's regulations. EPA also disapproved Nebraska's long-term strategy insofar as it relied on the deficient SO_2 BART determination at GGS. Instead, EPA finalized a FIP relying on the Transport Rule as an alternative to BART for SO_2 emissions from GGS to address these deficiencies. Given this, EPA cannot approve Nebraska's SIP as meeting the prong 4 requirements based on the absence of a fully approved Regional Haze SIP.

In the absence of a fully approved Regional Haze SIP, a State may meet the requirements of prong 4 by showing that its SIP contains adequate provisions to prevent emission from within the State from interfering with other state's measures to protect visibility. See, *e.g.,* 76 FR 8326 (February 14, 2011). Nebraska did not, however, provide a demonstration in its infrastructure SIP that emissions within its jurisdiction do not interfere with other States' plans to protect visibility.

Section 110(a)(2)(D)(ii) also requires that the SIP insure compliance with the applicable requirements of sections 126 and 115 of the CAA, relating to interstate and international pollution abatement, respectively.

[18] On August 31, 2011, by letter from Shelley Schneider, Air Quality Division Administrator of NDEQ, to Becky Weber, Director of the Air and Waste Management Division of EPA, NDEQ clarified that its August 29, 2011 SIP submission addressed the PSD requirements of section 110(a)(2)(D)(i)(II).

Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from sources within the state. Although Nebraska sources have not been identified by EPA as having any interstate or international impacts under section 126 or section 115 in any pending actions relating to the 1997 or 2006 $PM_{2.5}$ NAAQS, the Nebraska regulations address abatement of the effects of interstate pollution. Title 129, chapter 14, section *010.03* of the NAC requires NDEQ, after receiving a complete PSD permit application, to notify EPA, as well as officials and agencies having cognizance where the proposed construction is to occur. This includes state or local air pollution control agencies and the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification. Finally, we believe that Nebraska could use the same statutory authorities previously discussed, primarily section 81–1505 of the Nebraska Revised Statutes, to respond to any future findings with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS.

Section 115 of the CAA authorizes EPA to require a state to revise its SIP under certain conditions to alleviate international transport into another country. There are no final findings under section 115 of the CAA against Nebraska with respect to any air pollutant. Thus, the state's SIP does not need to include any provisions to meet the requirements of section 115.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Nebraska's SIP, EPA is not proposing to take action, at this time, as it relates to section 110(a)(2)(D)(i)(I)—prongs 1 and 2 and proposes to disapprove 110(a)(i)(II)—prong 4. However, EPA believes that Nebraska has the adequate infrastructure needed to address sections 110(a)(2)(D)(i)(II)—Prong 3 and 110(a)(2)(D)(ii) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve the April 3, 2008 submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for those elements as indicated above.

(E) Adequate authority, resources, implementation, and oversight: Section 110(a)(2)(E) requires that SIPs provide for the following: (1) necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements that the state comply with the requirements relating to state boards, pursuant to section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

(1) Section 110(a)(2)(E)(i) requires states to establish that they have adequate personnel, funding and authority. With respect to adequate authority, we have previously discussed Nebraska's statutory and regulatory authority to implement the 1997 and 2006 $PM_{2.5}$ NAAQS, primarily in the discussion of section 110(a)(2)(A) above. Neither Nebraska nor EPA has identified any legal impediments in the state's SIP to implementation of the NAAQS.

With respect to adequate resources, NDEQ asserts that it has adequate personnel to implement the SIP. State statutes provide NDEQ the authority to establish bureaus, divisions and/or sections to carry out the duties and powers granted by the Nebraska state law to address the control of air pollution, to be administered by full-time salaried, bureau, division or section chiefs. See Nebraska Revised Statutes section 81–1504(14). NDEQ's Air Quality Division is currently divided into the Permitting Section, the Compliance Section, and the Program Planning and Development Unit.

With respect to funding, the Nebraska statutes require the EQC to establish various fees for sources, in order to fund the reasonable costs of implementing various air pollution control programs. For example, section 81–1505(12)(e) of the Nebraska Revised Statutes requires the EQC to establish a requirement for sources to pay fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality operating permit program. These costs include overhead charges for personnel, equipment, buildings and vehicles; enforcement costs; costs of emissions and ambient monitoring; and modeling analyses and demonstrations. See Nebraska Revised Statutes section 81–1505.04(2)(b). Similarly, section 81–1505(12)(a) requires the EQC to establish application fees for air contaminant sources seeking to obtain a permit prior to construction.

Section 81–1505.05 of the Nebraska Revised Statutes provides that all fees collected pursuant to section 81–1505.04 be credited to the ''Clean Air Title V Cash Fund'' to be used solely to pay for the direct and indirect costs required to develop and administer the air quality permit program. Similarly, section 81–1505.06 provides that all fees collected pursuant to section 81–1505(12) be deposited in the ''Air Quality Permit Cash Fund.''

Nebraska uses funds in the non-Title V subaccounts, along with General Revenue funds and EPA grants under, for example, sections 103 and 105 of the Act, to fund the programs. EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to, among others, implement the SIP.

(2) Conflict of interest provisions—Section 110(a)(2)(E)(ii) requires that each state SIP meet the requirements of section 128, relating to representation on state boards and conflicts of interest by members of such boards. Section 128(a)(1) requires that any board or body which approves permits or enforcement orders under the CAA must have at least a majority of members who represent the public interest and do not derive any ''significant portion'' of their income from persons subject to permits and enforcement orders under the CAA. Section 128(a)(2) requires that members of such a board or body, or the head of an agency with similar powers, adequately disclose any potential conflicts of interest.

On October 21, 2014, EPA approved Nebraska's SIP revision addressing section 128 requirements. For a detailed analysis concerning Nebraska's section 128 provisions, see EPA's approval of Nebraska's 2008 Lead infrastructure SIP (79 FR 62832).

(3) With respect to assurances that the state has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, section 81–1504(18) of the Nebraska Revised Statutes grants NDEQ the authority to encourage local units of government to handle air pollution problems within their own jurisdictions. NDEQ may delegate, by contract with governmental subdivisions which have adopted air pollution control programs, the enforcement of state-adopted air pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivision. *See* section 81–1504(23). However, the Nebraska statutes also retain authority in NDEQ to carry out the provisions of state air pollution control law. Section 81–1504(1) gives

NDEQ ''exclusive general supervision'' of the administration and enforcement of the Nebraska Environmental Protection Act. In addition, section 81–1504(4) designates NDEQ as the air pollution control agency for the purposes of the CAA.

The State of Nebraska relies on two local agencies for assistance in implementing portions of the air pollution control program: Lincoln/Lancaster County Health Department and Omaha Air Quality Control. NDEQ oversees the activities of these local agencies to ensure adequate implementation of the plan. NDEQ utilizes sub-grants to the local agencies to provide adequate funding, and as an oversight mechanism. EPA conducts reviews of the local program activities in conjunction with its oversight of the state program.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(E) for the 1997 and 2006 $PM_{2.5}$ NAAQS submitted and is proposing to approve the April 3, 2008 submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(F) Stationary source monitoring system: Section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. Each SIP shall require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and requires that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times. To address this element, section 81–1505(12)(o) of the Nebraska Revised Statutes gives the EQC the authority to promulgate rules and regulations for air pollution control, including requirements for owner or operator testing and monitoring of emissions. It also gives the EQC the authority to promulgate similar rules and regulations for the periodic reporting of these emissions. *See* section 81–1505(12)(l). Title 129 chapter 34, section *002* of the NAC incorporates various EPA reference methods for testing source emissions, including methods for $PM_{2.5}$. The Federal test methods in 40 CFR part 60, appendix A are referenced in title 129, chapter 34 section *002.02*.

The Nebraska regulations also require that all Class I and Class II operating permits include requirements for monitoring of emissions. *See* title 129, chapter 8, sections *004.01* and *015* of the NAC. Furthermore, title 129, chapter 34, section *001* of the NAC allows NDEQ to order an emissions source to make or have tests made to determine the rate of contaminant emissions from the source whenever NDEQ has reason to believe that the existing emissions from the source exceed the applicable emissions limits.

The Nebraska regulations also impose reporting requirements on sources subject to permitting requirements. *See* title 129, chapter 6, section *001;* chapter 8, sections *004.03* and *015* of the NAC. Nebraska makes all monitoring reports submitted as part of Class I or Class II permit a publicly available document. Although sources can submit a claim of confidentiality for some of the information submitted, Nebraska regulations specifically exclude emissions data from being entitled to confidential protection. See title 129, chapter 7, section *004* of the NAC. Nebraska uses this information to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with emission regulations and additional EPA requirements.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(F) for the 1997 and 2006 $PM_{2.5}$ NAAQS submitted and is proposing to approve the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(G) Emergency authority: Section 110(a)(2)(G) requires SIPs to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment (comparable to the authorities provided in section 303 of the CAA), and to include contingency plans to implement such authorities as necessary.

Section 81–1507(4) of the Nebraska Revised Statutes states that whenever the Director of NDEQ finds that an emergency exists requiring immediate action to protect the public health and welfare, he or she may issue an order requiring that such action be taken as the Director deems necessary to meet the emergency. Title 129, chapter 38, section *003* of the NAC states that the conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. This regulation also establishes action levels for various air pollutants. The action levels (which include ''Air Pollution Alert,'' ''Air Pollution Warning,'' and ''Air Pollution Emergency'') and associated contingency measures vary depending on the severity of the concentrations. Appendix I to title 129 of the NAC provides an Emergency Response Plan with actions to be taken under each of the severity levels. These steps are designed to prevent the excessive build-up of air pollutants to concentrations which can result in imminent and substantial danger to public health. Both the regulation at chapter 38 and the Emergency Response Plan are contained in the Federally approved SIP.

Based on EPA's experience to date with the $PM_{2.5}$ NAAQS and designated $PM_{2.5}$ nonattainment areas, EPA expects that an emergency event involving $PM_{2.5}$ would be unlikely, and if it were to occur, would be the result of a malfunction or other emergency situation at a relatively large source of $PM_{2.5}$. Accordingly, EPA believes that the central components of a contingency plan would be to reduce emissions from the source at issue (if necessary, by curtailing operations) and public communication as needed. EPA believes that Nebraska's statutes referenced above provide the requisite authority to NDEQ to address such situations.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in that submission or referenced in Nebraska's SIP, EPA believes that the Nebraska SIP adequately addresses section 110(a)(2)(G) for the 1997 and 2006 $PM_{2.5}$ NAAQS submitted and is proposing to approve the April 3, 2008

submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(H) Future SIP revisions: Section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

As discussed previously, section 81–1504 of the Nebraska Revised Statutes authorizes NDEQ to regulate air quality and implement air quality control regulations. It also authorizes NDEQ to act as the state air pollution control agency for all purposes of the CAA. Section 81–1505(1) gives the EQC the authority to adopt and promulgate rules which set air standards that will protect public health and welfare. This authority includes the authority to revise rules as necessary to respond to a revised NAAQS.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has adequate authority to address section 110(a)(2)(H) for the 1997 and 2006 $PM_{2.5}$ NAAQS submitted and is proposing to approve this element in regard to the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(I) Nonattainment areas: Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

As noted earlier, EPA does not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

(J) Consultation with government officials, public notification, PSD and visibility protection: Section 110(a)(2)(J) requires SIPs to meet the applicable requirements of the following CAA provisions: (1) section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection.

(1) With respect to interagency consultation, the SIP should provide a process for consultation with general-purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over Federal land to which the SIP applies. Section 81–1504(3) authorizes NDEQ to advise and consult and cooperate with other Nebraska state agencies, the Federal government, other states, interstate agencies, and with affected political subdivisions, for the purpose of implementing its air pollution control responsibilities. Nebraska also has appropriate interagency consultation provisions in its preconstruction permit program. *See, e.g.,* title 129, chapter 14 section *010* of the NAC (requiring NDEQ to send a copy of a notice of public comment on construction permit applications to any state or local air pollution control agency; the chief executives of the city and county in which the source would be located; any comprehensive regional land use planning agency; and any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification).

(2) With respect to the requirements for public notification in CAA section 127, title 129 chapter 38 of the NAC, discussed previously in connection with the state's authority to address emergency episodes, contains provisions for public notification of elevated ozone and other air pollutant levels. Appendix I to title 129 of the NAC includes measures which can be taken by the public to reduce concentrations. In addition, information regarding air pollution and related issues, is provided on an NDEQ Web site, *http://www.deq.state.ne.us/NDEQSite.nsf/AirDivSecProg?OpenView&Start=1&ExpandView&Count=500.* NDEQ also prepares an annual report on air quality in the state which is available to the public on its Web site, at *http://www.deq.state.ne.us/Publica.nsf/c4afc76e4e077e11862568770059b73f/a12a5ada6cce1c1686257a47004e0633!OpenDocument.*

(3) With respect to the applicable requirements of part C, relating to prevention of significant deterioration of air quality and visibility protection, we previously noted in the discussion of section 110(a)(2)(C) (relating to enforcement of control measures) how the Nebraska SIP meets the PSD requirements, incorporating the Federal rule by reference. Regarding the prevention of significant deterioration requirements, EPA previously approved Nebraska's $PM_{2.5}$ PSD program as found at 79 FR 45108. On January 22, 2013, the U.S. Court of Appeals for the District of Columbia vacated and remanded the provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning implementation of the $PM_{2.5}$ SILs and vacated the provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21 (i)(5)(i)(c) (adding the $PM_{2.5}$ SMCs) that were promulgated as part of the October 20, 2010, rule, Prevention of Significant Deterioration (PSD) for Particulate Matter less than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels and Significant Monitoring Concentrations, 75 CFR 64864. Consistent with the court's ruling, on June 27, 2013, Nebraska submitted a request to not include the SIP provisions relating the Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs).

With respect to the visibility component of section 110(a)(2)(J), Nebraska stated in its 1997 and 2006 $PM_{2.5}$ infrastructure SIP submittals that the ''Visibility Protection'' requirements of chapter 43 of title 129 of the Nebraska Administrative Code met part C visibility requirements of element J. The ''Visibility Protection'' requirements of chapter 43 were submitted by Nebraska for incorporation into the Nebraska SIP on November 8, 2011, and will be addressed in a separate rulemaking.

EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. However, when EPA establishes or revises a NAAQS, these visibility and regional haze requirements under part C do not change. EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations pursuant to element J after the promulgation of a new or revised NAAQS. As such, EPA is proposing to find that Nebraska's SIP meets the visibility requirements of element J with respect to the 1997 and 2006 $PM_{2.5}$ NAAQS as there are no new applicable requirements triggered by the 1997 and 2006 $PM_{2.5}$ NAAQS.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory

authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has met the applicable requirements of section 110(a)(2)(J) for the 1997 and 2006 $PM_{2.5}$ NAAQS in the state and is therefore proposing to approve the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(K) Air quality and modeling/data: Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

Nebraska has authority to conduct air quality modeling and report the results of such modeling to EPA. Section 81–1504(5) provides NDEQ with the authority to encourage, participate in, or conduct studies, investigations, research and demonstrations relating to air pollution and its causes and effects. As an example of regulatory authority to perform modeling for purposes of determining NAAQS compliance, the regulations at title 129, chapter 19, section *019* provide for the use of EPA-approved air quality models (*e.g.,* those found in 40 CFR part 51, appendix W) for PSD construction permitting. If the use of these models is inappropriate, the model may be modified or an alternate model may be used with the approval of NDEQ and EPA.

The Nebraska regulations also give NDEQ the authority to require that modeling data be submitted for analysis. Title 129, chapter 19, section *021.02* states that upon request by NDEQ, the owner or operator of a proposed source or modification must provide information on the air quality impact of the source or modification, including all meteorological and topographical data necessary to estimate such impact.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(K) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(L) Permitting Fees: Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to title V of the CAA, relating to operating permits, is approved by EPA.

Section 81–1505 of the Nebraska Revised States provides authority for NDEQ to collect permit fees, including title V fees. For example, section 81–1505(12)(e) requires that the EQC establish fees sufficient to pay the reasonable direct and indirect of developing and administering the air quality permit program. Nebraska's title V program, including the fee program addressing the requirements of the Act and 40 CFR 70.9 relating to title V fees, was approved by EPA on October 18, 1995 (60 FR 53872).

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(L) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

(M) Consultation/participation by affected local entities: Section 110(a)(2)(M) requires SIPs to provide for consultation and participation by local political subdivisions affected by the SIP.

Section 81–1504(5) of the Nebraska Revised Statutes gives NDEQ the authority to encourage local governments to handle air pollution problems within their respective jurisdictions and at the same time provide them with technical and consultative assistance. NDEQ is also authorized to delegate the enforcement of air pollution control regulations down to governmental subdivisions which have adopted air pollution control programs. As discussed previously, NDEQ currently relies on two local agencies for assistance in implementing portions of the air pollution control program: Lincoln/Lancaster County Health Department and Omaha Air Quality Control.

In addition, as previously noted in the discussion about section 110(a)(2)(J), Nebraska's statutes and regulations require that NDEQ consult with local political subdivisions for the purposes of carrying out its air pollution control responsibilities.

Based upon review of the state's infrastructure SIP submission for the 1997 and 2006 $PM_{2.5}$ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Nebraska's SIP, EPA believes that Nebraska has the adequate infrastructure needed to address section 110(a)(2)(M) for the 1997 and 2006 $PM_{2.5}$ NAAQS and is proposing to approve the April 3, 2008, submission regarding the 1997 $PM_{2.5}$ infrastructure SIP requirements and the August 29, 2011, submission regarding the 2006 $PM_{2.5}$ infrastructure SIP requirements for this element.

V. What are the additional provisions of the November 14, 2011, SIP submission that EPA is proposing to take action on?

On November 14, 2011, Nebraska Department of Environmental Quality submitted a request for the approval of revisions to chapter 4 of title 129. The revision to chapter 4, section *001.01,* repeals the annual National Ambient Air Quality Standard (NAAQS) for PM_{10}, which was revoked by EPA effective December 18, 2006 and at section *001.02* of chapter 4, adopt the new 24 hour NAAQS for $PM_{2.5}$ which was issued by EPA also effective December 18, 2006. *See* 71 FR 61144. The proposed revisions to title 129, chapter 4, are consistent with Federal standards and therefore EPA is proposing to approve NDEQ's request in regards to the repeal of the annual NAAQS for PM_{10} and adoption of the 24 hour NAAQS of $PM_{2.5}$.

VI. What action is EPA taking?

EPA is proposing to approve the April 3, 2008, and August 29, 2011, infrastructure SIP submissions from Nebraska which address the requirements of CAA sections 110 (a)(1) and (2) as applicable to the 1997 and 2006 $PM_{2.5}$ NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II)—Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). As discussed in each applicable section of this rulemaking, EPA is not proposing to take action on section 110(a)(2)(D)(i)(I)—prongs 1 and 2, and 110(a)(2)(I)—Nonattainment Area

Plan, or Plan Revisions under part D. And finally, EPA is proposing to disapprove 110(a)(2)(D)(i)(II)—prong 4, as it relates to the protection of visibility.

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Nebraska's SIP, EPA believes that Nebraska has the infrastructure to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 1997 and 2006 $PM_{2.5}$ NAAQS are implemented in the state.

In addition, EPA is proposing to approve an additional SIP submission from Nebraska which repeals the annual PM_{10} NAAQS and adopts the 24 hour $PM_{2.5}$ NAAQS.

We are hereby soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VII. Statutory and Executive Order Review

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the EPA approved Nebraska regulations for Ambient Air Quality Standards, and the EPA approved Nebraska nonregulatory provisions described in the proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

VIII. Statutory Authority

The statutory authority for this action is provided by section 110 of the CAA, as amended (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

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

Dated: May 15, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart CC—Nebraska

■ 2. Amend § 52.1420 by:

■ a. Under paragraph (c), in the table entitled ''EPA-Approved Nebraska Regulations'', revising the entry for ''129–4''; and

■ b. Under paragraph (e), in the table entitled ''EPA-Approved Nebraska Nonregulatory Provisions'', adding an entry for ''(28)'' in numerical order.

The revisions and additions read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
		STATE OF NEBRASKA Department of Environmental Quality Title 129—Nebraska Air Quality Regulations		
*	*	* *	*	* *
129–4	Ambient Air Quality Standards.	8/18/08	5/28/15, [*Insert Federal Register citation*].	This revision to Chapter 4 repeals the annual National Ambient Air Quality Standard (NAAQS) for PM_{10} and adopts the Federal 24-hour NAAQS for $PM_{2.5}$. The standard was reduced from 65 to 35 micrograms per cubic meter by EPA on December 18, 2006.
*	*	* *	*	* *

* * * * * (e) * * *

EPA–APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	* *	*	* *
(28) Section 110(a)(2) Infrastructure Requirements for the 1997 and 2006 $PM_{2.5}$ NAAQS.	Statewide	4/3/2008, 8/29/2011	5/28/2015, [*Insert **Federal Register** citation*].	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2015–12811 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

48 CFR Parts 2404, 2406, 2408, 2409, 2411, 2415, 2427, 2428, 2432, 2437, 2444, 2452

[Docket No. FR–5814–P–01]

RIN 2501–AD73

Amendments to the HUD Acquisition Regulation (HUDAR)

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the HUDAR to implement miscellaneous changes necessary to update the HUDAR. These changes include a correction to the designation of Source Selection Authorities, limited delegation of Head of Contracting Activity authorities, incorporation of the HUDAR Matrix, addition of new clauses, certain administrative corrections, and incorporation of Alternates to various clauses to allow for electronic invoicing.

DATES: *Comment due date:* July 27, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number

via TTY by calling the Federal Relay Service, toll-free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Lisa D. Maguire, Assistant Chief Procurement Officer for Policy, Systems and Risk Management, Office of the Chief Procurement Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; telephone number 202–708–0294 (this is not a toll-free number) and fax number 202–708–8912. Persons with hearing or speech impairments may access Ms. Maguire's telephone number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The uniform regulation for the procurement of supplies and services by federal departments and agencies, the Federal Acquisition Regulation (FAR), was promulgated on September 19, 1983 (48 FR 42102). The FAR is codified in title 48, chapter 1, of the Code of Federal Regulations. HUD promulgated its regulation to implement the FAR on March 1, 1984 (49 FR 7696).

The HUDAR (title 48, chapter 24 of the Code of Federal Regulations) is prescribed under section 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 121(c)); and the general authorization in FAR 1.301. The HUDAR was last revised by final rule published on December 10, 2012 (77 FR 73524), and a subsequent correcting amendment published on August 15, 2013 (78 FR 49697).

II. This Proposed Rule

This proposed rule would amend the HUDAR at 48 CFR chapter 24, as follows:

The rule proposes several administrative corrections, including: Revising section 2404.7001 to refer to the correct contract clause 2452.204–70, ''Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats),'' and removing the title and redesignating the clause that is codified at section 2432.705–70 as 2432.705–70(a).

In part 2406, the rule would add section 2406.303 which requires the use of HUD Form 24012 [1] for justifications for other than full and open competition, and section 2406.304(a)(3), which designates the HUD Deputy Chief Procurement Officer as the responsible official with the authority to approve, in writing, justifications for other than full and open procurements for proposed contracts over $12.5 million, but not exceeding $62.5 million.

In part 2408, this rule would add subpart 2408.4, ''Federal Supply Schedules,'' and, in that subpart, would add section 2408.405–6(c)(2), which requires the use of HUD form 24013 for justifications for limiting sources exceeding the simplified acquisition threshold when using the Federal Supply Schedules.[2] This rule would also add section 24(d)(3) which designates the HUD Deputy Chief Procurement Officer as the responsible official with the authority to approve, in writing, justifications for Limited Source considerations for proposed Federal Supply Schedule order or Blanket Purchase Agreement (BPA) with an estimated value exceeding $12.5 million, but not exceeding $62.5 million.

In part 2409, this rule would add subpart 2409.1, entitled ''Responsible Prospective Contractors,'' and, within that subpart, section 2409.105, ''Procedures,'' which includes information to be collected in determining financial responsibility.

This rule would also:

Revise section 2415.303(a) to HUDAR section 2415.303(a)(1) and, except for those acquisitions identified in HUDAR section 2415.303(a)(2), designate HUD Assistant Secretaries, or their equivalent, as the Source Selection Authorities for selections made using the tradeoff process and to allow Assistant Secretaries to delegate this function to other departmental officials;

Add section 2415.303(a)(2) to designate HUD's General Counsel as the Source Selection Authority, regardless of contract amount, in all Headquarters procurements for legal services, unless the General Counsel specifically designates another agency official to perform that function;

Clarify section 2415.305(a)(5) to apply to Best Value Tradeoff technical evaluations;

Add part 2444 and, within that part, section 2444.204 entitled ''Subcontracting Policies and Procedures''; and

Codify a class deviation approved by HUD's Chief Procurement Officer dated April 10, 2013 to add Alternate 1 to clauses 2452.232–70 and 2452.232–71.

In part 2452, the proposed rule would:

Add clause 2452.232–74, entitled ''Not to Exceed Limitation,'' and, in part 2432, add a reference to that clause and requirements regarding its use at section 2432.705;

Revise clause 2452.237–77(c)(1)(A) to change ''21 days per month'' to ''number of business days in the month'';

Add clause 2452.237–79, ''Post-Award Conference,'' and a reference to that clause and requirements regarding its use at section 2437.110(e)(5);

Add clause 2452.237–81, ''Labor Categories, Unit Prices Per Hour and Payment,'' and a reference to that clause and requirements regarding its use at section 2437.110(e)(6);

Add section 2452.244–70, ''Consent to Subcontract,'' and a reference to that clause and requirements regarding its use at section 2444.204; and

Incorporate a new HUDAR matrix under subpart 2452.3.

III. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this proposed rule are currently approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2535–0091. The information collection requirements for the HUDAR are currently approved by OMB under control number 2535–0091. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandate on any state, local, or tribal government or the private sector within the meaning of UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial

[1] See *http://portal.hud.gov/hudportal/documents/huddoc?id=24012.pdf.*

[2] See *http://www.acquisition.gov/far/html/Subpart%2038_1.html#wp1075980.*

number of small entities. This proposed rule makes technical changes to existing contracting procedures and does not make any major changes that would significantly impact businesses. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects

48 CFR Part 2404

Government procurement.

48 CFR Part 2406

Government procurement.

48 CFR Part 2408

Government procurement.

48 CFR Part 2409

Government Procurement

48 CFR Part 2411

Government Procurement.

48 CFR Part 2415

Government procurement.

48 CFR Part 2432

Government procurement.

48 CFR Part 2437

Government procurement.

48 CFR Part 2444

Government procurement.

48 CFR Part 2452

Government procurement.

For the reasons discussed in the preamble, and pursuant to the authority under 42 U.S.C. 3535(d), HUD proposes to amend 48 CFR chapter 24 as follows:

PART 2404—ADMINISTRATIVE MATTERS

■ 1. The authority citation for part 2404 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

Subpart 2404.7—Contractor Records Retention

■ 2. Revise section 2404.7001 to read as follows:

2404.7001 Contract clause.

The contracting officer shall insert the clause at 2452.204–70, ''Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats),'' in all solicitations and contracts exceeding the simplified acquisition threshold. The contracting officer shall use the basic clause with its Alternate I in cost-reimbursement type contracts. The contracting officer shall use the basic clause with its Alternate II in labor-hour and time-and-materials contracts.

PART 2406—COMPETITION REQUIREMENTS

■ 3. The authority citation for part 2406 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 3301 *et seq.;* 42 U.S.C. 3535(d).

Subpart 2406.3—Other Than Full and Open Competition

■ 4. Add section 2406.303 to read as follows:

2406.303 Justifications.

Justifications for Other Than Full and Open Competition must be prepared and approved using the latest version of HUD Form 24012.

■ 5. Add paragraph (a)(3) to section 2406.304 to read as follows:

2406.304 Approval of the justification.

(a)(3) HUD's Chief Procurement Officer, as the Head of Contracting Activity, has delegated the authority to the Deputy Chief Procurement Officer to approve, in writing, justifications for other than full and open competition procurements for proposed contracts over $12.5 million, but not exceeding $62.5 million.

* * * * *

PART 2408—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 6. The authority citation for part 2408 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

■ 7. Add subpart 2408.4 to read as follows:

Subpart 2408.4—Federal Supply Schedules

2408.404 Pricing.

(d) Supplies offered on the schedule are listed at fixed prices. Services offered on the schedule are priced either at hourly rates, or at fixed price for performance of a specific task (*e.g.,* installation, maintenance, and repair). GSA has determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, to be fair and reasonable for the purpose of establishing the schedule contract. GSA's determination does not relieve the ordering activity contracting officer from the responsibility of making a determination of fair and reasonable pricing for individual orders, BPAs, and orders under BPAs. Contracting Officers shall follow the general principles and techniques outlined in FAR Section 15.404–1, Proposal Analysis Techniques, to ensure that the final agreed-to price is fair and reasonable, keeping in mind that the complexity and circumstances of each acquisition should determine the level of detail of the analysis required.

2408.405–6 Limiting sources.

(c)(2) Justifications for Limiting Sources, under the Federal Supply Schedules when exceeding the simplified acquisition threshold, must be prepared and approved using the latest version of HUD Form 24013.

(d)(3) HUD's Chief Procurement Officer, as the Head of Contracting Activity, has delegated the authority to the Deputy Chief Procurement Officer to approve, in writing, justifications for Limited Source considerations for a proposed Federal Supply Schedule order or Blanket Purchase Agreement (BPA) with an estimated value

exceeding $12.5 million, but not exceeding $62.5 million.

PART 2409—CONTRACTOR QUALIFICATIONS

■ 8. The authority citation for part 2409 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

■ 9. Add subpart 2409.1 to read as follows:

Subpart 2409.1—Responsible Prospective Contractors

2409.105 Procedures.

(a) The contracting officer shall perform a financial review when the contracting officer does not otherwise have sufficient information to make a positive determination of financial responsibility. In addition, the contracting officer shall consider performing a financial review—

(1) Prior to award of a contract, when—

(A) The contractor is on a list requiring pre-award clearance or other special clearance before award;

(B) The contractor is listed on the Consolidated List of Contractors Indebted to the Government, or is otherwise known to be indebted to the Government;

(C) The contractor may receive Government assets such as contract financing payments or Government property;

(D) The contractor is experiencing performance difficulties on other work; or

(E) The contractor is a new company or a new supplier of the item.

(2) At periodic intervals after award of a contract, when—

(A) Any of the conditions in paragraphs (1)(B) through (1)(E) of this subsection are applicable; or

(B) There is any other reason to question the contractor's ability to finance performance and completion of the contract.

(b) The contracting officer shall obtain the type and depth of financial and other information that is required to establish a contractor's financial capability or disclose a contractor's financial condition. While the contracting officer should not request information that is not necessary for protection of the Government's interests, the contracting officer must insist upon obtaining the information that is necessary. The unwillingness or inability of a contractor to present reasonably requested information in a timely manner, especially information that a prudent business person would be expected to have and to use in the professional management of a business, may be a material fact in the determination of the contractor's responsibility and prospects for contract completion.

(c) The contracting officer shall obtain the following information to the extent required to protect the Government's interest. In addition, if the contracting officer concludes that information not listed herein is required to determine financial responsibility, that information should be requested. The information must be for the person(s) who are legally liable for contract performance. If the contractor is not a corporation, the contracting officer shall obtain the required information for each individual/joint venturer/partner:

(1) Balance sheet and income statement—

(A) For the current fiscal year (interim);

(B) For the most recent fiscal year and, preferably, for the 2 preceding fiscal years. These should be certified by an independent public accountant or by an appropriate officer of the firm; and

(C) Forecasted for each fiscal year for the remainder of the period of contract performance.

(2) Summary history of the contractor and its principal managers, disclosing any previous insolvencies—corporate or personal, and describing its products or services.

(3) Statement of all affiliations disclosing—

(A) Material financial interests of the contractor;

(B) Material financial interests in the contractor;

(C) Material affiliations of owners, officers, members, directors, major stockholders; and

(D) The major stockholders if the contractor is not a widely-traded, publicly-held corporation.

(4) Statement of all forms of compensation to each officer, manager, partner, joint venturer, or proprietor, as appropriate—

(A) Planned for the current year;

(B) Paid during the past 2 years; and

(C) Deferred to future periods.

(5) Business base and forecast that—

(A) Shows, by significant markets, existing contracts and outstanding offers, including those under negotiation; and

(B) Is reconcilable to indirect cost rate projections.

(6) Cash forecast for the duration of the contract.

(7) Financing arrangement information that discloses—

(A) Availability of cash to finance contract performance;

(B) Contractor's exposure to financial crisis from creditor's demands;

(C) Degree to which credit security provisions could conflict with Government title terms under contract financing;

(D) Clearly stated confirmations of credit with no unacceptable qualifications; and

(E) Unambiguous written agreement by a creditor if credit arrangements include deferred trade payments or creditor subordinations/repayment suspensions.

(8) Statement of all state, local, and Federal tax accounts, including special mandatory contributions, *e.g.,* environmental superfund.

(9) Description and explanation of the financial effect of issues such as—

(A) Leases, deferred purchase arrangements, or patent or royalty arrangements;

(B) Insurance, when relevant to the contract;

(C) Contemplated capital expenditures, changes in equity, or contractor debt load;

(D) Pending claims either by or against the contractor;

(E) Contingent liabilities such as guarantees, litigation, environmental, or product liabilities;

(E) Validity of accounts receivable and actual value of inventory, as assets; and

(F) Status and aging of accounts payable.

(10) Significant ratios such as—

(A) Inventory to annual sales;

(B) Inventory to current assets;

(C) Liquid assets to current assets;

(D) Liquid assets to current liabilities;

(E) Current assets to current liabilities; and

(F) Net worth to net debt.

PART 2411—DESCRIBING AGENCY NEEDS

■ 10. The authority citation for part 2411 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2411.4—Delivery or Performance Schedules

2411.404 [Removed]

■ 11. Remove section 2411.404.

PART 2415—CONTRACTING BY NEGOTIATION

■ 12. The authority citation for part 2415 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 3301–3306 and 3105; 42 U.S.C. 3535(d).

Subpart 2415.2—Solicitation and Receipt of Proposals and Quotations

■ 13. Revise section 2415.209(a)(1) to read as follows:

2415.209 Solicitation provisions.

(a)(1) The Contracting Officer shall insert a provision substantially the same as the provision at 2452.215–70, Proposal Content, in all solicitations for negotiated procurements expected to exceed the simplified acquisition limit. The provision may be used in simplified acquisitions when it is necessary to obtain business proposal information in making the award selection. If the proposed contract requires work on, or access to, HUD systems or applications (see the clause at 2452.239–70), the provision shall be used with its Alternate I. When the contracting officer has determined that it is necessary to limit the size of the technical and management portion of offers submitted by offerors, the provision shall be used with its Alternate II.

* * * * *

Subpart 2415.3—Source Selection

■ 14. In section 2415.303, redesignate paragraph (a) as (a)(1); revise the redesignated paragraph; and add section 2415.303(a)(2), all to read as follows:

2415.303 Responsibilities.

(a)(1) Except as identified in HUDAR Section 2415.303(a)(2), HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates Assistant Secretaries, or their equivalent, for requiring activities as the Source Selection Authorities for selections made using the tradeoff process. Assistant Secretaries may delegate this function to other departmental officials. This designation also applies to acquisitions not performed under the requirements of FAR Part 15, but utilizing tradeoff analysis.

(a)(2) HUD's Chief Procurement Officer, as the Senior Procurement Executive, designates HUD's Office of General Counsel (OGC) as the Source Selection Authority, regardless of contract amount, in all Headquarters procurements for legal services, unless (s)he specifically designates another agency official to perform that function. Any Headquarters office desiring to procure outside legal services for the Department shall obtain OGC approval before advertising or soliciting proposals for such services. OGC shall determine whether the services are necessary and the extent of OGC involvement in the procurement.

* * * * *

■ 15. In section 2415.305, revise paragraph (a)(3) to read as follows:

2415.305 Proposal evaluation.

(a) * * *

(3) *Technical evaluation when tradeoffs are performed.* The TEP shall rate each proposal based on the evaluation factors specified in the solicitation. The TEP shall identify each proposal as being acceptable, unacceptable but capable of being made acceptable, or unacceptable. A proposal shall be considered unacceptable if it is so clearly deficient that it cannot be corrected through written or oral discussions. Under the tradeoff process, predetermined threshold levels of technical acceptability for proposals shall not be employed. A technical evaluation report, which complies with FAR 15.305(a)(3), shall be prepared and signed by the technical evaluators, furnished to the contracting officer, and maintained as a permanent record in the official procurement file.

PART 2432—CONTRACT FINANCING

■ 19. The authority citation for part 2432 continues to read as follows:

Authority: 31 U.S.C. 3901–3905; 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2432.7—Contract Funding

■ 16. Revise section 2432.705 to read as follows and remove section 2432.705–70:

2432.705 Contract clauses.

(a) The contracting officer shall insert the clause at 2452.232–72, ''Limitation of Government's Obligation,'' in solicitations and resultant incrementally funded fixed-price contracts as authorized by 2432.703–1. The contracting officer shall insert the information required in the table in paragraph (b) and the notification period in paragraph (c) of the clause.

(b) The contracting officer shall insert the clause at 2452.232–74, ''Not To Exceed Limitation'' in all solicitations and contracts where the total estimated funds needed for the performance period are not yet obligated.

2432.705–70 [Removed]

PART 2437—SERVICE CONTRACTING

■ 17. The authority citation for part 2437 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2437.1—Service Contracts—General

■ 18. Revise section 2437.110(e)(2); add paragraphs 2437.111(e)(5) and (e)(6); all to read as follows:

2437.110 Solicitation provisions and contract clauses.

(e)(1) * * *

(2) The Contracting Officer shall insert the clause at 2452.237–73, ''Conduct of Work and Technical Guidance,'' in all solicitations and contracts for services.

(3) * * *

(4) * * *

(5) The contracting officer shall insert the clause at 2452.237–79, ''Post Award Conference,'' in all solicitations and contracts for services when the CO deems that a Post Award Conference is necessary.

(6) The contracting officer shall insert the clause at 2452.237–81, ''Labor Categories, Unit Prices Per Hour and Payment,'' in all indefinite quantity and requirements solicitations and contracts when level of effort task orders will be issued.

■ 19. Add part 2444 and heading to read as follows:

PART 2444—SUBCONTRACTING POLICIES AND PROCEDURES

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2444.2—Contract Clauses

2444.204 Contract clauses.

(a) Insert HUDAR clause 2452.244–70 Consent to Subcontract, in contracts and task orders with an estimated value exceeding $10,000,000.

PART 2452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 29. The authority citation for part 2452 continues to read as follows:

Authority: 40 U.S.C. 121(c); 42 U.S.C. 3535(d).

Subpart 2452.2—Texts of Provisions and Clauses

2452.211–70 [Removed]

■ 20. Remove section 2452.211–70 including Alternate I.

■ 21. Revise section 2452.215–70 to read as follows:

2452.215–70 Proposal content.

As prescribed in 2415.209(a), insert a provision substantially the same as the following:

PROPOSAL CONTENT ([*Insert month and year of publication of final rule*],)

(a) Proposals shall be submitted in two parts as described in paragraphs (c) and (d) below. Each of the parts must be complete in itself so that evaluation of each part may be conducted independently, and so the identified parts of each proposal may be evaluated strictly on its own merit. Proposals shall be submitted in the format, if any, prescribed elsewhere in this solicitation. Proposals shall be enclosed in sealed packaging and addressed to the office specified in the solicitation. The offeror's name and address, the solicitation number and the date and time specified in the solicitation for proposal submission must appear in writing on the outside of the package.

(b) The number of proposals required are an original and [*insert number*] copies of Part I, and [*insert number*] copies of Part II.

(c) *Part I—Technical Proposal*

(1) The offeror shall submit the information required in Instructions to Offerors designated under Part I—Technical Proposal.

(d) *Part II—Business Proposal*

(1) The offeror shall complete the Representations and Certifications provided in Section K of this solicitation and include them in Part II, Business Proposal.

(2) The offeror shall provide information to support the offeror's proposed costs or prices as prescribed elsewhere in Instructions to Offerors for Part II—Business Proposal.

(3) The offeror shall submit any other information required in Instructions to Offerors designated under Part II—Business Proposal.

(End of provision)

Alternate I ([*Insert month and year of publication of final rule*])

As prescribed in 2415.209(a), if the proposed contract requires work on, or access to, sensitive automated systems as described in 2452.239–70, add the following subparagraph, numbered sequentially, to paragraph (d):

The offeror shall describe in detail how the offeror will maintain the security of automated systems as required by clause 2452.239–70 in Section I of this solicitation and include it in Part II, Business Proposal.

(End of Provision)

Alternate II ([*Insert month and year of publication of final rule*])

As prescribed in 2415.209(a), add the following paragraph (e) when the size of any proposal Part I or Part II will be limited:

(e) Size limits of Parts I and II.

(1) Offerors shall limit submissions of Parts I and II of their initial proposals to the page limitations identified in the Instructions to Offerors. Offerors are cautioned that if any Part of their proposal exceeds the stipulated limits for that Part, the Government will evaluate only the information contained in the pages up through the permitted number. Pages beyond that limit will not be evaluated.

(2) A page shall consist of one side of a single sheet of 8½″ x 11″ paper, single spaced, using not smaller than 12 point type font, and having margins at the top, bottom, and sides of the page of no less than one inch in width.

(3) Any exemptions from this limitation are stipulated under the Instructions to Offerors.

(4) Offerors are encouraged to use recycled paper and to use both sides of the paper (see the FAR clause at 52.204–4).

(End of Provision)

■ 22. Revise section 2452.232–70 to read as follows:

2452.232–70 Payment schedule and invoice submission (Fixed-Price).

As prescribed in 2432.908(c)(2), insert the following clause in all fixed-price solicitations and contracts:

PAYMENT SCHEDULE AND INVOICE SUBMISSION (FIXED-PRICE) ([*Insert month and year of publication of final rule*])

(a) *Payment Schedule.* Payment of the contract price (see Section B of the contract) will be made upon completion and acceptance of all work unless a partial payment schedule is included below.

[*Contracting Officer insert schedule information*]:

Partial payment number	Applicable contract deliverable	Delivery date	Pay amount
1. 2. 3.			

[*Continue as necessary*]

(b) *Submission of Invoices.*

(1) The Contractor shall submit invoices as follows: Original to the payment office and one copy each to the Contracting Officer and a copy to the Government Technical Representative (GTR) identified in the contract. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.''

(2) To assist the government in making timely payments, the contractor is also requested to include on each invoice the appropriation number shown on the contract award document (*e.g.,* block 14 of the Standard Form (SF) 26, block 21 of the SF–33, or block 25 of the SF–1449). The contractor is also requested to clearly indicate on the mailing envelope that an invoice is enclosed.

(c) *Contractor Remittance Information.* The contractor shall provide the payment office with all information required by other payment clauses or other supplemental information (*e.g.,* contracts for commercial services) contained in this contract.

(d) *Final Invoice Payment.* The final invoice shall not be paid prior to certification by the Contracting Officer that all work has been completed and accepted.

(End of clause)

Alternate I ([*Insert month and year of publication of final rule*]). Delete paragraph (b)(1) of HUDAR Clause 2452.232–70 Payment Schedule and Invoice Submission (Fixed-price) and replace with the following Alternate, when requiring invoices to be submitted electronically via email, in fixed price contracts other than performance-based contracts under which performance-based payments will be used:

The contractor shall submit invoices electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF–33, or block 18a of the SF–1449) and carbon copy the Contracting Officer and the Government Technical Representative (GTR). To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.'' The contractor shall clearly include in the Subject line of the email: INVOICE INCLUDED; CONTRACT/ORDER #: _____, INVOICE NUMBER _____ and Contract Line Item Number(s) _____.

(End of Alternate)

■ 23. Revise section 2452.232–71 to read as follows:

2452.232–71 Voucher submission (cost-reimbursement, time-and-materials, and labor-hour).

As prescribed in 2432.908(c)(3), insert the following clause in all cost-reimbursement, time-and-materials, and labor-hour solicitations and contracts:

VOUCHER SUBMISSION (COST-REIMBURSEMENT, TIME-AND-MATERIALS, AND LABOR HOUR) ([*Insert month and year of publication of final rule*])

(a) *Voucher Submission.*

(1) The contractor shall submit, _____ [*Contracting Officer insert billing period, e.g., monthly*], an original

and two copies of each voucher. In addition to the items required by the clause at FAR 52.232–25, ''Prompt Payment,'' the voucher shall show the elements of cost for the billing period and the cumulative costs to date. The Contractor shall submit all vouchers, except for the final voucher, as follows: Original to the payment office and one copy each to the Contracting Officer and the Government Technical Representative (GTR) identified in the contract. The contractor shall submit all copies of the final voucher to the Contracting Officer.

(2) To assist the government in making timely payments, the contractor is requested to include on each voucher the applicable appropriation number(s) shown on the award or subsequent modification document (*e.g.,* block 14 of the Standard Form (SF) 26, or block 21 of the SF–33). The contractor is also requested to clearly indicate on the mailing envelope that a payment voucher is enclosed.

(b) *Contractor Remittance Information.*

(1) The Contractor shall provide the payment office with all information required by other payment clauses contained in this contract.

(2) For cost reimbursement, time-and-materials and labor-hour contracts, the Contractor shall aggregate vouchered costs by the individual task for which the costs were incurred and clearly identify the task or job.

(c) *Final Payment.* The final payment shall not be made until the Contracting Officer has certified that the contractor has complied with all terms of the contract.

(End of clause)

Alternate I ([*Insert month and year of publication of final rule*]). Delete paragraph (a)(1) of HUDAR clause 2452.232–71, Voucher Submission (Cost-Reimbursement, Time-and-Materials, and Labor-Hour).) and replace with the following Alternate, when requiring invoices to be submitted electronically via email, in all cost-reimbursement, time-and-materials, and labor-hour type solicitations and contracts:

The contractor shall submit invoices electronically via email to the email addresses shown on the contract award document (*e.g.,* block 12 of the Standard Form (SF) 26, block 25 of the SF–33, or block 18a of the SF–1449) and carbon copy the Contracting Officer and the Government Technical Representative. To constitute a proper invoice, the invoice must include all items required by the FAR clause at 52.232–25, ''Prompt Payment.'' The contractor shall clearly include in the Subject line of the email: INVOICE INCLUDED; CONTRACT/ORDER #: _____, INVOICE NUMBER _____ and Contract Line Item Number(s) _____ __. In addition to the items required by the clause at FAR 52.232–25, Prompt Payment, the voucher shall show the elements of cost for the billing period and the cumulative costs to date. The contractor shall also submit supporting documentation such as time cards to verify the hours/costs vouchered.

(End of Alternate)

■ 24. Add section 2452.232–74 to read as follows:

2452.232–74 Not to exceed limitation.

As prescribed in 2432.705(b), insert the following clause in all solicitations and contracts where the total estimated funds needed for the performance of the contract are not yet obligated.

NOT TO EXCEED LIMITATION ([*Insert month and year of publication of final rule*])

(a) The total estimated funds needed for the performance of this contract are not yet obligated. The total obligation of funds available at this time for performance of work or deliveries is [FILLIN#1#Insert Amount]. The Government shall not order, nor shall the contractor be required to accept orders for, or perform work or make deliveries that exceed the stated funding limit.

(b) The Government may unilaterally increase the amount obligated through contract modification(s) until the full contract value has been obligated.

(End of clause)

■ 25. Revise section 2452.237–73 to read as follows:

2452.237–73 Conduct of work and technical guidance.

As prescribed in 2437.110(e)(2), insert the following clause in all contracts for services:

CONDUCT OF WORK AND TECHNICAL GUIDANCE ([*Insert month and year of publication of final rule*])

(a) The Contracting Officer will provide the contractor with the name and contact information of the Government Technical Representative (GTR) assigned to this contract. The GTR will serve as the contractor's liaison with the Contracting Officer with regard to the conduct of work. The Contracting Officer will notify the contractor in writing of any change to the current GTR's status or the designation of a successor GTR.

(b) The GTR for liaison with the contractor as to the conduct of work is [to be inserted at time of award] or a successor designated by the Contracting Officer. The Contracting Officer will notify the contractor in writing of any change to the current GTR's status or the designation of a successor GTR.

(c) The GTR will provide guidance to the contractor on the technical performance of the contract. Such guidance shall not be of a nature which:

(1) Causes the contractor to perform work outside the statement of work or specifications of the contract;

(2) Constitutes a change as defined in FAR 52.243 1;

(3) Causes an increase or decrease in the cost of the contract;

(4) Alters the period of performance or delivery dates; or

(5) Changes any of the other express terms or conditions of the contract.

(d) The GTR will issue technical guidance in writing or, if issued orally, he/she will confirm such direction in writing within five calendar days after oral issuance. The GTR may issue such guidance via telephone, facsimile (fax), or electronic mail.

(e) Other specific limitations [to be inserted by Contracting Officer]:

(f) The contractor shall promptly notify the Contracting Officer whenever the contractor believes that guidance provided by any government personnel, whether or not specifically provided pursuant to this clause, is of a nature described in paragraph (b) above.

(End of clause)

■ 26. Revise paragraph 2452.237–77(c)(1)(A) to read as follows:

2452.237–77 Temporary closure of HUD facilities. ([*Insert month and year of publication of final rule*])

* * * * *

(c) * * *

(1) * * *

(A) The deduction rate in dollars per day will be equal to the per month contract price divided by the number of business days in each month.

* * * * *

■ 27. Add section 2452.242–79 to read as follows:

2452.237–79 Post award conference.

As prescribed in 2437.110(e)(5), insert the following clause in all contracts for services:

POST AWARD CONFERENCE ([*Insert month and year of publication of final rule*])

The Contractor shall be required to attend a post-award conference on DATE _____ to be held at ADDRESS _____, unless other arrangements are made. All Contractors must have a valid ID for security clearance into the building.

(End of clause)

■ 28. Add section 2452.237–81 to read as follows:

2452.237–81 Labor categories, unit prices per hour and payment.

As prescribed in 2437.110(e)(6), insert the following clause in all indefinite quantity and requirements solicitations and contracts when level of effort task orders will be issued.

LABOR CATEGORIES, UNIT PRICES PER HOUR AND PAYMENT ([*Insert month and year of publication of final rule*])

The contractor shall provide the following types of labor at the corresponding unit price per hour in accordance with the terms of this contract:

_____

_____

The unit price per hour is inclusive of the hourly wage plus any applicable labor overhead, General and Administrative (G&A) expenses, and profit. Payment shall be made to the contractor upon delivery to, and acceptance by, the Government office requesting services. The total amounts billed shall be derived by multiplying the actual number of hours worked per category by the corresponding price per hour.

(End of clause)

■ 29. Revise section 2452.239–70 to read as follows:

2452.239–70 Access to HUD systems.

As prescribed in 2439.107(a), insert the following clause:

ACCESS TO HUD SYSTEMS ([*Insert month and year of publication of final rule*])

(a) Definitions: As used in this clause—

''Access'' means the ability to obtain, view, read, modify, delete, and/or otherwise make use of information resources.

''Application'' means the use of information resources (information and information technology) to satisfy a specific set of user requirements (see OMB Circular A–130).

''Contractor employee'' means an employee of the prime contractor or of any subcontractor, affiliate, partner, joint venture, or team members with which the contractor is associated. It also includes consultants engaged by any of those entities.

''Mission-critical system'' means an information technology or telecommunications system used or operated by HUD or by a HUD contractor, or organization on behalf of HUD, that processes any information, the loss, misuse, disclosure, or unauthorized access to, or modification of which would have a debilitating impact on the mission of the agency.

''NACI'' means a National Agency Check with Inquiries, the minimum background investigation prescribed by OPM.

''PIV Card'' means the Personal Identity Verification (PIV) Card, the Federal Government-issued identification credential (*i.e.,* identification badge).

''Sensitive information'' means any information of which the loss, misuse, or unauthorized access to, or modification of, could adversely affect the national interest, the conduct of federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

''System'' means an interconnected set of information resources under the same direct management control, which shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and people (see OMB Circular A–130). System includes any system owned by HUD or owned and operated on HUD's behalf by another party.

(b) *General.*

(1) The performance of this contract requires contractor employees to have access to a HUD system or systems. All such employees who do not already possess a current PIV Card acceptable to HUD shall be required to provide personal background information, undergo a background investigation (NACI or other OPM-required or approved investigation), including an FBI National Criminal History Fingerprint Check, and obtain a PIV Card prior to being permitted access to any such system in performance of this contract. HUD may accept a PIV Card issued by another Federal Government agency but shall not be required to do so. No contractor employee will be permitted access to any HUD system without a PIV Card.

(2) All contractor employees who require access to mission-critical systems or sensitive information contained within a HUD system or application(s) are required to have a more extensive background investigation. The investigation shall be commensurate with the risk and security controls involved in managing, using, or operating the system or applications(s).

(c) *Citizenship-related requirements.* Each affected contractor employee as described in paragraph (b) of this clause shall be:

(1) A United States (U.S.) citizen; or,

(2) A national of the United States (see 8 U.S.C. 1408); or,

(3) An alien lawfully admitted into, and lawfully permitted to be employed in the United States, provided that for any such individual, the Government is able to obtain sufficient background information to complete the investigation as required by this clause. Failure on the part of the contractor to provide sufficient information to perform a required investigation or the inability of the Government to verify information provided for affected contractor employees will result in denial of their access.

(d) *Background investigation process.*

(1) The Government Technical Representative (GTR) shall notify the contractor of those contractor employee positions requiring background investigations.

(i) For each contractor employee requiring access to HUD information systems, the contractor shall submit the following properly completed forms: Standard Form (SF) 85, ''Questionnaire for Non-Sensitive Positions,'' FD 258 (Fingerprint Chart), and a partial Optional Form (OF) 306 (Items 1, 2, 6, 8–13, 16, and 17).

(ii) For each contractor employee requiring access to mission-critical systems and/or sensitive information contained within a HUD system and/or application(s), the contractor shall submit the following properly completed forms: SF–85P, ''Questionnaire for Public Trust Positions;'' FD 258; and a Fair Credit Reporting Act form (authorization for the credit-check portion of the investigation). Contractor employees shall not complete the Medical Release behind the SF–85P.

(iii) The SF–85, 85P, and OF–306 are available from OPM's Web site, *http://www.opm.gov.* The GTR will provide all other forms that are not obtainable via the Internet.

(2) The contractor shall deliver the forms and information required in paragraph (d)(1) of this clause to the GTR.

(3) Affected contractor employees who have had a federal background investigation without a subsequent break in federal employment or federal contract service exceeding 2 years may be exempt from the investigation requirements of this clause subject to verification of the previous

investigation. For each such employee, the contractor shall submit the following information in lieu of the forms and information listed in paragraph (d)(1) of this clause: Employee's full name, Social Security number, and place and date of birth.

(4) The investigation process shall consist of a range of personal background inquiries and contacts (written and personal) and verification of the information provided on the investigative forms described in paragraph (d)(1) of this clause.

(5) Upon completion of the investigation process, the GTR will notify the contractor if any contractor employee is determined to be unsuitable to have access to the system(s), application(s), or information. Such an employee may not be given access to those resources. If any such employee has already been given access pending the results of the background investigation, the contractor shall ensure that the employee's access is revoked immediately upon receipt of the GTR's notification.

(6) Failure of the GTR to notify the contractor (see subparagraph (d)(1)) of any employee who should be subject to the requirements of this clause and is known, or should reasonably be known, by the contractor to be subject to the requirements of this clause, shall not excuse the contractor from making such employee(s) known to the GTR. Any such employee who is identified and is working under the contract, without having had the appropriate background investigation or furnished the required forms for the investigation, shall cease to perform such work immediately and shall not be given access to the system(s)/application(s) described in paragraph (b) of this clause until the contractor has provided the investigative forms required in paragraph (d)(1) of this clause for the employee to the GTR.

(7) The contractor shall notify the GTR in writing whenever a contractor employee for whom a background investigation package was required and submitted to HUD, or for whom a background investigation was completed, terminates employment with the contractor or otherwise is no longer performing work under this contract that requires access to the system(s), application(s), or information. The contractor shall provide a copy of the written notice to the Contracting Officer.

(e) *PIV Cards.*

(1) HUD will issue a PIV Card to each contractor employee who is to be given access to HUD systems and does not already possess a PIV Card acceptable to HUD (see paragraph (b) of this clause). HUD will not issue the PIV Card until the contractor employee has successfully cleared an FBI National Criminal History Fingerprint Check, and HUD has initiated the background investigation for the contractor employee. Initiation is defined to mean that all background information required in paragraph (d)(1) of this clause has been delivered to HUD. The employee may not be given access prior to those two events. HUD may issue a PIV Card and grant access pending the completion of the background investigation. HUD will revoke the PIV Card and the employee's access if the background investigation process (including adjudication of investigation results) for the employee has not been completed within 6 months after the issuance of the PIV Card.

(2) PIV Cards shall identify individuals as contractor employees. Contractor employees shall display their PIV Cards on their persons at all times while working in a HUD facility, and shall present cards for inspection upon request by HUD officials or HUD security personnel.

(3) The contractor shall be responsible for all PIV Cards issued to the contractor's employees and shall immediately notify the GTR if any PIV Card(s) cannot be accounted for. The contractor shall promptly return PIV Cards to HUD as required by the FAR clause at 52.204–9. The contractor shall notify the GTR immediately whenever any contractor employee no longer has a need for his/her HUD-issued PIV Card (*e.g.,* the employee terminates employment with the contractor, the employee's duties no longer require access to HUD systems). The GTR will instruct the contractor as to how to return the PIV Card. Upon expiration of this contract, the GTR will instruct the contractor as to how to return all HUD-issued PIV Cards not previously returned. Unless otherwise directed by the Contracting Officer, the contractor shall not return PIV Cards to any person other than the GTR.

(f) *Control of access.* HUD shall have and exercise full and complete control over granting, denying, withholding, and terminating access of contractor employees to HUD systems. The GTR will notify the contractor immediately when HUD has determined that an employee is unsuitable or unfit to be permitted access to a HUD system. The contractor shall immediately notify such employee that he/she no longer has access to any HUD system, physically retrieve the employee's PIV Card from the employee, and provide a suitable replacement employee in accordance with the requirements of this clause.

(g) *Incident response notification.* An incident is defined as an event, either accidental or deliberate, that results in unauthorized access, loss, disclosure, modification, or destruction of information technology systems, applications, or data. The contractor shall immediately notify the GTR and the Contracting Officer of any known or suspected incident, or any unauthorized disclosure of the information contained in the system(s) to which the contractor has access.

(h) *Nondisclosure of information.*

(1) Neither the contractor nor any of its employees shall divulge or release data or information developed or obtained during performance of this contract, except to authorized government personnel with an established need to know, or upon written approval of the Contracting Officer. Information contained in all source documents and other media provided by HUD is the sole property of HUD.

(2) The contractor shall require that all employees who may have access to the system(s)/applications(s) identified in paragraph (b) of this clause sign a pledge of nondisclosure of information. The employees shall sign these pledges before they are permitted to perform work under this contract. The contractor shall maintain the signed pledges for a period of 3 years after final payment under this contract. The contractor shall provide a copy of these pledges to the GTR.

(i) *Security procedures.*

(1) The Contractor shall comply with applicable federal and HUD statutes, regulations, policies, and procedures governing the security of the system(s) to which the contractor's employees have access including, but not limited to:

(i) The Federal Information Security Management Act (FISMA) of 2002;

(ii) OMB Circular A–130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources;

(iii) HUD Handbook 2400.25, Information Technology Security Policy;

(iv) HUD Handbook 732.3, Personnel Security/Suitability;

(v) Federal Information Processing Standards 201 (FIPS 201), Sections 2.1 and 2.2;

(vi) Homeland Security Presidential Directive 12 (HSPD–12); and

(vii) OMB Memorandum M–05–24, Implementing Guidance for HSPD–12. The HUD Handbooks are available online at: *http://www.hud.gov/offices/adm/hudclips/* or from the GTR.

(2) The contractor shall develop and maintain a compliance matrix that lists each requirement set forth in paragraphs, (b), (c), (d), (e), (f), (g), (h), (i)(1), and (m) of this clause with specific actions taken, and/or procedures implemented, to satisfy each requirement. The contractor shall identify an accountable person for each requirement, the date upon which actions/procedures were initiated/completed, and certify that information contained in this compliance matrix is correct. The contractor shall ensure that information in this compliance matrix is complete, accurate, and up-to-date at all times for the duration of this contract. Upon request, the contractor shall provide copies of the current matrix to the contracting officer and/or government technical representative.

(3) The Contractor shall ensure that its employees, in performance of the contract, receive annual training (or once if the contract is for less than one year) in HUD information technology security policies, procedures, computer ethics, and best practices in accordance with HUD Handbook 2400.25.

(j) *Access to contractor's systems.* The Contractor shall afford authorized personnel, including the Office of Inspector General, access to the Contractor's facilities, installations, operations, documentation (including the compliance matrix required under paragraph (i)(2) of this clause), databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out, but not limited to, any information security program activities, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of HUD data and systems, or to the function of information systems operated on behalf of HUD, and to preserve evidence of computer crime.

(k) *Contractor compliance with this clause.* Failure on the part of the contractor to comply with the terms of this clause may result in termination of this contract for default.

(l) *Physical access to Federal Government facilities.* The contractor and any subcontractor(s) shall also comply with the requirements of HUDAR clause 2452.237–75 when the contractor's or subcontractor's employees will perform any work under this contract on site in a HUD or other Federal Government facility.

(m) *Subcontracts.* The contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (b) of this section are applicable to performance of the subcontract.

(End of clause)

■ 30. Add section 2452.244–70 to read as follows:

2452.244–70 Consent to subcontract.

As prescribed in HUDAR Section 2444.204(a), insert the following clause in contracts and task orders with an estimated value exceeding $10,000,000.

CONSENT TO SUBCONTRACT ([*Insert month and year of publication of final rule*])

(a) Due to the substantive nature of subcontracting that may be necessary during performance of this contract, the Contracting Officer has determined that a consent for individual subcontracts is required to adequately protect the Government. Consent is required for—

(1) Cost-reimbursement, time-and-materials, or labor-hour subcontracts, or combination of such, in excess of $150,000 per year to a single subcontractor or consultant;

(2) Fixed price subcontracts in excess of 25% of the annual contract value to a single subcontractor or consultant.

(b) If subcontracts meeting the above parameters were not provided during the negotiation of the original contract award, the Contractor shall obtain post award consent and provide signed copies of the subcontract agreements within 10 days of consent.

(c) The Contractor shall provide the Contracting Officer with 30 days advance notification prior to changing subcontractors or existing subcontracting agreements, unless precluded due to circumstances beyond the control of the contractor. If advance notification is not feasible, the Contractor shall provide notification to the Contracting Officer no later than 10 days after the Contractor identifies the need to replace a subcontractor. The notification shall include a copy of the proposed new subcontracting agreement. Upon consent and finalization of the final subcontract agreement, the Contractor shall provide a copy of the signed agreement to the Contracting Officer.

(d) The Contracting Officer's consent to a subcontract does not constitute a determination of the acceptability of the subcontract terms or price, or of the allowability of costs.

(e) If not required elsewhere in the contract, no more than 30 calendar days after award, the Contractor shall provide a separate continuity of services plan to the Contracting Officer that will ensure services performed by subcontractors that cost more than 25% of the cost/price of the contract will continue uninterrupted in the event of performance problems or default by the subcontractor.

(End of clause)

■ 31. Add subpart 2452.3 to read as follows:

Subpart 2452.3—Matrix

■ 32. Add section 2452.3 to read as follows:

2452.3 Provision and clause matrix.

HUDAR Matrix.

BILLING CODE 4210–67–P

Key:					
Type of Contract:					
P/C	=	Provision or Clause	DDR	=	Dismantling, Demolition, or Removal of Improvements
			A&E	=	Architect-Engineering
UCF	=	Uniform Contract Format Section, when Applicable	FAC	=	Facilities
FP SUP	=	Fixed-Price Supply	IND DEL	=	Indefinite Delivery
CR SUP	=	Cost-Reimbursement Supply	TRN	=	Transportation
FP R&D	=	Fixed-Price Research & Development	SAP	=	Simplified Acquisition Procedures (excluding micro-purchase)
CR R&D	=	Cost Reimbursement Research & Development	UTL SVC	=	Utility Services
FP SVC	=	Fixed-Price Service	CI	=	Commercial Items
CR SVC	=	Cost Reimbursement Service			
FP CON	=	Fixed-Price Construction	**Contract Purpose:**		
CR CON	=	Cost Reimbursement Construction	R	=	Required
T&M LH	=	Time & Material/Labor Hours	RA	=	Required when Applicable
LMV	=	Leasing of Motor Vehicles	O	=	Optional
COM SVC	=	Communication Services	□□	=	Revision

PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																						
PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.201-70 Coordination of Data Collection Activities	2401.106-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.203-70 Prohibition Against the Use of Federal Employees	2403.670	C	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2452.204-70 Preservation of, and Access to, Contract Records (Tangible and Electronically Stored Information (ESI) Formats)	2404.7001	C	I																			
Alternate I	2404.7001	C	I		R		R		R		R	RA			RA	RA	RA	RA	RA		RA	
Alternate I I	2404.7001	C	I	R		R		R		R		RA		RA	RA	RA	RA	RA	RA		RA	R
2452.208-71 Reproduction of Reports	2408.802-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.209-70 Potential Organizational Conflicts of Interest	2409.507-1	P	L	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA

2452.209-71 Limitation on Future Contracts	2409.507-2	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA		RA				RA
2452.209-72 Organizational Conflicts of Interest	2409.507-2	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA		RA	RA
2452.215-70 Proposal Content	2415.209(a)	P	L			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
Alternate I	2415.209(a)	P	L	RA	RA			RA	RA			RA	RA	RA	RA		RA	RA	RA		RA	RA
Alternate II	2415.209(a)	P	L			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
Alternate III	2415.209(a)	P	L	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.215-71 Relative Importance of Technical Evaluation Factors to Cost or Price	2415.209(a)(2)	P	M	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.215-72 Evaluation of Small Business Participation	2415.370	P	M	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.216-70 Estimated Cost, Base Fee and Award fee	2416.406(e)(1)	C	I		RA		RA		RA													
2452.216-71 Award Fee	2416.406(e)(2)	C	I	RA		RA		RA		RA												
2452.216-72 Determination of Award Fee Earned	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-73 Performance evaluation plan	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-74 Distribution of award fee	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
PROVISION OR CLAUSE	**PRESCRIBED IN**	**P/C**	**UCF**	**FP SUP**	**CR SUP**	**FP R&D**	**CR R&D**	**FP SVC**	**CR SVC**	**FP CON**	**CR CON**	**T&M LH**	**LMV**	**COM SVC**	**DDR**	**A&E**	**FAC**	**IND DEL**	**TRN**	**SAP**	**UTL SVC**	**CI**
Alternate I	2416.406(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-75 Unpriced Task Orders	2416.506-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-76 Minimum and Maximum Quantities and Amounts for Order	2416.506-70(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA

2452.216-77 Estimated Quantities - Requirements Contract	2416.506-70(c)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-78 Ordering Procedures	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate I	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
Alternate II	2416.506-70(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.216-79 Estimated Cost (No Fee)	2416.307(b)	C	I		RA		RA		RA		RA											
2452.216-80 Estimated Cost and Fixed-Fee	2416.307(b)	C	I		RA		RA		RA		RA											
2452.219-70 Small Business Subcontracting Plan Compliance	2419.708(d)	P	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.219-71 Notification of competition limited to eligible 8(a) concerns - Alternate III to FAR 52.219-18	2419.811-3(d)(3)	C	I																			
2452.219-72 Section 8(a) Direct Awards (Deviation)	2419.811-3(f)	C	I																			
2452.219-73 Incorporation of Subcontracting Plan	2419.708(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA		RA	RA
2452.219-74 Small Business Subcontracting Goals	2419.708(b)	P	L	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O		O	O
PROVISION OR CLAUSE	**PRESCRIBED IN**	**P/C**	**UCF**	**FP SUP**	**CR SUP**	**FP R&D**	**CR R&D**	**FP SVC**	**CR SVC**	**FP CON**	**CR CON**	**T&M LH**	**LMV**	**COM SVC**	**DDR**	**A&E**	**FAC**	**IND DEL**	**TRN**	**SAP**	**UTL SVC**	**CI**
2452.222-70 Accessibility of meetings, conferences, and seminars to persons with disabilities	2422.1408(c)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA			RA	RA
2452.227-70 Government Information	2427.470	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA

Alternate I	2427.470	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.232-70 Payment Schedule and Invoice Submission (Fixed-Price)	2432.908(c)(2)	C	I	R		R		R		R												
Alternate I	2432.908(c)(2)	C	I	RA		RA		RA		RA												
2452.232-71 Voucher Submission (Cost-Reimbursement)	2432.908(c)(3)	C	I		R		R		R		R	R										
Alternate I	2432.908(c)(3)	C	I		RA		RA		RA		RA	RA										
2452.232-72 Limitation of Government's Obligation	2432.705-70	C	I	RA		RA		RA		RA												
2452.232-73 Constructive Acceptance Period	2432.908(c)(1)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.232-74 Not to Exceed Limitation	2432.705(b)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.233-70 Review of Contracting Officer Protest Decisions	2433.106	P	L	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R	R
2452.237-70 Key Personnel	2437.110(e)(1)	C	I		RA	RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA		RA	RA
2452.237-73 Conduct of Work and Technical Guidance	2437.110(e)(2)	C	I			RA	RA	R	R	R	R	R		R	R	R	R	RA	RA	RA	R	RA
2452.237-75 Access to HUD Facilities	2437.110(e)(3)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.237-77 Temporary Closure of HUD Facilities	2437.110(e)(4)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.237-79	2437.110(e)(5)	C	I			RA	RA	R	R	R	R	R		R	R	R	R	RA	RA	RA	R	RA
2452.237-81 Labor Categories, Unit Prices Per Hour and Payment	2437.110(e)(6)	C	I			RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	

PROVISION OR CLAUSE	PRESCRIBED IN	P/C	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
2452.239-70 Access to HUD Systems	2439.107(a)	C	I			RA	RA	RA	RA	RA	RA	RA		RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.239-71 Information Technology Virus Security	2439.107(b)	C	I	RA	RA	RA	RA	RA	RA			RA		RA				RA		RA		RA
2452.242-70 Indirect costs	2442.705-70	C	I		RA		RA		RA		RA	RA										
2452.242-71 Contract Management System	2442.1107	C	F				RA		RA		RA	RA		RA	RA	RA		RA		O	RA	RA
Alternate I	2442.1107	C	F			RA		RA		RA		RA		RA	RA	RA		RA		O	RA	RA
2452.242-72 Post-Award Conference	2442.302-70	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.244-70 Consent to Subcontract	2444.204(a)	C	I	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA	RA
2452.246-70 Inspection and acceptance	2446.502-70	C	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
2452.251-70 Contractor Employee Travel	2451.7001	C	I				RA		RA		RA	RA		RA	RA	RA		RA			RA	

Dated: April 13, 2015.

Keith W. Surber,

Acting Chief Procurement Officer.

[FR Doc. 2015–12275 Filed 5–27–15; 8:45 am]

BILLING CODE 4210–67–C

Notices

Federal Register

Vol. 80, No. 102

Thursday, May 28, 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

Agricultural Marketing Service

[Doc. No.: AMS–DA–15–0020]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection for the Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products, and the Certification of Sanitary Design and Fabrication of Equipment Used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products.

DATES: Comments received by July 27, 2015 will be considered.

ADDRESSES: Interested persons are invited to submit comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to Diane D. Lewis, USDA/AMS/Dairy Programs, Dairy Grading and Standardization Division, Room 2747-South Building, 1400 Independence Avenue SW., Washington, DC 20250–0230; Tel: (202) 690–0530, Fax: (202) 720–2643, or via email at *Diane.Lewis@ams.usda.gov*.

All comments will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during business hours.

FOR FURTHER INFORMATION CONTACT: Diane D. Lewis, at the above physical address, by telephone (202) 690–0530, or by email at *Diane.Lewis@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting Requirements Under Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products.

OMB Number: 0581–0126.

Expiration Date of Approval: October 31, 2015.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) directs the Department to develop programs which will provide for and facilitate the marketing of agricultural products. One of these programs is the USDA voluntary inspection and grading program for dairy products, its regulations are contained in (7 CFR part 58). The regulations governing the certification of sanitary design and fabrication of equipment used in the slaughter, processing, and packaging of livestock and poultry products are contained in (7 CFR part 54). In order for a voluntary inspection program to perform satisfactorily, there must be written requirements and rules for both Government and industry. The information requested is used to identify the products offered for grading; to identify a request from a manufacturer of equipment used in dairy, meat or poultry industries for evaluation regarding sanitary design and construction; to identify and contact the party responsible for payment of the inspection, grading or equipment evaluation fee and expense; and to identify applicants who wish to be authorized for the display of official identification on product packaging, materials, equipment, utensils, or on descriptive promotional materials.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .03 hours per response.

Respondents: Dairy product manufacturers, consultants, installers, dairy equipment fabricators and meat and poultry processing equipment fabricators.

Estimated Number of Respondents: 681.

Estimated Total Annual Responses: 13229.

Estimated Number of Responses per Respondent: 19.42.

Estimated Total Annual Burden on Respondents: 457 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 21, 2015.

Erin M. Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–12813 Filed 5–27–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 21, 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if they are received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Evaluation of Demonstration Projects to End Childhood Hunger.

OMB Control Number: 0584–NEW.

Summary of Collection: The Healthy, Hunger-Free Kids Act (HHFKA) of 2010 (Pub. L. 111–296), Congress added a new Section [42 U.S.C. 179d] to develop and evaluate innovative strategies to ''reduce the risk of childhood hunger or provide a significant improvement to the food security status of households with children.'' This section mandates research on the causes and consequences of childhood hunger and the testing of innovative strategies to end childhood hunger and food insecurity.

Need and Use of the Information: The Food and Nutrition Service (FNS) will use the information gathered in the data collection activities to describe the five demonstration projects; to determine if the demonstration projects reduced food insecurity among children or households food insecurity for households with children; and to compare the relative effectiveness and cost-efficiency of the demonstration project across sites. The data being collected is necessary to meet the congressionally mandated requirement. Without the information, FNS will not be able to produce the required annual Report to Congress.

Description of Respondents: Individuals or households; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 22,593.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 32,144.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–12818 Filed 5–27–15; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0037]

Double-Crested Cormorant Management Plan To Reduce Predation of Juvenile Salmonids in the Columbia River Estuary Final Environmental Impact Statement; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the U.S. Army Corps of Engineers' Double-Crested Cormorant Management Plan Final Environmental Impact Statement.

DATES: Effective May 28, 2015.

ADDRESSES: You may read the final environmental impact statement and the record of decision in our reading room. The reading room is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

The record of decision, final environmental impact statement, and supporting information may also be found by visiting the APHIS Web site at *www.aphis.usda.gov/wildlifedamage/nepa.* To obtain copies of the documents, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Bergsten, Assistant Chief, Environmental and Risk Analysis Services, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737–1238; (301) 851–3136.

SUPPLEMENTARY INFORMATION: On February 13, 2015, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** (80 FR 8081, Docket No. 2015–03068) a notice of the availability of an environmental impact statement (EIS) by the U.S. Army Corps of Engineers (Corps) for the Double-crested Cormorant Management Plan to Reduce Predation of Juvenile Salmonids in the Columbia River Estuary. That notice was amended on February 20, 2015 (80 FR 9266–9267, Docket No. 2015–03524), to correctly identify the EIS as a final environmental impact statement (FEIS). The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), Wildlife Services (USDA–WS) was a cooperating agency in the development of the Corps' FEIS and adopted the FEIS pursuant to the EPA notice published on May 1, 2015 (80 FR 24915, Docket 2015–10218).

Under the National Environmental Policy Act (NEPA) implementing regulations in 40 CFR 1506.10, an Agency must wait a minimum of 30 days between publication of the EPA's notice of an FEIS and an Agency decision on an action covered by the FEIS. Accordingly, this notice advises the public that the waiting period has elapsed, and USDA–WS has issued a record of decision to assist the Corps in the implementation of the preferred alternative of the Corps' FEIS.

USDA–WS' record of decision has been prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 22nd day of May 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–13000 Filed 5–27–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0113]

Dow AgroSciences LLC: Availability of a Preliminary Plant Pest Risk Assessment, Draft Environmental Assessment, Preliminary Finding of No Significant Impact, and Preliminary Determination of Nonregulated Status for Cotton Genetically Engineered for Resistance to 2,4–D and Glufosinate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a preliminary determination regarding a request from Dow AgroSciences LLC seeking a determination of nonregulated status for cotton designated as DAS–8191Ø–7, which has been genetically engineered for resistance to the herbicides 2,4–D and glufosinate. We are also making available for public review and comment our preliminary plant pest risk assessment, draft environmental assessment, and preliminary finding of no significant impact for the preliminary determination of nonregulated status.

DATES: We will consider any information that we receive on or before June 29, 2015.

ADDRESSES: You may submit any information by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0113*.
- *Postal Mail/Commercial Delivery:* Send your information to Docket No. APHIS–2013–0113, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents for this petition and any other information we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0113* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

Supporting documents for this petition are also available on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition Number 13–262–01p.

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov*. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 13–262–01p) from Dow AgroSciences LLC (DAS) of Indianapolis, IN, seeking a determination of nonregulated status of cotton (*Gossypium hirsutum*) designated as DAS–8191Ø–7, which has been genetically engineered for resistance to certain broadleaf herbicides in the phenoxy auxin group (particularly the herbicide 2,4–D) and resistance to the herbicide glufosinate. The petition states that information collected during field trials and laboratory analyses indicates that cotton designated as DAS–8191Ø–7 is not likely to be a plant pest or result in weediness potential and therefore should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on March 18, 2014 (79 FR 15096–15097, Docket No. APHIS–2013–0113), APHIS announced the availability of the DAS petition for public comment. APHIS solicited comments on the petition for 60 days ending on May 19, 2014, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. APHIS received 193 comments on the petition; 1 comment from a consumer organization included an attached petition with 31,947 signatures and 2,643 unique comments. Relevant issues raised by commenters focused on potential impacts to cotton plants from off-target drift, weed management, human health considerations from exposure to herbicides, and domestic and international economic impacts associated with the development and marketing of a new herbicide-resistant product. APHIS has evaluated the issues raised during the comment period and, where appropriate, has provided a discussion of these issues in our draft environmental assessment (EA).

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for public involvement in our decisionmaking process. According to our public review process (see footnote 1), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its draft EA, preliminary finding of no significant impact (FONSI), and its preliminary plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period. For this petition, we are using Approach 1.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues, APHIS will follow Approach 2. Under Approach 2, APHIS first solicits written comments from the public on a draft EA and preliminary PPRA for a 30-day comment period through the publication of a **Federal Register** notice. Then, after reviewing and evaluating the comments on the draft EA and preliminary PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129*.

[2] To view the notice, the petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0113*.

EA and, based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

As part of our decision making process regarding a GE organism's regulatory status, APHIS prepares a PPRA to assess the plant pest risk of the article. APHIS also prepares the appropriate environmental documentation—either an EA or an environmental impact statement—in accordance with NEPA, to provide the Agency and the public with a review and analysis of any potential environmental impacts that may result if the petition request is approved.

APHIS has prepared a preliminary PPRA and has concluded that cotton designated as DAS–8191Ø–7, which has been genetically engineered for resistance to the herbicides 2,4–D and glufosinate, is unlikely to pose a plant pest risk. In section 403 of the Plant Protection Act, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

APHIS has also prepared a draft EA in which we present two alternatives based on our analysis of data submitted by DAS, a review of other scientific data, field tests conducted under APHIS oversight, and comments received on the petition. APHIS is considering the following alternatives: (1) Take no action, *i.e.,* APHIS would not change the regulatory status of cotton designated as DAS–8191Ø–7, or (2) make a determination of nonregulated status of cotton designated as DAS–8191Ø–7.

The EA was prepared in accordance with (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our draft EA and other pertinent scientific data, APHIS has prepared a preliminary FONSI with regard to the preferred alternative identified in the EA.

Based on APHIS' analysis of field and laboratory data submitted by DAS, references provided in the petition, peer-reviewed publications, information analyzed in the draft EA, the preliminary PPRA, comments provided by the public on the petition, and discussion of issues in the draft EA, APHIS has determined that cotton designated as DAS–8191Ø–7 is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to make a determination of nonregulated status of cotton designated as DAS–8191Ø–7, whereby cotton designated as DAS–8191Ø–7 would no longer be subject to our regulations governing the introduction of certain GE organisms.

We are making available for a 30-day review period APHIS' preliminary regulatory determination of cotton designated as DAS–8191Ø–7, along with our preliminary PPRA, draft EA, and preliminary FONSI for the preliminary determination of nonregulated status. The draft EA, preliminary FONSI, preliminary PPRA, and our preliminary determination for cotton designated as DAS–8191Ø–7, as well as the DAS petition and the comments received on the petition, are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the 30-day review period closes, APHIS will review and evaluate any information received during the 30-day review period. If, after evaluating the information received, APHIS determines that we have not received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the draft EA, or substantially changing the analysis of impacts in the draft EA, APHIS will notify the public through an announcement on our Web site of our final regulatory determination. If, however, APHIS determines that we have received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the draft EA, or substantially changing the analysis of impacts in the draft EA, then APHIS will notify the public of our intent to conduct additional analysis and to prepare an amended EA, a new FONSI, and/or a revised PPRA, which would be made available for public review through the publication of a notice of availability in the **Federal Register**. APHIS will also notify the petitioner.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 21st day of May 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–12817 Filed 5–27–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2015]

Notification of Proposed Production Activity; Hitachi Automotive Systems Americas, Inc.; Subzone 29F (Automotive Battery Management Systems); Harrodsburg, Kentucky

The Louisville and Jefferson County Riverport Authority, grantee of FTZ 29, submitted a notification of proposed production activity to the FTZ Board on behalf of Hitachi Automotive Systems Americas, Inc. (HIAMS–HK), operator of Subzone 29F, at its facilities located in Harrodsburg, Kentucky. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 5, 2015.

HIAMS–HK already has authority to produce various automotive components, including electric-hybrid drive systems, mass air sensors, throttle bodies and chambers, starter motors, motor/generator units, alternators, distributors, static converters, inverter modules, rotors/stators, batteries, ignition coils, sensors and modules, fuel injectors, emissions control equipment, valves, pumps, and electronic control units for engines and transmissions within Subzone 29F. The current request would add a new finished product (automotive battery management systems) and foreign components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt HIAMS–HK from customs duty payments on the foreign status components used in export production. On its domestic sales, HIAMS–HK would be able to choose the duty rate during customs entry procedures that applies to automotive battery management systems (1.7%) for the foreign status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components sourced from abroad are: Battery management covers and bases (duty rate—1.7%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 7, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: May 20, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–12927 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the matter of:

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran;

Pejman Mahmood Kosarayanifard, a/k/a Kosarian Fard, P.O. Box 52404, Dubai, United Arab Emirates;

Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates

and

P.O. Box 52404, Dubai, United Arab Emirates,

and

Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;

Kerman Aviation, a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France,

Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates,

Ali Eslamian, 4th Floor, 33 Cavendish Square, London, W1G0PW, United Kingdom,

and

2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom,

Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates,

Skyco (UK) Ltd., 4th Floor, 33 Cavendish Square, London, W1G 0PV, United Kingdom,

Equipco (UK) Ltd., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom,

Mehdi Bahrami, Mahan Airways—Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey,

Al Naser Airlines, a/k/a al-Naser Airlines, a/k/a Alnaser Airlines and Air Freight Ltd., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq

and

Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq

and

P.O. Box 28360, Dubai, United Arab Emirates

and

P.O. Box 911399, Amman 11191, Jordan,

Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq

and

Anak Street, Qatif, Saudi Arabia 61177,

Bahar Safwa General Trading, PO Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates

and

PO Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates

Modification of Temporary Denial Order To Add Additional Respondents

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2015) (''EAR'' or the ''Regulations''),[1] I hereby grant the request of the Office of Export Enforcement (''OEE'') to modify the January 16, 2015 Order Temporarily Denying the Export Privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Ali Eslamian, Mahan Air General Trading LLC, Skyco (UK) Ltd., Equipco (UK) Ltd., and Mehdi Bahrami.[2] I find that modification of the Temporary Denial Order (''TDO'') is necessary in the public interest to prevent an imminent violation of the EAR. Specifically, I find it necessary to add the following persons as additional Respondents:

Al Naser Airlines, a/k/a al-Naser Airlines, a/k/a Alnaser Airlines and Air Freight Ltd., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq

and

Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq

and

P.O. Box 28360, Dubai, United Arab Emirates,

and

P.O. Box 911399, Amman 11191, Jordan

Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq

and

Anak Street, Qatif, Saudia Arabia 61177

Bahar Safwa General Trading, PO Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates,

and

P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates

I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (''Assistant Secretary''), signed a TDO denying Mahan Airways' export privileges for a period of 180 days on the grounds that its issuance was necessary in the public interest to prevent an imminent violation of the Regulations. The TDO also named as denied persons Blue Airways, of Yerevan, Armenia (''Blue Airways of Armenia''), as well as the ''Balli Group Respondents,'' namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

The TDO subsequently has been renewed in accordance with Section 766.24(d), including most recently on January 16, 2015.[3] As of March 9, 2010, the Balli Group Respondents and Blue Airways were no longer subject to the TDO. As part of the February 25, 2011 TDO renewal, Gatewick LLC (a/k/a

[1] The Regulations, currently codified at 15 CFR parts 730–774 (2015), originally issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

[2] The January 16, 2015 Renewal Order was published in the **Federal Register** on January 23, 2015 (80 Fed Reg. 3552, Jan. 23, 2015).

[3] The TDO was renewed or modified in accordance with Section 766.24 of the Regulations on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, July 1, 2014, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014, July 22, 2014, and most recently on January 16, 2015. Each renewal or modification order was published in the **Federal Register**.

Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services), Mahmoud Amini, and Pejman Mahmood Kosarayanifard (''Kosarian Fard'') were added as related persons in accordance with Section 766.23 of the Regulations.[4] On July 1, 2011, the TDO was modified by adding Zarand Aviation as a respondent in order to prevent an imminent violation.[5] As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco Trading LLC, and Ali Eslamian were added to the TDO as related persons. Mahan Air General Trading LLC, Skyco (UK) Ltd., and Equipco (UK) Ltd. were added as related persons on April 9, 2012. Mehdi Bahrami was added to the TDO as a related person as part of the February 4, 2013 renewal order.

On May 13, 2015, OEE submitted a written request seeking to modify the January 16, 2015 Renewal Order. OEE is specifically requesting that Al Naser Airlines (a/k/a al-Naser Airlines a/k/a Alnaser Airlines and Air Freight Ltd.), Ali Abdullah Alhay (a/k/a Ali Alhay a/k/a Ali Abdullah Ahmed Alhay), and Bahar Safwa General Trading be added to the TDO.

II. Modification of the January 16, 2015 Renewal Order

A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(1) and 776.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

B. OEE's Request To Add Additional Respondents to TDO

In support of its request to modify the January 16, 2015 Renewal Order, OEE has presented evidence detailing apparent efforts by Al Naser Airlines and one of its principals, Ali Abdullah Alhay, acting together with Bahar Safwa General Trading, to obtain aircraft subject to the Regulations for export or reexport directly or indirectly to Mahan Airways or to facilitate or support such activities in violation of the TDO and the Regulations. The January 16, 2015 Renewal Order, like the July 22, 2014 Renewal Order (and the prior renewal order and original TDO), provides *inter alia,* that no person may, directly or indirectly, export or reexport to or on behalf of Mahan Airways any item subject to the EAR, or take any action that facilitates the acquisition or attempted acquisition by Mahan of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Mahan acquires or attempts to acquire such ownership, possession or control. In addition, the export or reexport of the aircraft at issue and discussed further below requires U.S. Government authorization, including pursuant to Sections 742.8 and 746.7 of the Regulations.

OEE's investigation indicates that at least two aircraft, specifically an Airbus A321 bearing manufacturer's serial number (''MSN'') 550 and an Airbus A340 bearing MSN 164, were purchased by Al Naser Airlines in late 2014/early 2015 and are currently located in Iran under the possession, control, and/or ownership of Mahan Airways.[6]

OEE has presented evidence that Ali Abdullah Alhay is a twenty-five percent owner of Al Naser Airlines, and has presented copies of sales agreements for the aircraft that have been obtained from the seller and show that Ali Abdullah Alhay signed both agreements for Al Naser Airlines.

The sales agreement for Airbus A321 (MSN 550) is dated November 24, 2014, and lists a ''Final Sale Date'' of January 30, 2015. Payment information for the aircraft reveals that between November 2014 and January 2015, Ali Abdullah Alhay made two electronic funds transfers (''EFT'') in the amounts of $815,000 and $600,000 respectively. The majority of the purchase price for this aircraft was then paid via a January 20, 2015 EFT made by Bahar Safwa General Trading in the amount of $2.5 million.

The sales agreement for the Airbus A340 (MSN 164) is dated December 17, 2014, and lists a ''Final Sale Date'' of December 23, 2014. Payment information also reveals a November 28, 2014 EFT from Bahar Safwa General Trading in the amount of $650,000.

Aviation industry databases indicate that in or about May 2015, Mahan Airways acquired at least possession and/or control of MSNs 550 and 164, and that both aircraft are now physically located in Tehran, Iran.

The proposed respondents also have been attempting to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period involving two Airbus A320s bearing MSNs 82 and 99, respectively.[7] Transactional documents OEE has obtained from the seller again show Ali Abdullah Alhay signing all documents for Al Naser Airlines. Ali Abdullah Alhay signed an October 19, 2014 Letter of Intent for MSNs 82 and 99, as well as subsequent sales agreements each dated February 19, 2015.[8] Both sales agreements list a ''Final Sale Date'' of March 6, 2015. A review of the payment information for these aircraft reveal three EFTs that follow the pattern

[4] As of January 16, 2015, Gatewick LLC was no longer subject to the TDO. On August 13, 2014, BIS and Gatewick LLC resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period are active, with the remaining five years suspended on condition that Gatewick LLC pays the civil penalty in full and timely fashion and commits no further violation of the Regulations during the seven-year denial period. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. *See* 79 FR 49283 (Aug. 20, 2014).

[5] As of July 22, 2014, Zarand Aviation was no longer subject to the TDO.

[6] Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number (''ECCN'') 9A991.d. Both aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[7] Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number (''ECCN'') 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of the their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

[8] The October 19, 2014 Letter of Intent signed by Ali Abdullah Alhay also indicated that Al Naser Airlines intended to purchase a third Airbus A320 (MSN 317). This aircraft is not part of the sales agreements that have been obtained.

described for MSNs 550 and 164 as discussed *supra.* The first EFT was a $450,000 commitment fee payment made by Ali Abdullah Alhay pursuant to the October 19, 2014 Letter of Intent. Subsequent EFTs in the amounts of $2 million and $986,000, respectively, were wired by Bahar Safwa General Trading in late February 2015, and specifically referenced MSNs 82 and 99.

Based on the risk of diversion to Iran, including specifically to Mahan Airways, both Airbus A320s were detained by OEE Special Agents prior to their planned export from the United States. This risk of diversion presented by these intended exports has been corroborated by the evidence presented in connection with the Airbus aircraft bearing MSNs 164 and 550 discussed, *supra.* In addition, recent reputable press reports have indicated that as many as seven other Airbus aircraft also were recently exported or reexported to Iran on behalf of or for the benefit of Mahan.

C. Findings

I find that the evidence presented by OEE demonstrates continued efforts to evade the TDO and that additional violations are imminent. Adding Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading to the TDO is necessary to give notice to persons and companies in the United States and abroad that they should cease dealing with these parties in export and re-export transactions involving items subject to the EAR or other activities prohibited by the TDO. Doing so is consistent with the public interest to preclude future violations of the EAR and prevent Mahan Airways' active efforts to evade the TDO.

The export privileges of Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading are being temporarily denied on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 of the Regulations.

IV. ORDER

It is therefore ordered:

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; ALI ESLAMIAN, 4th Floor, 33 Cavendish Square, London W1G0PW, United Kingdom, and 2 Bentinck Close, Prince Albert Road St. Johns Wood, London NW87RY, United Kingdom; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; SKYCO (UK) LTD., 4th Floor, 33 Cavendish Square, London, W1G 0PV, United Kingdom; EQUIPCO (UK) LTD., 2 Bentinck Close, Prince Albert Road, London, NW8 7RY, United Kingdom; MEHDI BAHRAMI, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL–NASER AIRLINES A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates; and P.O. Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177; and BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Al Naser Airlines, Bahar Safwa General Trading, and/or Ali Abdullah Alhay may, at any time, appeal this Order by filing a full written statement in support of the

appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Al Nasser Airlines, Ali Abdullah Alhay, or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and shall be published in the **Federal Register**. This Order is effective immediately and shall remain in effect until July 14, 2015, unless renewed in accordance with Section 766.24(d) of the Regulations.

Dated: May 21, 2015.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2015–12851 Filed 5–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review; 2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On September 30, 2014, the Department of Commerce (the Department) initiated the antidumping duty new shipper review of small diameter graphite electrodes from the People's Republic of China (PRC) for the period of review (POR) of February 1, 2014, through August 31, 2014, for Xuzhou Jianglong Carbon Products Co., Ltd. (Jianglong).[1] We preliminarily determine that Jianglong does not qualify as a new shipper and we are preliminarily rescinding this new shipper review.

DATES: *Effective date:* May 28, 2015.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8545.11.0010 [2] and 3801.10. The HTSUS numbers are provided for convenience and customs purposes, but the written description of the scope is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[3]

Methodology

We are conducting this new shipper review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. 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 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 found at *http://www.enforcment.trade.gov/frn/.*

Preliminary Rescission of Review

Based on information placed on the record by interested parties in the context of this new shipper review, we determine that Jianglong does not meet the minimum requirements in its request for a new shipper review under 19 CFR 351.214(b)(2)(iv)(A) and (C). Therefore, we preliminarily determine that it is appropriate to rescind the new shipper review with respect to Jianglong.[4]

Disclosure and Public Comment

We will disclose analysis performed to parties to the proceeding, normally not later than ten days after the day of the public announcement of, or, if there is no public announcement, within five days after the date of publication of, this notice.[5]

Interested parties are invited to comment on these preliminary results and submit written arguments or case briefs within 30 days after the publication of this notice, unless otherwise notified by the Department.[6] Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later.[7] Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

Any interested party who wishes to request a hearing, or to participate if one is requested, must submit a written request within 30 dates after the day of publication of this notice. A request should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.[8] Issues raised in the hearing will be limited to those raised in case briefs.

We will issue the final rescission of this new shipper review or final results of this new shipper review, including the results of our analysis of issues raised in any briefs, within 90 days after

[1] *See Small Diameter Graphite Electrodes From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review,* 79 FR 58742 (September 30, 2014) (*Initiation Notice*).

[2] The scope described in the order refers to the HTSUS subheading 8545.11.0000. We note that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020.

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Small Diameter Graphite Electrodes from the People's Republic of China'' (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

[4] We have not conducted a detailed *bona fides* analysis for these preliminary results due to the preliminary decision that Jianglong is not eligible for a new shipper review. *See* Preliminary Decision Memorandum.

[5] *See* 19 CFR 351.224(b)

[6] *See* 19 CFR 351.309(c)(ii).

[7] *See* 19 CFR 351.309(d).

[8] *See* 19 CFR 351.310(c).

the date on which this preliminary rescission is issued, unless the deadline for the final results is extended.[9]

Assessment Rates

Jianglong's entries are currently subject to the PRC-wide rate. Although we intend to rescind this new shipper review, we initiated an administrative review for the period February 1, 2014, through January 31, 2015, which also covers the entries subject to this new shipper review.[10] Accordingly, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend entries during the period February 1, 2014, through January 31, 2015, of subject merchandise exported by Jianglong until CBP receives instructions relating to the administrative review covering the period February 1, 2014, through January 31, 2015.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this new shipper review, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Jianglong. If we proceed to a final rescission of this new shipper review, the cash deposit rate will continue to be the PRC-wide rate for Jianglong. If we issue final results of the new shipper review, we will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rate established therein.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(f).

[9] *See* 19 CFR 351.214(i).

[10] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 18202, 18212 (April 3, 2015).

Dated: May 21, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of Methodology
5. Recommendation

[FR Doc. 2015–12930 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 150515451–5451–01]

RIN 0693–XC049

Request for Information Regarding Online Platforms To Promote Federal Science and Technology Facilities, Products, and Services

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice; Request for Information (RFI)

SUMMARY: The National Institute of Standards and Technology (NIST) and other member laboratories of the Federal Laboratory Consortium for Technology Transfer (FLC) offer a variety of specialized scientific and technical facilities, products, and services to the public, including access to instrumentation, reference materials, software, and calibrations. Access to such services is provided in a variety of ways, and may require the payment of fees or other costs and/or an application or agreement. NIST and other members of the FLC request information from the public regarding recommendations for online platforms that can broaden awareness and make it easier for the public to search for, locate, learn about, and obtain access to these facilities, products, and services. The information received in response to this RFI will be provided by NIST to various interagency groups for consideration and used to publicize various federal facilities and resources.

DATES: Comments must be received by 5:00 p.m. Eastern time on June 29, 2015. Written comments in response to the RFI should be submitted according to the instructions in the **SUPPLEMENTARY INFORMATION** section below. Submissions received after that date will be considered to the extent practicable.

ADDRESSES: Electronic comments regarding the RFI should be addressed to Dr. Courtney Silverthorn by email to *courtney.silverthorn@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Courtney Silverthorn, Senior Interagency Policy Specialist, National Institute of Standards and Technology, Technology Partnerships Office, 100 Bureau Drive MS 2200, Gaithersburg, MD 20899, 301–975–4189, or by email to *courtney.silverthorn@nist.gov*.

SUPPLEMENTARY INFORMATION: Private sector online platforms could improve the availability of scientific and technical resources and services in a number of ways. For example, a private sector online platform might maintain a database of such resources and provide a simple way for a member of the public to initiate access. NIST and other member laboratories will evaluate submitted platforms for technology and research capability matches and may contact appropriate platforms directly to arrange for possible publication of specific facilities, products, and/or services. NIST and other members of the FLC are especially interested in recommendations that can broaden awareness and improve access at no cost to the government.

As part of the Open Data initiative, NIST and other members of the FLC can make data about the resources of interest available to the public. For examples, see:

https://flcbusiness.federallabs.org/FLCBiz/app/search-equipment-and-facilities

http://www.nist.gov/user-facilities.cfm

http://www.nist.gov/calibrations/

http://www.nist.gov/srm/index.cfm

http://www.nist.gov/srd/index.cfm

To respond to this RFI, please submit written comments by email to Dr. Courtney Silverthorn at *courtney.silverthorn@nist.gov* in any of the following formats: ASCII; Word; RTF; or PDF. Please include your name, organization's name (if any), and cite ''Online Technology Platforms RFI'' in the subject line of all correspondence.

NIST is specifically interested in receiving input pertaining to the following questions:

(1) What is the web address of the online platform you are recommending? Is the platform specific to a particular research sector (*i.e.* molecular biology, physical sciences, calibration services, etc.) or is it a general platform?

(2) What is the cost model of the online platform you are recommending? Is there a listing fee, a percentage of the service fee retained, or is it a no-cost information listing only?

Authority: 15 U.S.C. 3710(g).

Richard Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2015–12839 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD075

Endangered Species; File No. 18136

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that Larry Wood, LDWood BioConsulting, Inc., 425 Kennedy Street, Jupiter, FL 33468 has been issued a modification to scientific research Permit No. 18136.

ADDRESSES: The modification and related documents are available for review 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.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Brendan Hurley; phone: (301) 427–8401.

SUPPLEMENTARY INFORMATION: On February 3, 2015, notice was published in the **Federal Register** (80 FR 5739) that a modification of Permit No. 18136, issued September 30, 2014 (79 FR 74712), had been requested by the above-named individual. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 18136 authorizes the permit holder to continue to describe the abundance and movements of an aggregation of hawksbill sea turtles (*Eretmochelys imbricata*) found on the barrier reefs of southeast Florida. Up to 50 sea turtles may be approached during dives for observation and photographs annually. Up to 25 additional animals may be hand captured, measured, flipper and passive integrated transponder tagged, photographed, tissue sampled, and released annually. Twelve hawksbills may be captured for the above procedures and fitted with a satellite transmitter prior to their release annually. The permit has been modified to authorize work in the waters of Miami-Dade and Monroe Counties. The permit is valid through September 30, 2019.

Issuance of this modification, as required by the ESA was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 19, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–12744 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Gulf of Alaska Trawl Groundfish Fishery Rationalization Social Study—Catcher Processor Socio-Cultural Survey.

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 495.

Average Hours per Response: Catcher-Processor Company Management survey, 1 hour; Catcher-Processor Shipboard Management and Catcher-Processor Deck and Processing Crew surveys, 30 minutes each.

Burden Hours: 255.

Needs and Uses: This request is for a new information collection.

Historically, changes in fisheries management regulations have been shown to result in impacts to individuals within the fishery. An understanding of social impacts in fisheries—achieved through the collection of data on fishing communities, as well as on individuals who fish—is a requirement under several federal laws, including the National Environmental Policy Act (NEPA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (as amended 2007). The collection of this data not only helps to inform legal requirements for the existing management actions, but will inform future management actions requiring equivalent information.

Fisheries rationalization programs have an impact on those individuals participating in the affected fishery, as well as their communities and may also have indirect effects on other fishery participants. The North Pacific Fishery Management Council is considering the implementation of a new, yet to be defined, rationalization program for the Gulf of Alaska groundfish trawl fishery. A data collection was conducted in 2014 (OMB Control No. 0648–0685) to obtain relevant socio-cultural information about current participants in most sectors of this fishery.

The proposed data collection complements this 2014 effort by collecting comparable information from individuals participating in the catcher processor fleet that operates in the North Pacific. The data collected will be used to develop a baseline description of the catcher processor sector operating in the North Pacific that can be used to analyze impacts that future fisheries management changes, such as the new bycatch management changes being developed for the Gulf of Alaska trawl fishery, may have on catcher processor businesses, as well as individuals and communities that are dependent on this sector. The measurement of these changes, combined with those noted in the 2014 survey, will lead to a greater understanding of the social impacts new management measures may have on the individuals and communities.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: May 22, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–12885 Filed 5–27–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2015–OS–0027]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 29, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Department of Defense Inventory of Contracts for Services Compliance; OMB Control Number 0704–0491.

Type of Request: Extension.

Number of Respondents: 48,884.

Responses per Respondent: 1.

Annual Responses: 48,884.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 4,074.

Needs and Uses: The information collection requirement is necessary to allow all DoD organizations to fully implement sections 235 and 2330a of title 10, United States Code. The information requested, such as the Reporting Period, Contract number, Task/Delivery Order Number, Customer Name and Address, Contracting Office Name and Address, Federal Supply Class or Service Code, Contractor Name and Address, Value of Contract Instrument, and the Number and Value of Direct Labor Hours will be used to facilitate the accurate identification of the function performed and to facilitate the estimate of the reliability of the data. The Direct Labor Hours are requested for use in calculating contractor manpower equivalents. This information is reported directly from the contractor because this is the most credible data source.

Affected Public: Business or other for-profit; Not-for profit institutions.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: May 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–12868 Filed 5–27–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Travel Management Office, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 296. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 296 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* June 1, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian Personnel Per Diem Bulletin Number 295. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 296 includes updated rates for American Samoa, Hawaii, Midway Islands, and U.S. Virgin Islands.

Dated: May 22, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
ALASKA:						
[OTHER]						
01/01–12/31	110		99		209	03/01/2015
ADAK						
11/01–03/31	150		70		220	03/01/2015
04/01–10/31	192		74		266	03/01/2015

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
ANCHORAGE [INCL NAV RES]						
05/16–09/30	190		102		292	12/01/2013
10/01–05/15	99		93		192	12/01/2013
BARROW						
01/01–12/31	177		78		255	03/01/2015
BARTER ISLAND LRRS						
01/01–12/31	110		99		209	04/01/2015
BETHEL						
01/01–12/31	179		94		273	03/01/2015
BETTLES						
01/01–12/31	175		79		254	03/01/2015
CAPE LISBURNE LRRS						
01/01–12/31	110		99		209	03/01/2015
CAPE NEWENHAM LRRS						
01/01–12/31	110		99		209	03/01/2015
CAPE ROMANZOF LRRS						
01/01–12/31	110		99		209	03/01/2015
CLEAR AB						
01/01–12/31	90		82		172	10/01/2006
COLD BAY LRRS						
01/01–12/31	110		99		209	03/01/2015
COLDFOOT						
01/01–12/31	165		70		235	10/01/2006
COPPER CENTER						
05/15–09/15	130		79		209	03/01/2015
09/16–05/14	89		75		164	03/01/2015
CORDOVA						
01/01–12/31	95		77		172	03/01/2015
CRAIG						
04/01–09/30	129		77		206	06/01/2014
10/01–03/31	85		72		157	06/01/2014
DEADHORSE						
01/01–12/31	170		70		240	05/01/2014
DELTA JUNCTION						
05/01–09/30	169		60		229	03/01/2015
10/01–04/30	139		57		196	03/01/2015
DENALI NATIONAL PARK						
06/01–08/31	185		89		274	03/01/2015
09/01–05/31	109		82		191	03/01/2015
DILLINGHAM						
05/15–10/15	185		111		296	01/01/2011
10/16–05/14	169		109		278	01/01/2011
DUTCH HARBOR—UNALASKA						
01/01–12/31	135		79		214	03/01/2015
EARECKSON AIR STATION						
01/01–12/31	90		77		167	06/01/2007
EIELSON AFB						
05/15–09/15	154		85		239	03/01/2015
09/16–05/14	75		77		152	03/01/2015
ELFIN COVE						
01/01–12/31	225		68		293	03/01/2015
ELMENDORF AFB						
05/16–09/30	190		102		292	12/01/2013
10/01–05/15	99		93		192	12/01/2013
FAIRBANKS						
05/15–09/15	154		85		239	03/01/2015
09/16–05/14	75		77		152	03/01/2015
FOOTLOOSE						
01/01–12/31	175		18		193	10/01/2002
FORT YUKON LRRS						
01/01–12/31	110		99		209	03/01/2015
FT. GREELY						
05/01–09/30	169		60		229	03/01/2015
10/01–04/30	139		57		196	03/01/2015
FT. RICHARDSON						
05/16–09/30	190		102		292	12/01/2013
10/01–05/15	99		93		192	12/01/2013

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
FT. WAINWRIGHT						
05/15–09/15	154		85		239	03/01/2015
09/16–05/14	75		77		152	03/01/2015
GAMBELL						
01/01–12/31	133		59		192	03/01/2015
GLENNALLEN						
09/16–05/14	89		75		164	03/01/2015
05/15–09/15	130		79		209	03/01/2015
HAINES						
01/01–12/31	107		101		208	01/01/2011
HEALY						
06/01–08/31	185		89		274	03/01/2015
09/01–05/31	109		82		191	03/01/2015
HOMER						
05/01–09/30	159		91		250	03/01/2015
10/01–04/30	89		84		173	03/01/2015
JB ELMENDORF–RICHARDSON						
05/16–09/30	190		102		292	12/01/2014
10/01–05/15	99		93		192	12/01/2014
JUNEAU						
10/01–04/30	135		88		223	03/01/2015
05/01–09/30	159		90		249	03/01/2015
KAKTOVIK						
01/01–12/31	165		86		251	10/01/2002
KAVIK CAMP						
01/01–12/31	250		71		321	03/01/2015
KENAI–SOLDOTNA						
05/01–10/31	194		107		301	03/01/2015
11/01–04/30	84		96		180	03/01/2015
KENNICOTT						
01/01–12/31	229		102		331	03/01/2015
KETCHIKAN						
04/01–10/01	140		90		230	03/01/2015
10/02–03/31	99		85		184	03/01/2015
KING SALMON						
10/02–04/30	125		81		206	10/01/2002
05/01–10/01	225		91		316	10/01/2002
KING SALMON LRRS						
01/01–12/31	110		99		209	03/01/2015
KLAWOCK						
10/01–03/31	85		72		157	06/01/2014
04/01–09/30	129		77		206	06/01/2014
KODIAK						
05/01–09/30	180		82		262	03/01/2015
10/01–04/30	100		74		174	03/01/2015
KOTZEBUE						
01/01–12/31	219		95		314	03/01/2015
KULIS AGS						
05/16–09/30	190		102		292	12/01/2013
10/01–05/15	99		93		192	12/01/2013
MCCARTHY						
01/01–12/31	229		102		331	03/01/2015
MCGRATH						
01/01–12/31	160		82		242	07/01/2014
MURPHY DOME						
09/16–05/14	75		77		152	03/01/2015
05/15–09/15	154		85		239	03/01/2015
NOME						
01/01–12/31	165		108		273	03/01/2015
NUIQSUT						
01/01–12/31	233		69		302	03/01/2015
OLIKTOK LRRS						
01/01–12/31	110		99		209	03/01/2015
PETERSBURG						
01/01–12/31	110		99		209	03/01/2015
POINT BARROW LRRS						
01/01–12/31	110		99		209	03/01/2015

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
POINT HOPE						
01/01–12/31	181		81		262	06/01/2014
POINT LAY						
01/01–12/31	265		72		337	07/01/2014
POINT LAY LRRS						
01/01–12/31	265		72		337	04/01/2015
POINT LONELY LRRS						
01/01–12/31	110		99		209	03/01/2015
PORT ALEXANDER						
01/01–12/31	155		61		216	03/01/2015
PORT ALSWORTH						
01/01–12/31	135		88		223	10/01/2002
PRUDHOE BAY						
01/01–12/31	170		70		240	05/01/2014
SELDOVIA						
10/01–04/30	89		84		173	03/01/2015
05/01–09/30	159		91		250	03/01/2015
SEWARD						
05/01–09/30	207		104		311	03/01/2015
10/01–04/30	169		100		269	03/01/2015
SITKA–MT. EDGECUMBE						
05/15–09/15	200		99		299	03/01/2015
09/16–05/14	139		93		232	03/01/2015
SKAGWAY						
04/01–10/01	140		90		230	03/01/2015
10/02–03/31	99		85		184	03/01/2015
SLANA						
10/01–04/30	99		55		154	02/01/2005
05/01–09/30	139		55		194	02/01/2005
SPARREVOHN LRRS						
01/01–12/31	110		99		209	03/01/2015
SPRUCE CAPE						
10/01–04/30	100		74		174	03/01/2015
05/01–09/30	180		82		262	03/01/2015
ST. GEORGE						
01/01–12/31	220		68		288	03/01/2015
TALKEETNA						
01/01–12/31	100		89		189	10/01/2002
TANANA						
01/01–12/31	165		108		273	03/01/2015
TATALINA LRRS						
01/01–12/31	110		99		209	03/01/2015
TIN CITY LRRS						
01/01–12/31	110		99		209	03/01/2015
TOK						
05/15–09/30	100		72		172	03/01/2015
10/01–05/14	79		70		149	03/01/2015
UMIAT						
01/01–12/31	350		80		430	03/01/2015
VALDEZ						
09/17–04/15	109		90		199	03/01/2015
04/16–09/16	189		98		287	03/01/2015
WAINWRIGHT						
01/01–12/31	175		83		258	01/01/2011
WASILLA						
05/01–09/30	125		92		217	03/01/2015
10/01–04/30	90		89		179	03/01/2015
WRANGELL						
04/01–10/01	140		90		230	03/01/2015
10/02–03/31	99		85		184	03/01/2015
YAKUTAT						
01/01–12/31	105		94		199	01/01/2011
AMERICAN SAMOA:						
AMERICAN SAMOA						
01/01–12/31	139		69		208	06/01/2015
GUAM:						

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
GUAM (INCL ALL MIL INSTAL)						
01/01–12/31	159		84		243	12/01/2013
JOINT REGION MARIANAS (ANDERSEN)						
01/01–12/31	159		84		243	04/01/2015
JOINT REGION MARIANAS (NAVAL BASE)						
01/01–12/31	159		84		243	04/01/2015
HAWAII:						
[OTHER]						
01/01–12/31	142		108		250	06/01/2015
CAMP H M SMITH						
01/01–12/31	177		117		294	06/01/2015
EASTPAC NAVAL COMP TELE AREA						
01/01–12/31	177		117		294	06/01/2015
FT. DERUSSEY						
01/01–12/31	177		117		294	06/01/2015
FT. SHAFTER						
01/01–12/31	177		117		294	06/01/2015
HICKAM AFB						
01/01–12/31	177		117		294	06/01/2015
HONOLULU						
01/01–12/31	177		117		294	06/01/2015
ISLE OF HAWAII: HILO						
01/01–12/31	142		108		250	06/01/2015
ISLE OF HAWAII: OTHER						
01/01–12/31	189		142		331	06/01/2015
ISLE OF KAUAI						
01/01–12/31	305		146		451	06/01/2015
ISLE OF MAUI						
01/01–12/31	259		146		405	06/01/2015
ISLE OF OAHU						
01/01–12/31	177		117		294	06/01/2015
JB PEARL HARBOR–HICKAM						
01/01–12/31	177		117		294	06/01/2015
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01–12/31	305		146		451	06/01/2015
KILAUEA MILITARY CAMP						
01/01–12/31	142		108		250	06/01/2015
LANAI						
01/01–12/31	229		103		332	06/01/2015
LUALUALEI NAVAL MAGAZINE						
01/01–12/31	177		117		294	06/01/2015
MCB HAWAII						
01/01–12/31	177		117		294	06/01/2015
MOLOKAI						
01/01–12/31	157		86		243	06/01/2015
NAS BARBERS POINT						
01/01–12/31	177		117		294	06/01/2015
PEARL HARBOR						
01/01–12/31	177		117		294	06/01/2015
PMRF BARKING SANDS						
01/01–12/31	305		146		451	06/01/2015
SCHOFIELD BARRACKS						
01/01–12/31	177		117		294	06/01/2015
TRIPLER ARMY MEDICAL CENTER						
01/01–12/31	177		117		294	06/01/2015
WHEELER ARMY AIRFIELD						
01/01–12/31	177		117		294	06/01/2015
MIDWAY ISLANDS:						
MIDWAY ISLANDS						
01/01–12/31	125		81		206	06/01/2015
NORTHERN MARIANA ISLANDS:						
[OTHER]						
01/01–12/31	99		97		196	08/01/2014
ROTA						
01/01–12/31	130		104		234	08/01/2014
SAIPAN						
01/01–12/31	140		96		236	12/01/2013

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

Locality	Maximum lodging amount (A)	+	Meals and incidentals rate (B)	=	Maximum per diem rate (C)	Effective date
TINIAN						
01/01–12/31	99		97		196	08/01/2014
PUERTO RICO:						
[OTHER]						
01/01–12/31	109		112		221	06/01/2012
AGUADILLA						
01/01–12/31	124		76		200	10/01/2012
BAYAMON						
01/01–12/31	195		128		323	09/01/2010
CAROLINA						
01/01–12/31	195		128		323	09/01/2010
CEIBA						
01/01–12/31	139		92		231	10/01/2012
CULEBRA						
01/01–12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]						
01/01–12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO						
01/01–12/31	195		128		323	09/01/2010
HUMACAO						
01/01–12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS						
01/01–12/31	195		128		323	09/01/2010
LUQUILLO						
01/01–12/31	139		92		231	10/01/2012
MAYAGUEZ						
01/01–12/31	109		112		221	09/01/2010
PONCE						
01/01–12/31	149		89		238	09/01/2012
RIO GRANDE						
01/01–12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]						
01/01–12/31	195		128		323	09/01/2010
SAN JUAN & NAV RES STA.						
01/01–12/31	195		128		323	09/01/2010
VIEQUES						
01/01–12/31	175		95		270	03/01/2012
VIRGIN ISLANDS (U.S.):						
ST. CROIX						
04/15–12/14	247		110		357	06/01/2015
12/15–04/14	299		116		415	06/01/2015
ST. JOHN						
04/15–12/14	163		98		261	05/01/2006
12/15–04/14	220		104		324	05/01/2006
ST. THOMAS						
04/15–12/14	240		105		345	05/01/2006
12/15–04/14	299		111		410	05/01/2006
WAKE ISLAND:						
WAKE ISLAND						
01/01–12/31	173		66		239	07/01/2014

[FR Doc. 2015–12874 Filed 5–27–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0071]

Agency Information Collection Activities; Comment Request; Evaluation of the Pell Grant Experiments Under the Experimental Sites Initiative

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 27, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://*

www.regulations.gov by selecting Docket ID number ED–2015–ICCD–0071 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Daphne Garcia, (202) 219–2024.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Evaluation of the Pell Grant Experiments Under the Experimental Sites Initiative.

OMB Control Number: 1850–0892.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 4,904.

Total Estimated Number of Annual Burden Hours: 2,416.

Abstract: The Pell Grant Experiments evaluation is a two-part, seven-year demonstration study sponsored by the U.S. Department of Education that focuses on the effects of expanded access to Pell grants on students' educational outcomes, employment and earnings. The primary outcome of interest is (1) educational enrollment and completion, and (2) measures of student debt and financial aid while secondary outcomes include (3) the employment status and earnings of students who participate in the study.

This study consists of two experiments, each of which will examine the impact of a single change to the Pell grant eligibility criteria. The first experiment will relax the prohibition on receipt of Pell grants by students with a bachelors' degree. Individuals eligible for the first experiment must have a bachelor's degree, be unemployed or underemployed, and pursue a vocational training program up to one year in duration. The second experiment will reduce the minimum duration and intensity levels of programs that Pell grant recipients must participate in from 15 weeks with 600 minimum clock hours to 8 weeks with 150 minimum clock hours. Each experiment will operate through a set of PGE schools that provide education and training services that qualify as PGE programs.

Participants in both experiments will be randomly assigned to either (1) a treatment group, which will have expanded access to Pell grants; or (2) a control group, which will not have access. Within both experiments, the treatment group will be very similar to the control at the time of random assignment except for access to Pell grants. Subsequent differences in the employment and earnings outcomes between treatment and control group members can then be attributed to Pell grant access. The first experiment will involve roughly 27 PGE schools with an average of 25 students participating per school. The second experiment will involve roughly 27 PGE schools with an average of 100 participating students per school. The expected sample of both experiments combined is approximately 3,375 students. Data for this evaluation will come from participants' FAFSA applications, PGE school administrative records, and SSA earnings statements. The study participant enrollment period is expected to last from November 2012 to June 2016. A data extracts from FAFSA applications will occur in July 2018. Administrative data extracts from PGE schools will occur between January and March during years 2015–2018.

Dated: May 21, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–12777 Filed 5–27–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting: correction.

SUMMARY: On May 15, 2015, the Department of Energy (DOE) published a notice of open meeting announcing a meeting on June 18, 2015 of the Environmental Management Site-Specific Advisory Board, Paducah (80 FR 27941). This document makes a correction to that notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Woodard, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, 1017 Majestic Drive, Suite 200, Lexington, Kentucky 40513, (270) 441–6820.

Correction

In the **Federal Register** of May 15, 2015, in FR Doc. 2015–11788, on page 27942, please make the following correction:

In that notice under **DATES**, first column, second paragraph, the meeting date has been changed. The new date is June 25, 2015 instead of June 18, 2015.

Issued at Washington, DC on May 20, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–12892 Filed 5–27–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES:
Wednesday, June 17, 2015 8:30 a.m.–12:30 p.m.

ADDRESSES: Applied Research Center, 301 Gateway Drive, Garden Room, Aiken, SC 29808.

FOR FURTHER INFORMATION CONTACT: Karen Gibson, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–3787; *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues, and other activities as directed by the Secretary.

Purpose of the Meeting: This meeting is the quarterly meeting of the Board.

Tentative Agenda: The meeting will start at 8:30 a.m. on June 17th. The tentative meeting agenda includes updates on the work of the SEAB task forces, briefings on topics of interest from DOE and Savannah River National Laboratory, and an opportunity for comments from the public. The meeting will conclude at 12:30 p.m. Agenda updates will be posted on the SEAB Web site prior to the meeting: *www.energy.gov/seab.*

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Karen Gibson no later than 5:00 p.m. on Wednesday, June 10, 2015 at *seab@hq.doe.gov.* Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government issued identification.

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 8:30 a.m. on June 17th.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Karen Gibson, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585, email to *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB Web site or by contacting Ms. Gibson. She may be reached at the postal address or email address above, or by visiting SEAB's Web site at *www.energy.gov/seab.*

Issued in Washington, DC, on May 21, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–12893 Filed 5–27–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD15–2–000]

Commission Information Collection Activities (FERC–725G); Comment Request

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D) and the Office of Management and Budget's implementing regulations, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the information collection, FERC–725G (Mandatory Reliability Standards for the Bulk-Power System: PRC Standards), as modified in this docket. The Commission previously published a notice in the **Federal Register** (80 FR 13528, 3/16/2015) requesting public comments. The Commission received no comments and is making this notation in its submittal to OMB.

DATES: Comments regarding the proposed revision to this information collection must be received on or before June 29, 2015.

ADDRESSES: Comments, identified by Docket Number RD15–2, may be filed in the following ways:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725G (Mandatory Reliability Standards for the Bulk-Power System: PRC Standards).

OMB Control No.: 1902–0252.

Type of Request: Three-year extension of the FERC–725G information collection requirements as modified in Docket No. RD15–2.

Abstract: The Commission is submitting Reliability Standard PRC–006–2 to OMB under FERC–725G [1] for review of the reporting and recordkeeping requirements.

The Commission requires the information collected by the FERC–725G to implement the statutory provisions of section 215 of the Federal Power Act (FPA).[2] On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[3] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[4]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[5] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC),

[1] In 2012, the Commission initially approved Reliability Standard PRC–006–1. *Automatic Underfrequency Load Shedding and Load Shedding Plans Reliability Standards,* Order No. 763, 139 FERC ¶ 61,098, *order granting clarification,* 140 FERC ¶ 61,164 (2012). The Commission included Reliability Standard PRC–006–1 under FERC–725A (OMB Control No. 1902–0244). The entire burden associated with Reliability Standard PRC–006–2 (for new requirements as well as those unchanged from PRC–006–1) will be added to FERC–725G. In the future, the burden (an estimated 12,672 hours) associated with Reliability Standard PRC–006–1 will be removed from FERC–725A, to remove the temporary double counting of those hours.

[2] 16 U.S.C. 824*o* (2012).

[3] Energy Policy Act of 2005, Pub. L. 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[4] 16 U.S.C. 824*o*(e)(3).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

as the ERO.[6] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

In Order No. 763, the Commission approved Reliability Standard PRC–006–1, but directed NERC to include explicit language in a subsequent version of the Reliability Standard clarifying that applicable entities are required to implement corrective actions identified by the planning coordinator in accordance with a schedule established by the same planning coordinator.

NERC filed a petition on December 15, 2014 requesting approval of proposed Reliability Standard PRC–006–2 addressing the Commission's directive in Order No. 763. The NERC petition states that the ''[p]roposed Reliability Standard PRC–006–2, through proposed new Requirement R15, and proposed enhanced language of the existing Requirements R9 and R10, requires the Planning Coordinator to develop a schedule for implementation of any necessary corrective actions, and requires that the applicable entities will implement these corrective actions according to the schedule established by the Planning Coordinator.''

Reliability Standard PRC–006–2 was approved on 3/4/2015 in a Delegated Order.[7]

Type of Respondents: Planning coordinators, UFLS entities (as they are defined in the proposed Reliability Standard) and transmission owners that own elements identified in the underfrequency load shedding programs established by the planning coordinators.

Estimate of Annual Burden:[8] Our estimate below regarding the number of respondents is based on the NERC compliance registry as of May 5, 2015. According to the NERC compliance registry, there are 80 planning coordinators. The individual burden estimates are based on the time needed to gather data, develop corrective action plans and schedules to perform assessments of the underfrequency load shedding programs. Additionally, documentation and the review of underfrequency load shedding program results by supervisors and management is included in the administrative estimations. These are consistent with estimates for similar tasks in other Commission approved standards.

Estimates for the additional burden and cost imposed by the order in Docket No. RD15–2–000 follow.[9]

FERC–725G, AS MODIFIED IN RD15–2

[Due to approval of PRC–006–2]

	Number and type of respondent[10]	Annual number of responses per respondent	Total number of responses	Average burden per response (hours)	Total annual burden (hours)	Total annual cost[11]
	(1)	(2)	(1)*(2)=(3)	(4)	(3)*(4)=(5)	($)
Reporting and record-keeping requirements[12].	80 planning coordinators.	1	80	52 hrs. (47 hrs. for reporting requirements, and 5 hrs. for record retention requirements).	4,160 hrs. (3,760 hrs. for reporting requirements, and 400 hrs. for record retention requirements).	$285,783 ($274,179 for reporting requirements, and $11,604 for record retention requirements).
Total	80 planning coordinators.	.....	.....	.....	4,160	$285,783.

Dated: May 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–12863 Filed 5–27–15; 8:45 am]

BILLING CODE 6717–01–P

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,190, *order on reh'g,* 119 FERC ¶ 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[7] The Order in Docket No. RD15–2 is available at *http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=13793463.*

[8] The Commission defines ''burden'' as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For additional information, see 5 CFR 1320.3.

[9] The only changes to Requirements R9 and R10 and associated measures and evidence retention in Reliability Standard PRC–006–2 (from PRC–006–1) were enhancements to the language which do not impact the cost of implementation. The modifications provide additional clarity and do not affect burden or cost.

[10] The number of respondents is based on the NERC compliance registry as January 30, 2015.

[11] The estimates for cost per hour (salary plus benefits) are based on the May 2013 figures of the Bureau of Labor and Statistics (posted as of February 9, 2015 at *http://bls.gov/oes/current/naics3_221000.htm*).

• $72.92/hour [($84.96 + $60.87)/2], the average of the salary plus benefits for a manager ($84.96/hour) and an electrical engineer ($60.87/hour), is used for the hourly cost for the reporting requirements associated with Requirement R15 and Measure M15.

• $29.01/hour, the salary plus benefits for a file clerk, is used for the hourly cost for the evidence retention requirements associated with Requirement R15 and Measure M15.

[12] The requirements include: Requirement R15 and Measure M15 and evidence retention (planning coordinator that conducts underfrequency load shedding design assessment under Requirements R4, R5, or R12 and determines underfrequency load shedding program does not meet the performance characteristics in Requirement R3, develops corrective action plans and schedule for implementation by UFLS entities within its area).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2696–033]

Town of Stuyvesant, New York; Albany Engineering Corporation; Notice of Teleconference To Discuss Article 301 Extension of Time Request and Notice Soliciting Comments, Protests, or Motions To Intervene on Article 301 Extension of Time Request

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Notice of Teleconference and Notice Soliciting Comments, Protests, or Motions to Intervene on Article 301 Extension of Time Request.

b. *Project No.:* 2696–033.

c. *Article 301 extension of time request filed:* April 10, 2015. Also, see supplemental filing on: April 28, 2015.

d. *Licensees:* Town of Stuyvesant, New York, and Albany Engineering Corporation.

e. *Name and Location of Project:* The Stuyvesant Falls Hydroelectric Project is located on Kinderhook Creek in Columbia County, New York.

f. *Filed Pursuant to:* Article 301 of the license.

g. *Licensees Contact Information:* Mr. James A. Besha, President, Albany Engineering Corporation, 5 Washington Square, Albany, NY (518) 456–7712, ext. 402.

h. *FERC Contact:* Jennifer Polardino, (202) 502–6437, *Jennifer.Polardino@ferc.gov.*

i. Deadline for filing comments, protests, or motions to intervene is 30 days from the issuance of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* you must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2696–033.

j. *Date and Time of Teleconference:* Wednesday, June 17, 2015, beginning at 9:00 a.m. (EDT) and concluding at 10:30 a.m. (EDT).

k. A summary of the meeting will be prepared for the project record.

l. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate in the teleconference. Please call Jennifer Polardino at (202) 502–6437 or send an email to *Jennifer.Polardino@ferc.gov* by June 11, 2015, to register your attendance for the teleconference.

m. FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

n. Description of Proceeding: On April 10, 2015, the Town of Stuyvesant, New York and Albany Engineering Corporation, licensees for the Stuyvesant Falls Hydroelectric Project, filed an extension of time request to comply with license articles 301, 401(a) and 406, 401(a) and 407, 410, 411, 412, 413, and 414 pursuant to an Order Issuing New License (143 FERC ¶ 62,016). On April 15, 2015, the U.S. Department of Interior (Interior) filed a notice of intervention and protest on behalf of its component bureau, the U.S. Fish and Wildlife Service of the licensees' April 10, 2015 extension of time requests. On April 28, 2015, the licensees filed a revised extension of time request to comply with several license articles, including Article 301 of the license. On May 11, 2015, Interior filed a modified protest in response to the licensees' revised extension of time request. In its filing, Interior does not object to the request for an extension of time to comply with license articles 401(a) and 406, 401(a) and 407, 410, 411, 412, and 413. Therefore, Commission staff will address these extension of time requests in a separate proceeding. However, Interior continues to object to the extension of time requested to commence and complete construction of fish protection and passage facilities pursuant to Article 301. For that reason, Commission staff are scheduling a teleconference to discuss the extension of time request for Article 301 on Wednesday, June 17, 2015 beginning at 9:00 a.m. (EDT) and concluding at 10:30 a.m. (EDT). All interested entities are invited to join the teleconference as discussed above.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular proceeding.

q. *Filing and Service of Responsive Documents*—Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST,'' or ''MOTIONS TO INTERVENE'', as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting, or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis. All comments, protests, or motions to intervene should relate to project works which are the subject of the termination of exemption. A copy of any protest or motion to intervene must be served on each representative of the specified in item ''g'' above. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding in accordance with 18 CFR 4.34(b) and 385.2010.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: May 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–12861 Filed 5–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–66–000]

Southern Company Services, Inc.; KCP&L Greater Missouri Operations Company; The Empire District Electric Company; Associated Electric Cooperative, Inc.; v. Midcontinent Independent System Operator, Inc.; Notice of Complaint

Take notice that on May 20, 2015, pursuant to sections 309, 205, and 206 of the Federal Power Act (FPA), 16 U.S.C. 824(e), 824(d), and 825(h) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company (Southern Companies), KCP&L Greater Missouri Operations Company, The Empire District Electric Company, and Associated Electric Cooperative, Inc. (collectively, Complainants), filed a formal complaint against Midcontinent Independent System Operator, Inc., as agent and tariff administrator of the MISO Open-Access Transmission Tariff (MISO or Respondent), alleging that: (1) Respondent has levied unlawful charges upon Complainants in violation of section 205 of the FPA, and; (2) Respondent's rates for transmission service are unjust, unreasonable, unduly discriminatory and preferential and in violation of established precedent under FPA sections 205 and 206.

The Complainants certify that a copy of the complaint has been served on the Respondent.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on June 9, 2015.

Dated: May 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–12862 Filed 5–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Cumberland System of Projects

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rates, public forum, and opportunities for public review and comment.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Cumberland System of Projects effective for a one-year period, October 1, 2015, through September 30, 2016. Interested persons may review the rates and supporting studies and submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before August 26, 2015. A public information and comment forum will be held at 2:00 p.m., on June 30, 2015. Persons desiring to attend the forum should notify Southeastern at least seven (7) days before the scheduled forum date. Persons desiring to speak at the forum should notify Southeastern at least three (3) days before the scheduled forum date, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: The forum will be held at: The Inn at Opryland, 2401 Music Valley Drive, Nashville, TN 37214–1002. Written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635–6711.

FOR FURTHER INFORMATION CONTACT: Virgil G. Hobbs III, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635–6711, (706) 213–3800.

SUPPLEMENTARY INFORMATION:

Background of Existing Rates: The existing schedules of rates and charges applicable to the sale of power from the Cumberland System of Projects are effective through September 30, 2015. On December 22, 2011, the Federal Energy Regulatory Commission (FERC) confirmed and approved on a final basis, Wholesale Power Rate Schedules CBR–1–H, CSI–1–H, CEK–1–H, CM–1–H, CC–1–I, CK–1–H, CTV–1–H, CTVI–1–A, and Replacement-3 applicable to Cumberland System of Projects power for a period ending September 30, 2013 (137 FERC ¶ 62,249). On July 10, 2013, the Deputy Secretary approved an extension of the rate schedules to September 30, 2015 (78 FR 42764).

Operational Impact of Dam Safety Issues: In February 2007, the U.S. Army Corps of Engineers (Corps) lowered pool levels at the Wolf Creek and Center Hill Projects to reduce the risk of imminent failure of the dams due to seepage issues. At that time the Corps also began the process of mitigating the seepage issues at the Wolf Creek and Center Hill Projects. Under normal pool levels, the marketing policy for the Cumberland System provides peaking capacity, along with 1500 or 1800 hours of energy annually with each kilowatt of capacity, to customers outside the Tennessee Valley Authority (TVA) transmission system. All remaining energy is scheduled by TVA for the benefit of customers inside the TVA system. As a consequence of lowered pool levels due to dam repairs, Southeastern was not able to provide peaking capacity and firm energy to the outside customers due to operational restrictions. Southeastern implemented an Interim Operating Plan for the Cumberland System to provide these customers with energy that did not include capacity.

In March 2014, the Corps lifted operating restrictions on the Wolf Creek Project. The operating restrictions on the Center Hill Project remain in effect. As a consequence, Southeastern implemented a Revised Interim Operating Plan that provides reduced capacity and schedulable energy to the outside customers.

Repayment Study: Existing rate schedules are predicated upon an August 2011 repayment study and other supporting data contained in FERC docket number EF11–13–000. The annual revenue requirement in this study is $59,600,000. An updated repayment study, dated January 2015, indicates rates are not adequate to recover cost increases that have been identified and therefore do not meet repayment criteria. The additional costs are due to numerous factors. Corps Operation & Maintenance expenses have exceeded estimates and current rate schedules did not include costs associated with the dam safety repairs of the Wolf Creek and Center Hill Projects. The dam repair costs, after the application of the Dam Safety Act (Water Resources Development Act of 1986 section 1203), are a combined $83,200,000. The Corps has also provided Southeastern with an updated plan of major replacements for the Cumberland System with the total cost of these planned replacements at $868,000,000. Also, TVA notified Southeastern on March 5, 2015 they will charge $1,009,850 per month for delivery of capacity and energy to the outside TVA customers. A revised repayment study demonstrates that a revenue increase to $78,500,000 per year will meet repayment criteria. The increase in the annual revenue requirement is $18,900,000 per year, or about 32 percent.

Applicability of the Dam Safety Act: Under section 1203 of the Water Resources Development Act of 1986, otherwise known as the Dam Safety Act, Congress capped the percentage of dam repair costs that may be assigned to project purposes (such as hydropower) at 15 percent. This cap applies to dam modification costs, ''the cause of which results from new hydrologic or seismic data or changes in the state-of-the-art design or construction criteria deemed necessary for safety purposes''. 33 U.S.C. 467n(a). When applicable, the Dam Safety Act requires that dam safety repair costs be recovered within thirty years of completion of the work. If the Dam Safety Act is not applied, 100 percent of all costs are assigned to project purposes for cost recovery but the thirty-year cost recovery requirement does not attach.

Southeastern continues to discuss, analyze and seek guidance on the issue from other relevant agencies.

Proposed Rates: Southeastern is proposing three rate scenarios per rate schedule. All of the rate scenarios have an annual revenue requirement of $78,500,000. This annual revenue requirement was calculated using the lower bound of possible costs associated with the Wolf Creek and Center Hill Dam repairs: 15 percent assigned to project purposes and recovered within thirty years of completion, an amount that may be adjusted upward pending final determination of the Dam Safety Act's applicability.

The first rate scenario includes the rates necessary to recover costs under the Revised Interim Operating Plan. Under this scenario, the capacity rate at the TVA border is $2.28 per kilowatt per month and the energy charge is 14.79 mills per kilowatt-hour. The outside customers would pay their portion of the transmission credit provided TVA for delivery of capacity and energy to neighboring system interconnection points, as agreed by contract between Southeastern and TVA. This rate would remain in effect under the Revised Interim Operating Plan.

The second rate scenario would recover cost from capacity and energy. The revenue requirement under this alternative would be $78,500,000 per year. This scenario would be in effect if Southeastern changes the Revised Interim Operating Plan.

The third rate scenario is based on the original Cumberland Marketing Policy. All costs are recovered from capacity and excess energy. The rates under this alternative would be as follows:

Cumberland System Rates

Third Scenario—Return to Original Marketing Policy

Inside TVA Preference Customers

Capacity and Base Energy: $3.733 per kW/Month
Additional Energy: 13.914 mills per kWh
Transmission: Pass-through

Outside TVA Preference Customers

(Excluding Customers served through Carolina Power & Light Company or East Kentucky Power Cooperative)

Capacity and Base Energy: $3.733 per kW/Month
Additional Energy: 13.914 mills per kWh
Transmission: Monthly TVA Transmission Charge divided by 545,000

Customers Served Through Carolina Power & Light Company

Capacity and Base Energy: $4.249 per kW/Month
TVA Transmission: TVA rate at border as computed above, adjusted for DEP delivery.
DEP Transmission: $1.546 per kW/Month

(As of 2/1/2015 and provided for illustrative purposes)

East Kentucky Power Cooperative:

Capacity: $1.994 per kW/Month
Energy: 13.914 mills per kWh

These rates would go into effect once the Corps lifts the restrictions on the operation of the Wolf Creek and Center Hill Projects and the Revised Interim Operating Plan and Southeastern returns to normal operations.

The referenced repayment studies are available for examination at 1166 Athens Tech Road, Elberton, Georgia 30635–6711. The Proposed Rate Schedules CBR–1–I, CSI–1–I, CEK–1–I, CM–1–I, CC–1–J, CK–1–I, CTV–1–I, CTVI–1–B, and Replacement-3 are also available.

Dated: May 20, 2015.

Kenneth E. Legg,

Administrator.

[FR Doc. 2015–12888 Filed 5–27–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0040; FRL–9928–41–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Hot Mix Asphalt Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Hot Mix Asphalt Facilities (40 CFR part 60, subpart I) (Renewal)'' (EPA ICR No. 1127.11, OMB Control No. 2060–0083) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 29, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0040, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: These regulations apply to hot mix asphalt facilities comprised only of a combination of the following: Dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing hot mix asphalt; and the loading, transfer, and storage systems associated with emission control systems.

Form Numbers: None.

Respondents/affected entities: Hot mix asphalt facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart I).

Estimated number of respondents: 4,640 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 19,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,893,000 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the estimated burden as currently identified in the OMB Inventory of Approved Burdens. The increase is not due to any program changes. The change in burden occurred because the number of respondents subject to the standard has increased since the last ICR renewal period. In addition, the use of more updated labor rates results in an increase in total labor costs.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–12945 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0079; FRL–9927–84–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Wet-Formed Fiberglass Mat Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Wet-Formed Fiberglass Mat Production (40 CFR part 63, subpart HHHH) (Renewal)'' (EPA ICR No. 1964.06, OMB Control No. 2060–0496), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 29, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0079, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP (40 CFR part 63, subpart A), and any changes, or additions, to the Provisions specified at 40 CFR part 63, subpart HHHH. Owners or operators of the affected facilities must submit an initial notification report, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Wet-formed fiberglass mat production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHH).

Estimated number of respondents: 14 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 2,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $285,000 (per year), includes $0 for both annualized capital and operation & maintenance costs.

Changes in the Estimates: There is a small adjustment decrease in burden from the previous ICR because we have modified the calculation methodology associated with the five-year repeat performance test requirement. The previous ICR assumed all 14 sources will have to conduct the performance test during the ICR renewal period. Since this requirement only occurs once every five years, we have revised the estimates to reflect this frequency: (14 sources)/(5 years) = 2.8 sources per year. This results in a decrease in the respondent burden.

There is also an increase of six responses due to a correction. The previous ICR did not account for the five-year performance test notifications and reports in calculating the number of responses.

Courtney Kerwin,

Acting-Director, Collection Strategies Division.

[FR Doc. 2015–12943 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0038; FRL–9928–40–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Inorganic Arsenic Emissions From Glass Manufacturing Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR part 61, subpart N) (Renewal)'' (EPA ICR No. 1081.11, OMB Control No. 2060–0043) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 29, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0038, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 61, subpart A, and any changes, or additions to the General Provisions specified at 40 CFR part 61, subpart N. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Glass manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart N).

Estimated number of respondents: 16 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 3,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $365,000 (per year), includes $56,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in the respondent burden hours in this ICR compared to the previous ICR. However, there is an adjustment increase in the estimated labor costs from using more updated labor rates. In addition, there is an adjustment increase in the Agency burden due to a correction. The previous ICR underestimated the number of uncontrolled arsenic emission rate reports reviewed by the Agency. These reports are submitted by 15 of the 16 subject sources. This ICR assumes the Agency reviews reports submitted by all 15 sources.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–12792 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2014–0925; FRL–9927–83–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Requirements for Generators, Transporters, and Waste

Management Facilities under the RCRA Hazardous Waste Manifest System (Renewal)'' (EPA ICR No. 0801.20, OMB Control No. 2050–0039) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2015. Public comments were previously requested via the **Federal Register** (80 FR 8306) on February 17, 2015 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 29, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2014–0925, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Bryan Groce, Office of Resource Conservation and Recovery, Program Implementation and Information Division, (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 308–8750; fax number: (703) 308–0514; email address: *groce.bryan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: This ICR covers recordkeeping and reporting activities for the hazardous waste manifest paper system, under the Resource Conservation and Recovery Act (RCRA). EPA's authority to require use of a manifest system stems primarily from RCRA 3002(a)(5) (also RCRA Sections 3003(a)(3) and 3004). Regulations are found in 40 CFR part 262 (registrant organizations and generators), part 263 (transporters), and parts 264 and 265 (TSDFs). The manifest lists the wastes that are being shipped and the treatment, storage, or disposal facility (TSDF) to which the wastes are bound. Generators, transporters, and TSDFs handling hazardous waste are required to complete the data requirements for manifests and other reports primarily to: (1) Track each shipment of hazardous waste from the generator to a designated facility; (2) provide information requirements sufficient to allow the use of a manifest in lieu of a Department of Transportation (DOT) shipping paper or bill of lading, thereby reducing the duplication of paperwork to the regulated community; (3) provide information to transporters and waste management facility workers on the hazardous nature of the waste; (4) inform emergency response teams of the waste's hazard in the event of an accident, spill, or leak; and (5) ensure that shipments of hazardous waste are managed properly and delivered to their designated facilities.

On February 7, 2014, EPA published the electronic manifest (e-Manifest) Final Rule. The final rule established new manifest requirements that authorized the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. EPA is taking action now to establish the national e-Manifest system, but unknown variables (*e.g.,* funding contingencies for e-Manifest system development) could delay the actual deployment of the system. Therefore, until EPA announces that the e-Manifest system is available for use in a subsequent **Federal Register** document, all respondents under the information collection requirements covered in this ICR (*i.e.,* hazardous waste generators, transporters, and treatment, storage, and disposal facilities (TSDFs)) must continue to comply with the current paper-based manifest system and use the existing paper manifests forms for the off-site transportation of hazardous waste shipments. The EPA anticipates that the initial system will become available for use no later than spring 2018.

Form Numbers: Form 8700–22 and 8700–22A.

Respondents/affected entities: Business or other for-profit facilities.

Respondent's obligation to respond: Mandatory (RCRA 3002(a)(5)).

Estimated number of respondents: 83,500.

Frequency of response: Once per shipment.

Total estimated burden: 2,555,959 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $85,553,718 (per year), includes $2,658,577 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 917,618 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease resulted primarily from a decrease in the annual number of generators preparing manifests.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–12791 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1158; FRL–9928–36–OAR]

Proposed Information Collection Request; Comment Request; RFS2 Voluntary RIN Quality Assurance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''RFS2 Voluntary RIN Quality Assurance Program'' (EPA ICR No.2473.03, OMB Control No. 2060–0688 to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2017. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 27, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2005–0161, online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Mary Manners, USEPA National Vehicle and Fuel Emissions Laboratory/OAR, 2565 Plymouth Road, Rm #N07, Ann Arbor, MI 48105; telephone number: 734–214–4288; fax number: 734–214–4873; email address: *manners.mary@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The Renewable Fuel Standard (RFS) program began in 2006 pursuant to the requirements in Clean Air Act (CAA) section 211(o) which were added through the Energy Policy Act of 2005 (EPAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), resulting in the promulgation of major revisions to the regulatory requirements on March 26, 2010.

The RFS program requires that specified volumes of renewable fuel be used as transportation fuel, heating oil, and/or jet fuel each year. To accomplish this, the Environmental Protection Agency (EPA) publishes applicable percentage standards annually that apply to the sum of all gasoline and diesel produced or imported. The percentage standards are set so that if every obligated party meets the percentages, then the amount of renewable fuel, cellulosic biofuel, biomass-based diesel, and advanced biofuel used will meet the volumes required on a nationwide basis.

Obligated parties demonstrate compliance with the standards through the acquisition of unique Renewable Identification Numbers (RINs) assigned by the producer or importer to every batch of renewable fuel produced or imported. Validly generated RINs show that a certain volume of qualifying renewable fuel was produced or imported. The RFS program also includes provisions stipulating the conditions under which RINs are invalid, the liability carried by a party that transfers or uses an invalid RIN, and how invalid RINs must be treated.

The RIN system within the RFS program contains unique features that make it somewhat challenging for the obligated parties that need RINs for compliance purposes to verify that those RINs have been validly generated. Several cases of fraudulently generated RINs have compelled some obligated parties to limit their business relationships to only those parties that appear most trustworthy. This reaction by the obligated parties made it more difficult for smaller renewable fuel producers to sell their RINs and reduced the overall liquidity of the RIN market. To ensure that RINs are validly generated, individual obligated parties are now conducting their own audits of renewable fuel production facilities, potentially duplicating one another's efforts. These circumstances have created inefficiencies in the RIN market, prompting requests for an additional regulatory mechanism that would reduce the risk of potentially invalid RINs, return liquidity to the RIN market, and reduce the cost of verifying the validity of RINs.

Form Numbers: 8.

RFS 1400—RFS Renewable Fuel Producers Reporting Fuels—5900–354.

RFS 1500—RFS Renewable Fuel producers Reporting Fuels (Finished Fuel Blending)—5900–355.

RFS 1600—RFS Renewable Fuel producers Reporting Fuels (Blending Contact)—5900–356.

RFS 2000—RFS Independent Third Party Batch Verification—5900–357.

RFS 2100—RFS Independent Third Party Batch Verification Aggregate RIN Verification—5900–358.

RFS 2200—RFS Independent Third Party On-Site Audit Report—5900–359.

RFS 2300—RFS Independent Third Party List of Potentially Invalid RINs—5900–360.

RFS 2400—Independent Third Party Mass Balance—5900–361.

Respondents/affected entities: Renewable Producers, obligated parties.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 1313 (total).

Frequency of response: On occasion.

Total estimated burden: 263,744 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $22,386,702 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: This regulation will allow EPA to monitor compliance with the RFS program. The quality assurance program would help to ensure that the RIN system operates as originally intended. The primary impacts of the quality assurance program would be improved liquidity in the RIN market and improved opportunities for smaller renewable fuel producers to sell their RINs. The data generated by the QAP program will assist obligated parties and smaller renewable fuel producers comply with the requirements of the RFS program by supporting the validity of RINs. This regulation will allow regulated parties to voluntary submit Quality Assurance Plans (QAPs) to EPA to demonstrate the validity of the RINs they generate. This is a new collection with no industry cost for comparison.

Dated: May 20, 2015.

Byron Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2015–12934 Filed 5–27–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2015–6004]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 84–01 Joint Application for Export Working Capital Guarantee.

SUMMARY: This is a joint application form for working capital loan guarantees provided by Ex-Im Bank and the Small Business Administration. This collection of information is necessary, pursuant to 12 U.S.C. 635(a)(1) and 15 U.S.C. 636(a)(14), to determine eligibility of the applicant for Ex-Im Bank or SBA assistance.

The Export-Import Bank has made a change to the report to have the applicant provide the number of employees or annual sales volume. That information is needed to determine whether or not they meet the SBA's definition of a small business. The applicant already provides their name, address and industry code (NAICS). These additional pieces of information will allow Ex-Im Bank to better track the extent to which its support assists U.S. small businesses.

The other change that Ex-Im Bank has made is to require the applicant to indicate whether it is a minority-owned business, women-owned business and/or veteran-owned business. Although answers to the questions are mandatory, the company may choose any one of the three answers: Yes/No/Not Disclosed. The option of ''Not Disclosed'' allows a company to consciously decline to answer the specific question should they not wish to provide that information.

The application tool can be reviewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib84-01.pdf.*

DATES: Comments must be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Title and Form Number: EIB 84–01 Joint Application for Export Working Capital Guarantee.

OMB Number: 3048–0013.

Type of Review: Renewal.

Need and Use: This form provides Ex-Im Bank and Small Business Administration staff with the information necessary to determine if the application and transaction are eligible for Ex-Im Bank and SBA assistance under their export working capital guarantee programs.

Affected Public:

This form affects entities involved in the export of U.S. goods and services.

	Ex-Im Bank	SBA
Annual Number of Respondents	475	188.
Estimated Time per Respondent	2.5 hours	2.5 hours.
Annual Burden Hours	1,188 hours	470 hours.
Frequency of Reporting of Use	Annually	Annually.

Government Expenses:

	Ex-Im Bank	SBA
Reviewing time per year	950 hours	376
Average Wages per Hour	$42.50	$35.00
Average Cost per Year (time*wages)	$40,375	$13,160
Benefits and Overhead	20%	100%
Total Agency Cost	$48,450	$26,320
Total Government Cost	$74,770	

Bonita Jones-McNeil,

Program Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–12890 Filed 5–27–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0745]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 27, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0745.

Title: Implementation of the Local Exchange Carrier Tariff Streamlining Provisions in the Telecommunications Act of 1996, CC Docket No. 96–187.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50 respondents; 1,536 responses.

Estimated Time per Response: 0.25 hours–5 hours.

Frequency of Response: On occasion reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i) and 204(a)(3) of the Communications Act of 1934, as amended.

Total Annual Burden: 4,054 hours.

Total Annual Cost: $728,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the FCC. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In CC Docket No. 96–187, the Commission adopted measures to streamline tariff filing requirements for local exchange carriers (LECs) pursuant to the Telecommunications Act of 1996. In order to achieve a streamlined and deregulatory environment for LEC tariff filings, local exchange carriers are required to file tariffs electronically. There are eight information collection requirements that contain reporting, third party disclosure and recordkeeping requirements. They are follows: (1) Electronic filing requirement for LECs to file tariffs seven and fifteen days' notice; (2) requirement that carriers desiring tariffs proposing rate decreases to be effective seven days file separate transmittals; (3) requirement that carriers identify transmittals filed pursuant to the streamlined provisions of the 1996 Act; (4) requirement that price cap LECs file their Tariff Review Plans prior to filing their annual access tariffs; (5) filing petitions and replies electronically (reporting requirement); (6) filing petitions and replies electronically (third party disclosure requirement); (7) recordkeeping requirement (standard protective order); and (8) reporting requirement (standard protective order). The information collected via electronic filing will facilitate access to tariff and associated documents by the public, especially by interested persons or parties who do not have ready access to the Commission's public reference center, and state and federal regulators. Electronic access to carrier tariffs should also facilitate the compilation of aggregate data for industry analysis purposes without imposing new reporting requirements on carriers. Carriers desiring tariffs proposing rate decreases to be effective in seven days must file a separate transmittal. This requirement will ensure that a tariff filing proposing a rate decrease is given the shortest notice period possible under the 1996 Act. The Commission also adopted the requirement that carriers identify transmittals filed pursuant to the streamlining provisions of the 1996 Act. All of the requirements help to ensure that local exchange carriers comply with their obligations under the Communications Act and that the Commission is able to ensure compliance within the streamlined timeframes established in the 1996 Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–12894 Filed 5–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0647]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 27, 2015. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

Title: Annual Survey of Cable Industry Prices, FCC Form 333.

Form Number: FCC Form 333.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 776 respondents and 776 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 5,432 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To request confidential treatment of their data, respondents must describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate. If a respondent submits a request for confidentiality, the Commission will review it and make a determination.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Cable Television Consumer Protection and Competition Act of 1992 (''Cable Act'') requires the Commission to publish annually a report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition and those that are not subject to effective competition. The Annual Cable Industry Price Survey is intended to collect the data needed to prepare that report. The data from these questions are needed to complete this report.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–12895 Filed 5–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011539–019.

Title: HLAG/NYK/MSC Vessel Sharing Agreement.

Parties: Companhia Libra de Navegacao; Comania Libra de Navegacion Uruguay S.A.; Hapag-Lloyd AG; Nippon Yusen Kaisha; and MSC Mediterranean Shipping Company SA.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW.; Washington, DC 20006.

Synopsis: The Amendment would add MSC as a party to the agreement and change the vessel provision and space allocation accordingly. It would also revise the duration of the agreement, restate the agreement, and make other corresponding changes.

Agreement No.: 012334.

Title: Hyundai Glovis/Hoegh Transpacific Westbound Space Charter Agreement.

Parties: Hoegh Autoliners AS and Hyundai Glovis Co. Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement authorizes the parties to charter space to one another for the transport of vehicles from the U.S. West Coast to China and Japan.

Agreement No.: 012335.

Title: Gulf Coast/ECSA Vessel Sharing Agreement.

Parties: Hamburg Sudamerikanische Dampfschifffahrts-Gesellschaft KG; Alianca Navegacao e Logistica Ltda. e CIA; MSC Mediterranean Shipping Company.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement would authorize the parties to operate a service in the trade between the U.S. Gulf Coast on the one hand, and Panama, Colombia, Brazil, and Mexico on the other hand. The parties have requested expedited review.

Agreement No.: 012336.

Title: Zim/OOCL Space Charter Agreement.

Parties: Zim Integrated Shipping Service Limited and Orient Overseas Container Line Limited.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Conner; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The agreement authorizes Zim to charter space to OOCL in the trade between China, Vietnam, Singapore, and Sri Lanka on the one hand and the U.S. Atlantic Coast on the other hand.

By Order of the Federal Maritime Commission.

Dated: May 22, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–12915 Filed 5–27–15; 8:45 am]

BILLING CODE 6730–01–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 PRA 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 July 27, 2015.

ADDRESSES: You may submit comments, identified by *FR 4199,* 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, Without Revision, of the Following Report

Report title: Basel II Interagency Pillar 2 Supervisory Guidance.

Agency form number: FR 4199.

OMB control number: 7100–0320.

Frequency: Annual.

Reporters: State member banks, bank holding companies (BHCs).

Estimated annual reporting hours: 5,460.

Estimated average hours per response: 420.

Number of respondents: 13.

General description of report: The Board's Legal Division has determined that the FR 4199 is authorized by section 9(6) of the Federal Reserve Act and section 5 of the Bank Holding Company Act. Section 9(6) of the Federal Reserve Act requires state member banks to ''comply with the reserve and capital requirements of this chapter'' and to make reports of condition ''in such form'' and ''contain[ing] such information'' as the Board may require (12 U.S.C. 324). Section 5 of the Bank Holding Company Act authorizes the Board to ''issue regulations and orders relating to the capital requirement for bank holding companies'' and requires BHCs to ''keep the Board informed as to [their] financial condition, systems for monitoring and controlling financial and operating risks . . .'' (12 U.S.C. 1844 (b) & (c)). Because the recordkeeping requirements are contained within guidance (and not a statute or regulation), they are voluntary. Because the FR 4199 recordkeeping requirements require that banks and BHCs retain their own records, the Freedom of Information Act (FOIA) would only be implicated if the Federal Reserve's examiners retained a copy of the records as part of an examination or supervision of a bank or BHC. However, records obtained as a part of an examination or supervision of a bank or BHC are exempt from disclosure under FOIA exemption (b)(8), for examination material (5 U.S.C. 552(b)(8)). In addition, the records may also be exempt under (b)(4), which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential,'' and under (b)(6) for non-public personal information regarding owners, shareholders, directors, officers or employees if the disclosure would ''constitute a clearly unwarranted invasion of personal privacy'' (5 U.S.C. 552(b)(4) and (b)(6)).

Abstract: The advanced approaches framework requires certain banks and BHCs to use an internal ratings-based approach to calculate regulatory credit risk capital requirements and advance measurement approaches to calculate regulatory operational risk capital requirements, and to meet the higher of the minimum requirements under the general risk-based capital rules and the minimum requirements under the advanced approaches framework.

A bank is required to comply with the advanced approaches framework if it meets either of two independent threshold criteria: (1) Consolidated total assets of $250 billion or more, as reported on the most recent year-end regulatory reports; or (2) consolidated total on-balance sheet foreign exposure of $10 billion or more at the most recent year-end.

A BHC is required to comply with the advanced approaches framework if the BHC has (1) consolidated total assets (excluding assets held by an insurance underwriting subsidiary) of $250 billion or more, as reported on the most recent year-end regulatory reports; (2) consolidated total on-balance sheet foreign exposure of $10 billion or more at the most recent year-end; or (3) a subsidiary depository institution (DI) that is meets the criteria to be subject to the advanced approaches rule, or elects to adopt the advanced approaches. As of September 30, 2014, 13 BHCs meet the above criteria and are therefore subject to the advanced approaches rule.[1]

Also, some banks or BHCs may voluntarily decide to adopt the advanced approaches framework. Both

[1] Regulation YY permits a bank holding company that is a subsidiary of a foreign banking organization to elect not to comply with the advanced approaches rule prior to formation of an IHC with the prior approval of the Board. 12 CFR 252.153(e)(2)(C).

mandatory and voluntary respondents are required to meet certain qualification requirements before they can use the advanced approaches framework for risk-based capital purposes.

The Pillar 2 Guidance sets the expectation that respondents maintain certain documentation as described in paragraphs 37, 41, 43, and 46 of this portion of the guidance. Details of the expectations for each section are provided below.

Setting and Assessing Capital Adequacy Goals That Relate to Risk

Paragraph 37. In analyzing capital adequacy, a banking organization should evaluate the capacity of its capital to absorb losses. Because various definitions of capital are used within the banking industry, each banking organization should state clearly the definition of capital used in any aspect of its internal capital adequacy assessment process (ICAAP).[2] Since components of capital are not necessarily alike and have varying capacities to absorb losses, a banking organization should be able to demonstrate the relationship between its internal capital definition and its assessment of capital adequacy. If a banking organization's definition of capital differs from the regulatory definition, the banking organization should reconcile such differences and provide an analysis to support the inclusion of any capital instruments that are not recognized under the regulatory definition. Although common equity is generally the predominant component of a banking organization's capital structure, a banking organization may be able to support the inclusion of other capital instruments in its internal definition of capital if it can demonstrate a similar capacity to absorb losses. The banking organization should document any changes in its internal definition of capital, and the reason for those changes.

Ensuring Integrity of Internal Capital Adequacy Assessments

Paragraph 41. A banking organization should maintain thorough documentation of its ICAAP to ensure transparency. At a minimum, this should include a description of the banking organization's overall capital-management process, including the committees and individuals responsible for the ICAAP; the frequency and distribution of ICAAP-related reporting; and the procedures for the periodic evaluation of the appropriateness and adequacy of the ICAAP. In addition, where applicable, ICAAP documentation should demonstrate the banking organization's sound use of quantitative methods (including model selection and limitations) and data-selection techniques, as well as appropriate maintenance, controls, and validation. A banking organization should document and explain the role of third-party and vendor products, services and information—including methodologies, model inputs, systems, data, and ratings—and the extent to which they are used within the ICAAP. A banking organization should have a process to regularly evaluate the performance of third-party and vendor products, services and information. As part of the ICAAP documentation, a banking organization should document the assumptions, methods, data, information, and judgment used in its quantitative and qualitative approaches.

Paragraph 43. The board of directors and senior management have certain responsibilities in developing, implementing, and overseeing the ICAAP. The board should approve the ICAAP and its components. The board or its appropriately delegated agent should review the ICAAP and its components on a regular basis, and approve any revisions. That review should encompass the effectiveness of the ICAAP, the appropriateness of risk tolerance levels and capital planning, and the strength of control infrastructures. Senior management should continually ensure that the ICAAP is functioning effectively and as intended, under a formal review policy that is explicit and well documented. Additionally, a banking organization's internal audit function should play a key role in reviewing the controls and governance surrounding the ICAAP on an ongoing basis.

Paragraph 46. As part of the ICAAP, the board or its delegated agent, as well as appropriate senior management, should periodically review the resulting assessment of overall capital adequacy. This review, which should occur at least annually, should include an analysis of how measures of internal capital adequacy compare with other capital measures (such as regulatory, accounting-based or market-determined). Upon completion of this review, the board or its delegated agent should determine that, consistent with safety and soundness, the banking organization's capital takes into account all material risks and is appropriate for its risk profile. However, in the event a capital deficiency is uncovered (that is, if capital is not consistent with the banking organization's risk profile or risk tolerance) management should consult and adhere to formal procedures to correct the capital deficiency.

Board of Governors of the Federal Reserve System, May 21, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–12738 Filed 5–27–15; 8:45 am]

BILLING CODE 6210–01–P

[2] A bank holding company with total consolidated assets of $50 billion or more is required to develop and maintain a capital plan, which must set forth a capital adequacy process. 76 FR 74631 (December 1, 2011). ICAAP would constitute an internal capital adequacy process for purposes of the final rule, and bank holding companies that have a satisfactory ICAAP generally would be considered to have a satisfactory internal capital adequacy process for purposes of the final rule.

GENERAL SERVICES ADMINISTRATION

[Notice-2015–QVO–01; Docket No. 2015–0002; Sequence 12]

Federal Procurement Data System Product Service Code Manual Update

AGENCY: Federal Acquisition Service; General Services Administration.

ACTION: Notice.

SUMMARY: This notice announces that the Product and Service Codes (PSC) Manual, which provides codes to describe products, services, and research and development purchased by the government, is in the process of being updated. The General Services Administration (GSA), which maintains the PSC Manual, is in the process of updating the manual. The update includes the addition, deletion or revisions of codes. The revised PSC Manual will be effective October 1, 2015 (FY 2016).

DATES: *Effective:* May 28, 2015.

Comments: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before June 29, 2015.

ADDRESSES: Submit comments, June 29, 2015, identified by Notice–2015–QVO–01, Federal Procurement Data System Product and Service Codes Manual Update, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for Notice–2015–QVO–01. Select the link ''Comment Now'' that corresponds with ''Notice–2015–QVO–01, Federal Procurement Data System Product and Service Codes Manual Update''. Follow the instructions provided on the screen. Please include your name, company name (if any), and

''Notice–2015–QVO–01, Federal Procurement Data System Product and Service Codes Manual Update,'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers.

Instructions: Please submit comments only and cite Notice–2015–QVO–01, Federal Procurement Data System Product and Service Codes Manual Update, in all correspondence related to this notice. 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: Ms. Pat Brooks at *pat.brooks@gsa.gov* or 703–605–3406.

SUPPLEMENTARY INFORMATION: The Product and Service Codes (PSC) Manual provides codes to describe products, services, and research and development purchased by the government. The codes are one of the data elements reported in the Federal Procurement Data System (FPDS). The GSA, which maintains the PSC Manual, is in the process of updating the manual. The update includes the addition, deletion or revisions of codes.

The list of PSC code revisions is titled ''Notice–2015–QVO–01; Docket No. 2015–0002; Sequence 12, Federal Procurement Data System Product and Service Codes Manual'' and is viewable and searchable on *regulation.gov.* The current manual titled ''Federal Procurement Data System Product and Service Codes Manual, August 2011 Edition'' is also posted on *regulation.gov.* A thirty (30) day comment period is available.

Dated: May 19, 2015.

Karen Kopf,

Acting Assistant Commissioner, Integrated Award Environment, Federal Acquisition Service.

[FR Doc. 2015–12891 Filed 5–27–15; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14APJ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Using Rapid Assessment Methods to Understand Issues in HIV Prevention, Care and Treatment in the United States—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention requests approval for a 3-year clearance to collect data using rapid qualitative inquiries to understand issues related to HIV prevention, care, and treatment in the United States. Rapid inquiries are concentrated data collection and iterative data analytic efforts focused on timely and relevant responses to urgent issues and research questions. Although we will collect the majority of data using qualitative methods, many studies covered under this generic information collection, will involve a mixed methods approach for data collection.

The rapid inquiries will include multiple well-established qualitative methodologies, which may include but not be limited to in-depth individual interviews, focus groups, direct observations, case studies, document reviews, or brief quantitative surveys assessing demographics, behaviors, attitudes, intentions, beliefs, or other attributes of the respondents. In some assessments, additional contextual information may be collected, such as information about the respondents' community, workplaces, or organizations and places where they interact. CDC expects to collect qualitative data from approximately 1,800 respondents, assuming three research studies per year with each research study collecting data from 200 respondents.

For all proposed studies under this generic information collection, our efforts are expected to provide insight regarding a wide array of HIV-related programs designed for various populations throughout the United States, including but not limited to: Persons living with HIV/AIDS (PLWH); persons at elevated risk for acquiring new HIV infection or transmitting existing HIV infection to others; clinicians or other HIV care providers; men who have sex with men (MSM); transgender persons; injection and noninjection drug users; incarcerated populations or ex-prisoners; commercial sex workers; male and female heterosexual groups at high risk for HIV infection; and other providers and organizations (*e.g.*, health departments, community-based organizations, public and private health clinics, advocacy groups, community groups, or other governmental and nongovernmental organizations) serving or otherwise interacting with persons at greatest need for HIV prevention, care, and treatment.

Recruitment procedures will vary slightly based on the target population and research design of each information collection submitted under this generic information collection. Partner organizations such as public and private health clinics and community-based organizations that serve the target populations in the respective geographic locations may be contacted for their assistance in recruitment of potential respondents. Respondents may be identified and selected as key informants and invited to participate by contractor staff members.

Sampling recruitment methods may include, but not be limited to: Use of social networking sites, the Internet, print marketing materials, and other methods to find and enroll respondents into the research study.

All data collection tools will be pretested and interviews conducted by trained personnel. The data collection will take place at a time and place that is convenient to the respondent. Locations will be private. Data collection may be audio-recorded and transcribed with the consent of the respondent.

The data collections supported under this generic information collection will be used to provide insight regarding barriers and facilitators to HIV prevention, care, and treatment in the United States and territories, and thus suggest ways CDC might improve programmatic activities along the continuum of HIV prevention, treatment and care.

The total estimated annualized burden hours are 918. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
General Public—Adults	Study Screener	1,600	1	5/60
General Public—Adults	Contact Information Form	600	1	1/60
General Public—Adults	Consent Form	600	1	5/60
General Public—Adults	Demographic Survey	500	1	15/60
General Public—Adults	Interview Guide	500	1	1
General Public—Adults	Provider Demographic Survey	100	1	15/60
General Public—Adults	Provider Interview Guide	100	1	45/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–12808 Filed 5–27–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2015–0034; NIOSH 233–A]

NIOSH List of Antineoplastic and Other Hazardous Drugs in Healthcare Settings: Proposed Additions to the NIOSH Hazardous Drug List 2016; Request for Comment

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 of draft document available for public comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following draft document for public comment entitled ''NIOSH List of Antineoplastic and Other Hazardous Drugs in Healthcare Settings: Proposed Additions to the NIOSH Hazardous Drug List 2016.'' The document and instructions for submitting comments can be found at *www.regulations.gov.*

This guidance document does not have the force and effect of law.

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• FOR FURTHER INFORMATION CONTACT:
• SUPPLEMENTARY INFORMATION:

DATES: Electronic or written comments must be received by July 27, 2015.

ADDRESSES: You may submit comments, identified by CDC–2015–0034 and Docket Number NIOSH 233–A, by either of the two following methods:

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

• *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226.

Instructions: All information received in response to this notice must include the agency name and the docket number (CDC–2015–0034; NIOSH 233–A). All relevant comments received will be posted without change to *www.regulations.gov,* including any personal information provided. All electronic comments should be formatted as Microsoft Word. Please make reference to CDC–2015–0034 and Docket Number NIOSH 233–A. All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226.

FOR FURTHER INFORMATION CONTACT: Barbara MacKenzie, NIOSH, Division of Applied Research and Technology, Robert A. Taft Laboratories, 1090 Tusculum Avenue, MS C–26, Cincinnati, Ohio 45226. (513) 533–8132 (not a toll free number). Email: *hazardousdrugs@cdc.gov.*

SUPPLEMENTARY INFORMATION: The NIOSH Alert: ''Preventing Occupational Exposures to Antineoplastic and Other Hazardous Drugs in Health Care Settings'' was published in September 2004 (*http://www.cdc.gov/niosh/docs/2004-165/*). This Alert contained Appendix A which was a list of drugs that were deemed to be hazardous and may require special handling. This list of hazardous drugs was updated in 2010, 2012 and 2014 and covered all new approved drugs and drugs with new warnings up to December 2011 (*http://www.cdc.gov/niosh/docs/2014-138*). Between January 2012 and December 2013, 60 new drugs received FDA approval and 270 drugs received new warnings based on reported adverse effects in patients. From this list of 330 drugs, 44 drugs were identified by NIOSH as potential hazardous drugs. In addition to these 44 drugs, the panel members were asked to comment on the addition of one drug requested by several stakeholders. Three additional drugs had safe handling recommendations from the manufacturer and NIOSH is following these recommendations. Therefore, these 3 drugs will be listed as hazardous without requiring further review. A panel consisting of peer reviewers and stakeholders was asked to review and comment on the 45 potentially hazardous drugs. Reviewers were not asked to provide a consensus opinion

and NIOSH made the final determination regarding proposed additions to the 2016 hazardous drug list.

NIOSH reviewed the recommendations of the peer reviewers and stakeholders and determined that 33 drugs in addition to the 3 drugs with manufacturer's warnings, were determined to have one or more characteristics of a hazardous drug and this list of 36 drugs is being published for comment in CDC–2015–0034 and NIOSH Docket Number 233–A. The list of proposed additions can be found at *www.regulations.gov.*

Dated: May 20, 2015.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2015–12857 Filed 5–27–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–15KZ]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Research on the Efficacy and Feasibility of Essentials for Parenting Toddlers and Preschoolers—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) seeks a two-year OMB approval to conduct a new information collection for a study entitled, ''Research on the Efficacy and Feasibility of Essentials for Parenting Toddlers and Preschoolers''.

Child maltreatment is both widespread and impactful. It is estimated that 1 in 58 U.S. children had been maltreated in a 1-year period (*i.e.,* victims of physical, sexual, and emotional abuse or neglect). Millions of other American children are exposed to maltreatment that does not meet thresholds for clinical significance, but is nonetheless detrimental to child health.

Parent training is arguably the single most effective prevention initiative developed to date. Although there are potentially far-reaching impacts of parent training to improve public health, empirically-supported parent training is not widely available. The public health challenge is how to make the content of these empirically-supported parent training programs—which largely focus on the same parenting skills and approaches—accessible to the majority of American parents.

To leverage the strength of empirically supported parent training as a broadly disseminated prevention tool, the CDC has developed a resource tool called ''Essentials for Parenting Toddlers and Preschoolers (EFP)''. This web-based resource includes the typical content of empirically supported parent training programs and uses a psychoeducational approach including modeling (through its videos) and practice (through its activities).

This study is an empirical evaluation using an intensive repeated measures design to test the efficacy, feasibility, and use of EFP as administered in guided and unguided formats. The proposed data collection fits into NCIPC's research agenda's priorities in preventing child maltreatment.

There are no costs to respondents other than their time. The total estimated annual burden hours are 2,050.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Parents (both Natural Navigation [NN] and Guided Navigation [GN] groups).	Form 1—Screening and Demographics Questionnaires—Attachment I1.	400	1	15/60
	Form 2—Detailed Assessment Measures—Attachment I2.	200	2	45/60
	Form 3—Core Assessment Measures (Rotating)—Attachment I3.	200	18	15/60
	Form 4—Parental EFP Skills Knowledge Scale—Attachment I4.	200	8	15/60
	Form 5—Parental EFP Skills Usefulness Scale—Attachment I5.	200	6	15/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
	Form 6—Therapy Attitude Inventory and System Usability Scale—Attachment I6.	200	1	15/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science,Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–12809 Filed 5–27–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Facilities Construction, Purchase and Major Renovation.

OMB No.: 0970–0193.

Description: The Office of Head Start within the Administration for Children and Families, United States Department of Health and Human Services, is proposing to renew authority to collect information on funding for the purchase, construction or renovation of facilities. All information is collected electronically through the Head Start Enterprise System (HSES). The information required is in conformance with Section 644(f) and (g) of the Act. Federal funding officials use the information to determine that the proposed purchase has resulted in savings when compared to the costs that would be incurred to acquire the use of an alternative facility, or that the lack of alternative facilities will prevent, or would have prevented, the operation of the program. The rule further describes the assurances which are necessary to protect the Federal interest in real property and the conditions under which federal interest may be subordinated and protected when grantees make use of debt instruments when purchasing facilities. The information is used by funding officials to determine if grantee's arrangements adequately conform to other applicable statutes which apply to the expenditure of public funds for the purchase of real property.

Respondents: Head Start and Early Head Start program grant recipients.

ANNUAL BURDEN ESTIMATES

Instruments	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Administrative Requirements	225	1	41	9225

Estimated Total Annual Burden Hours: 9225.

Cost per respondent is $40 estimated at 2 hours × $20.00 per hour.

In compliance with the requirements of Section 506(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: ACF Reports Clearance Officer. Email address: *infocollection@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.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–12924 Filed 5–27–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0369]

M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals to Limit Potential Carcinogenic Risk; International Conference on Harmonisation; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a guidance entitled ''M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals to Limit Potential Carcinogenic Risk.'' The guidance was prepared under the auspices of the International Conference on Harmonisation of Technical

Requirements for Registration of Pharmaceuticals for Human Use (ICH). The guidance emphasizes considerations of both safety and quality risk management in establishing levels of mutagenic impurities that are expected to pose negligible carcinogenic risk. It outlines recommendations for assessment and control of mutagenic impurities that reside or are reasonably expected to reside in a final drug substance or product, taking into consideration the intended conditions of human use. The guidance is intended to provide guidance for new drug substances and new drug products during their clinical development and subsequent applications for marketing.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–7800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Aisar Atrakchi, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 22, Rm. 4118, Silver Spring, MD 20993–0002, 301–796–1036.

Regarding the ICH: Michelle Limoli, Center for Drug Evaluation and Research, International Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1174, Rockville, MD 20993–0002, 301–796–8377.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In the **Federal Register** of April 15, 2013 (72 FR 22269), FDA published a notice announcing the availability of a draft guidance entitled ''M7 Assessment and Control of DNA Reactive (Mutagenic) Impurities in Pharmaceuticals to Limit Potential Carcinogenic Risk'' The notice gave interested persons an opportunity to submit comments by June 14, 2013. Changes made to the guidance took into consideration written comments received. Minor editorial changes were made to improve clarity.

After consideration of the comments received and revisions to the guidance, a final draft of the guidance was submitted to the ICH Steering Committee and endorsed by the three participating regulatory agencies in June 2014.

The guidance provides guidance on the regulation of genotoxic impurities in new drug substances and drug products.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. 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.*

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: May 20, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12752 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–2065]

Radiation Biodosimetry Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for an additional 30 days, for the notice of availability

entitled ''Radiation Biodosimetry Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability'', published in the **Federal Register** of December 30, 2014. In that document, FDA announced the availability of a draft guidance for industry and FDA staff and requested comments. The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is reopening and extending the comment period on the draft guidance. Submit either electronic or written comments by June 29, 2015.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Radiation Biodosimetry Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the 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. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Dickey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5262, Silver Spring, MD 20993–0002, 301–796–5028.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 30, 2014 (79 FR 78448), FDA published a notice with a 90-day comment period to request comments on the draft guidance for industry and FDA staff entitled ''Radiation Biodosimetry Devices''.

The Agency received a request for an extension of the comment period for the draft guidance (Docket No. FDA–2014–D–2065–0005). The request conveyed concern that the current 90-day comment period does not allow sufficient time to respond. FDA has considered the request and is reopening and extending the comment period for the draft guidance for 30 days. The Agency believes that a 30-day extension allows adequate time for interested persons to submit comments without significantly delaying further FDA action on this guidance document.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.* Persons unable to download an electronic copy of ''Radiation Biodosimetry Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1400045 to identify the guidance you are requesting.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: May 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12854 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0918]

Pediatric Studies of Meropenem Conducted in Accordance With the Public Health Service Act; Availability of Summary Report and Requested Labeling Changes

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a summary report of the pediatric studies of meropenem conducted in accordance with the Public Health Service Act (the PHS Act) and is making available requested labeling changes for meropenem. The Agency is making this information available consistent with the PHS Act.

FOR FURTHER INFORMATION CONTACT: Lori Gorski, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6415, Silver Spring, MD 20993–0002, 301–796–2200, FAX: 301–796–9855, email: *lori.gorski@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Meropenem Summary Review

In the **Federal Register** of August 13, 2003 (68 FR 48402), meropenem was identified as a drug that needed further study in pediatrics. The approved labeling lacked adequate information on dosing, pharmacokinetic, tolerability, and safety data in newborns and young infants with complicated intra-abdominal infections.

A written request for pediatric studies of meropenem was issued on September 10, 2004, to AstraZeneca Pharmaceuticals, the holder of the new drug application (NDA) for meropenem. FDA did not receive a response to the written request. Accordingly, the National Institutes of Health (NIH) issued a request for proposals to conduct the pediatric studies described in the written request on August 15, 2005, and awarded funds to Duke University and Stanford University on September 28, 2007, to complete the studies described in the written request.

On completion of the studies, the Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD) submitted a final clinical study report for meropenem to FDA for review under investigational new drug application (IND) 101043: (NICHD–2005–18) ''A Multiple Dose PK Study of Meropenem In Young Infants (less than 91 days of age) With Suspected or Complicated Intra-abdominal Infections.''

In the **Federal Register** of February 27, 2012 (77 FR 11556), FDA announced the opening on February 17, 2012, of docket FDA–2011–N–0918 for submission of data from pediatric studies of meropenem. The data submitted to the docket by NIH were submitted in accordance with section 409I of the PHS Act (42 U.S.C. 284m) and were the same data submitted to IND 101043, with the exception that personal privacy information had been redacted from the data submitted to the docket.

The meropenem docket remained opened for public comment from February 27, 2012, until March 28, 2012. There were no comments submitted to the docket during that time. The key findings of this final clinical study report are:

The submitted study was an open-label, non-comparative, multicenter, prospective, multiple pharmacokinetic (PK) and safety study in infants less than 91 days of age. The study enrolled 200 infants with a median postnatal age of 21 days (range 1 to 92 days) and a median gestation age (GA) of 27.8 weeks (range 22.5 to 40 weeks). Infants with complicated intra-abdominal infections who were receiving meropenem based on local standard of care were eligible for enrollment. Complicated intra-abdominal infections were defined per the protocol as physical, radiologic, or bacteriologic findings of complicated intra-abdominal infection to include peritonitis, necrotizing enterocolitis (NEC) grade II or higher by Bell's criteria, Hirschsprung's disease with perforation, spontaneous perforation, meconium ileus with perforation, bowel obstruction with perforation, as evidenced by free peritoneal air on abdominal radiograph, intestinal pneumatosis, or portal venous gas on abdominal radiographic examination, or possible NEC.

The study was not statistically powered to establish efficacy because the Division of Anti-Infective Products agreed that extrapolation of efficacy to pediatric populations from adult populations was acceptable. However, clinical efficacy endpoints were also evaluated. The efficacy assessment included a comparison of the clinical status at study baseline and at day 28 or after a minimum of 7 days of treatment, using a combination of an assessment using the Score for Neonatal Acute Physiology II tool and other protocol specified outcome criteria. The clinical endpoint was defined as the patient being alive, with negative bacterial cultures from a sterile body fluid, and a presumptive clinical cure. Clinical failure was defined as death, change in antibiotic therapy while on study drug, or lack of presumptive clinical cure. The addition of treatment directed against Gram-positive pathogens from a non-abdominal source was not considered to represent treatment failure. Using these criteria, 195/200 patients or 97.5 percent were considered to have achieved the clinical endpoint. Of the 195 patients included in the efficacy population, 192 (98.5 percent) were evaluated for efficacy. The overall efficacy success rate for the study was 84.4 percent (95 percent confidence interval, 78.5 to 89.2 percent).

Analysis of safety was a primary objective of the study. The following assessments were included in the study: Monitoring for adverse events, serious adverse events, and death; documentation of seizures; acute abdominal complications; development of resistant bacterial infection or candidiasis; treatment failure; physical examination; clinical laboratory values; cultures from sterile sites, and concomitant medications. There were 11 deaths in the study; all occurred in patients less than 32 weeks GA. The most common cause of death was multi-organ failure. None of the deaths were related to meropenem administration. The following adverse events occurred with a frequency in the study that differed from that seen in previous pediatric and adult studies: Convulsion (seizures), 5 percent, hyperbilirubinemia, 4.5 percent and vomiting, 2.5 percent. Study oversight included a safety committee and an independent data safety monitoring board.

The Division of Anti-Infective Products agreed that meropenem was well-tolerated in the pediatric population enrolled in the study. Of the 10 patients with seizures, 8 patients were adjudicated to have developed seizures possibly due to the study medication. Because cerebrospinal fluid was only evaluated in a limited number of patients with seizures, it is not possible to determine if the seizure threshold may have changed due to possible underlying meningitis and the administration of meropenem.

II. Recommendation

This study supports the use of meropenem in neonates and infants less than 91 days of age for complicated intra-abdominal infections. However, infants with complicated intra-abdominal infections are anticipated to have different physiological characteristics than patients with meningitis that may impact the PK of meropenem; as such, it may not be appropriate to apply the PK findings from this population to a patient population with meningitis. The Division recommended that the evaluation of meropenem in infants less than 91 days of age be limited to the treatment of complicated intra-abdominal infections at this time.

FDA's requested labeling changes, including dosing recommendations for the use of meropenem in neonates and infants less than 91 days of age for complicated intra-abdominal infections, are available on the FDA Web site at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/DevelopmentResources/ucm379088.htm* and in the docket (Ref. 1).

Dated: May 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12848 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0012]

Molecular Characterization of Multiple Myeloma Black/African Ancestry Disparity

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of grant funds for the support of the efforts of the Center for Drug Evaluation and Research (CDER). FDA is announcing its intent to accept and consider a single-source application for the award of a grant to the Multiple Myeloma Service of Memorial Sloan Kettering Cancer Institute. The goal of the cooperative agreement between CDER and the Multiple Myeloma Service of Memorial Sloan Kettering Cancer Institute is to support the development of appropriate methodologies to conduct clinical trial design evaluation and determine extrapolation of findings from the general population to the U.S. Black population.

DATES: Important dates are as follows:

1. The application due date is July 20, 2015.
2. The anticipated start date is August 2015.
3. The opening date is May 18, 2015.
4. The expiration date is July 21, 2015.

ADDRESSES: Submit electronic applications to: *http://www.Grants.gov.* For more information, see section III of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dickran Kazandjian, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2320, Silver Spring, MD 20993–0002, 240–402–5272; or Vieda Hubbard, Division of Acquisition Support and Grants (HFA–500), Food and Drug

Administration, 5630 Fishers Lane, Rockville, MD 20857, 240–402–7588.

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at: *http://www.grants.gov.* Search by Funding Opportunity Number: RFA–FD–15–029.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

RFA–FD–15–029
93.103

A. Background

Multiple Myeloma (MM) is mainly a disease of older adults with a median diagnosis age of 65 years and patients younger than 40 represent only 2 percent of diagnoses. In the United States, 20,000 new cases are diagnosed annually. Although the etiology of MM remains elusive, clinical features, observed racial disparity patterns of incidence, reported familial clustering, and younger incidence in patients of Black/African ancestry suggests a role for susceptibility genes. Novel therapies have revolutionized treatment of MM and much of current research is focused on identifying not only efficacious drugs but also on the most efficacious time to initiate treatment. MM is a spectrum of disease which is first manifested by its precursor state Monoclonal gammopathy of undetermined significance (MGUS) which then evolves into smoldering myeloma and then finally symptomatic myeloma and therefore some paradigms of treatment initiation are evolving. Much of this work involves identifying the molecular aberrations, which classify patients' risks. However, this work has mostly been done on the population as a whole. Despite that MM in patients of Black ancestry clearly has a biologically different natural history; clinically Blacks are assessed using the same genetic approaches as the whole population. The proposed project will afford us the opportunity to identify and characterize MM in the Black population with much higher genetic and molecular resolution. It will answer questions such as whether Blacks have, in general, better survival because of the presence of more low risk genetic aberrations and whether these changes alter the effect of treatment drug. Our conclusions may have immense regulatory impact. For example, certain MM therapies may be indicated sooner in the treatment course in Blacks. Alternatively, some therapies may be found to have minimal efficacy and indication in Blacks with certain molecular subtypes. This proposal will be the first study to characterize the molecular subtypes of MM in Blacks in a systematic fashion, investigate the effect of these on novel therapy outcomes, and potentially have major impact on regulatory approvals of future therapies. Therefore, it is imperative to focus on this under-represented population and at least begin to understand the differences in MM pathophysiology, which may ultimately lead to improved outcomes.

The Memorial Sloan Kettering Cancer Institute has established a cohort of Black/African ancestry patients diagnosed with MM. These patients have been previously enrolled onto clinical trials and bone marrow biopsy tissue samples are available along with peripheral blood samples all banked. Furthermore, there has been close monitoring of these patients and detailed clinical data already exist. This is crucial to the project. Memorial Sloan Kettering is uniquely positioned to provide FDA much required data both by their novel technical platform and also by their available unique patient cohort and biopsy samples. Finally, organized involvement among a number of Sloan Kettering/National Cancer Institute (NCI)/FDA working groups on issues related to endpoints in MM which provides the unique ability to collaboratively engage FDA, patients, academics, government and industry so that any important findings may distributed to the community will be required.

B. Research Objectives

The research objective is to characterize the molecular subtypes of MM in patients of Black/African ancestry and investigate the effect of these *on prognosis* and novel therapy outcomes.

C. Eligibility Information

The following organization is eligible to apply: The Multiple Myeloma Service of the Memorial Sloan Kettering Cancer Institute. This is a sole source request for application because the Multiple Myeloma Service of the Memorial Sloan Kettering Cancer Institute is uniquely situated to support FDA's scientific mission of protecting and promoting the public health by initiating and facilitating research into demographic subpopulations of the United States. It has both the required patient population and the proprietary technical assays required to perform the proposed work.

II. Award Information/Funds Available

A. Award Amount

It is anticipated that FDA/CDER will fund this Cooperative Agreement up to $172,000 in Fiscal Year (FY) 2015 and $106,000 in FY 2016 in support of this program project. It is anticipated that only one award will be made, not to exceed $278,000 (direct plus indirect) for total costs. Awards are contingent upon the availability of funds.

B. Length of Support

Two-year period of performance beginning on August 2015 or date of award.

III. Electronic Application, Registration, and Submission

Only one electronic application will be accepted. To submit an electronic application in response to this FOA, the applicant should first review the full announcement located at *http://www.Grants.gov.* Search by Funding Opportunity Number: RFA–FD–15–029. (FDA has verified the Web site addresses throughout this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.) For the electronically submitted application, the following steps are required.

- Step 1: Obtain a Dun and Bradstreet (DUNS) Number
- Step 2: Register With System for Award Management (SAM)
- Step 3: Obtain Username & Password on *http://www.Grants.gov*
- Step 4: Authorized Organization Representative (AOR) Authorization
- Step 5: Track AOR Status
- Step 6: Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp.* Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp.* After you have followed these steps, submit the electronic application to: *http://www.grants.gov.*

Dated: May 20, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12742 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0480]

Integrated Food Safety System Online Collaboration Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of grant funds for the support of the National Center for Food Protection and Defense (NCFPD). The goal of the NCFPD is to provide well-established and high-level access to Food/Agriculture Sector Organizations and coordination of electronic collaborative tools; collaborative support from the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS), and the U.S. Department of Agriculture (USDA). NCFPD also has past experience directly supporting the President's Food Safety Working Group Objectives to integrate the food safety system at all levels.

DATES: Important dates are as follows:

1. The application due date is July 15, 2015.
2. The anticipated start date is September 2015.
3. The opening date is May 15, 2015.
4. The expiration date is July 16, 2015.

ADDRESSES: Submit electronic applications to: *http://www.grants.gov.* For more information, see section III of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Nicola Areshenko, Food and Drug Administration, Office of Regulatory Affairs, 253–987–7921, email: *Nicola.areshenko@fda.hhs.gov*; or Dan Lukash, Grants Management Specialist, Food and Drug Administration, Office of Acquisitions & Grant Services, 240–402–7596, *daniel.lukash@fda.hhs.gov.*

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *http://grants.nih.gov/grants/guide* (select the ''Request for Applications'' link), *http://www.grants.gov* (see ''For Applicants'' section), and *http://www.grants.gov/web/grants/search-grants.html?keywords=rfa-fd-15-024.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

RFA–FD–15–021

93.103

A. Background

Food can become contaminated at many different points—on the farm, in processing or distribution facilities, during transit, at retail and food service establishments, and in the home. In recent years, FDA, in cooperation with other food regulatory and public health agencies, has done a great deal to prevent both intentional and unintentional contamination of food at each of these points. FDA has worked with other Federal, State, local, tribal, territorial, and foreign counterpart food safety regulatory and public health agencies, as well as with law enforcement and intelligence-gathering agencies, and with industry, consumer groups, and academia, to strengthen the nation's food safety and food defense system across the entire distribution chain.

This cooperation has resulted in greater awareness of potential vulnerabilities, the creation of more effective prevention programs, new surveillance systems, and the ability to respond more quickly to outbreaks of foodborne illness. However, changes in consumer dietary patterns, changes in industry practices, changes in the U.S. population, an increasingly globalized food supply chain, and new pathogens and other contaminants pose challenges that are requiring us to adapt our current food protection strategies.

At the Federal level, a number of agencies are working together to coordinate their efforts and develop short- and long-term agendas to make food safer. As the Federal regulatory Agency responsible for most of the nation's food supply,[1] FDA is committed to ensuring that the food[2] supply is among the safest in the world. This requires a systematic, integrated approach to effective risk control and enforcement strategies. Together with our Federal, State, local, tribal, and territorial public health partners, FDA is working to plan and implement an inspection and enforcement program to ensure high rates of compliance with the Agency's food safety standards. FDA intends to establish a fully integrated national food safety system built on collaboration among all of these partners. This system will encompass inspections, laboratory testing, and outbreak response and will place priority on preventing foodborne illness, in both food for humans and animals. This collaboration will result in: (1) Better ability to assess potential risk at domestic food facilities and greater and more consistent inspectional coverage of these facilities across the entire food supply chain, (2) greater food surveillance through integration of food facility inspection and testing information, and (3) improved rapid response capacity and efficiency.

Current leveraging efforts have not been sufficient to ensure adequate oversight of the entire food supply chain. Food facilities are not uniformly inspected, data are not uniformly captured on a national basis, and the data that are collected are not systematically mined for intelligence. Neither FDA nor our regulatory or public health partners alone collect and analyze a sufficient number of surveillance samples per year to have confidence in to the ability to effectively identify potential areas of concern; combining the data from all public health partners would greatly enhance FDA's ability to detect potential problems. In addition, national response efforts are uneven. Throughout the years, numerous reports have concluded that FDA does not take full advantage of the inspectional and surveillance capabilities of our state, territorial, tribal and local regulatory and public health partners. This is due in large part to the varied standards and laws in each state as compared with the Federal system, as well as to the lack of interoperable data systems and legal impediments to sharing data among partners.

These combined factors present a challenge in managing and responding to signals of public health concern in the food supply. The currently decentralized U.S. public health and agriculture system results in a situation in which responsibility for surveillance, detection, investigation, response, and recovery to foodborne disease outbreaks is shared across Federal, State, territorial, tribal, and local government agencies.

Various levels of government are working to improve the nation's food safety and defense system. At all levels, there is a call for greater integration and coordination between the Federal agencies and the regulatory and public health partners involved in food safety. An integrated food safety system will allow FDA to meet the President's Food Safety Working Group recommendation that the Federal government ''. . . prioritize crucial inspection and enforcement activity across the world,

[1] FDA is the Federal Agency that is responsible for regulating most of the country's food supply, with the exception of most meat, poultry, and processed egg products, which are overseen by the USDA.

[2] For purposes of this document, the term ''food'' includes human food, animal feed, components (*i.e.* ingredients) of both food and feed, and dietary supplements for humans, except as otherwise noted.

support safety efforts by States, localities, and businesses at home; and utilize data to guide these efforts and evaluate their outcomes.'' [3]

To be fully successful, the national food safety system must be built with continuous input from FDA's regulatory and public health partners. Efforts shall facilitate information sharing and communication among all partners, and include infrastructure for a national electronic information-sharing mechanism. These actions will result in a national food safety system that identifies sources of risk throughout the system and reduces time to detect and respond to foodborne outbreaks. A public health-driven, collaborative, and leveraged approach to food safety activities and responsibilities will be reflected in improved public sector resource utilization at a national level, which provides additional capacity for ensuring a safe and secure food supply.

B. Research Objectives

The Office of Regulatory Affairs, in coordination with FDA's Office of Foods, Center for Food Safety and Applied Nutrition, and Center for Veterinary Medicine, is soliciting a cooperative grant proposal to expedite program development to support critical federal-state collaboration necessary to plan and implement an integrated food safety system. The intent is to fund proposals for the continued development and operations of collaborative online tools involving a range of stakeholders for the purposes of: (1) Information sharing in the development of an integrated food safety system and (2) developing and implementing a sustainable model for continued collaborative communication and information sharing. This grant opportunity is limited to organizations receiving funding under the current Integrated Food Safety System Online Collaboration Development cooperative agreement. The NCFPD, a DHS Center of Excellence, has unique expertise and capacity found nowhere else. It is the host/creator of FoodSHIELD, an inter-governmental collaborative project supporting information sharing at the Federal, State, and local levels. NCFPD is uniquely qualified to provide: Well-established and high-level access to Food/Agriculture Sector Organizations and coordination of electronic collaborative tools; collaborative support from HHS, DHS, and the USDA. NCFPD also has past experience directly supporting the President's Food Safety Working Group Objectives to integrate the food safety system at all levels.

C. Eligibility Information

The following organizations/institutions are eligible to apply:

This cooperative agreement is only available to organizations receiving funding under the current Integrated Food Safety System Online Collaboration Development cooperative agreement. Competition is limited to NCFPD because it is uniquely qualified and has expertise and capacity found nowhere else. It is the host/creator of FoodSHIELD, an intergovernmental collaborative project supporting information sharing at the federal, state and local levels. NCFPD is uniquely qualified to provide: Well-established and high-level access to Food/Agriculture Sector Organizations and coordination of electronic collaborative tools; collaborative support from HHS, DHS, and the USDA. NCFPD also has past experience directly supporting the President's Food Safety Working Group Objectives to integrate the food safety system at all levels.

II. Award Information/Funds Available

A. Award Amount

One award up to $680,000 for fiscal year 2015 with up to an additional 4 years funding up to $680,000 per year.

B. Length of Support

Up to 5 years.

III. Electronic Application, Registration, and Submission

Only electronic applications will be accepted. To submit an electronic application in response to this FOA, applicants should first review the full announcement located at *http://grants.nih.gov/grants/guide*. (FDA has verified the Web site addresses throughout this document but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.) For all electronically submitted applications, the following steps are required.

- Step 1: Obtain a Dun and Bradstreet (DUNS) Number
- Step 2: Register With System for Award Management (SAM)
- Step 3: Obtain Username & Password
- Step 4: Authorized Organization Representative (AOR) Authorization
- Step 5: Track AOR Status
- Step 6: Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp*. Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp*. After you have followed these steps, submit electronic applications to: *http://www.grants.gov*.

Dated: May 21, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–12853 Filed 5–27–15; 8:45 am]

BILLING CODE 4164–01–P

[3] President's Food Safety Working Group Key Findings Report submitted to President Obama on July 7, 2009.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Financial and Health Models.

Date: June 22, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12797 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; Pathway to Independence (K99) Grant Applications.

Date: June 8–10, 2015.

Time: 4:00 p.m. to 12:20 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: JEANETTE M HOSSEINI, Ph.D., Scientific Review Officer 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Clinical and Epidemiology Grant Applications II.

Date: June 18, 2015.

Time: 8:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: JEANETTE M HOSSEINI, Ph.D., Scientific Review Officer 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray-Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12799 Filed 5–27–15; 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 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 on Drug Abuse Special Emphasis Panel; Multi-site Clinical Trials.

Date: June 11, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

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.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 22, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12899 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time-Sensitive Obesity.

Date: June 24, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary Studies on Type 1 Diabetes (PAR–12–265).

Date: June 30, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Innovative Research in HIV in KUH (R01).

Date: July 16, 2015.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Clinical Sites for Studies on Pancreatitis.

Date: July 28, 2015.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.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: May 22, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12898 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—D.

Date: June 25, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Wardman Park Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Rebecca H. Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12C, Bethesda, MD 20892, 301–594–2771, *rebecca.johnson@nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Support of Competitive Research (SCORE).

Date: June 25, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892, 301–402–2783, *sidorova@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12796 Filed 5–27–15; 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 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 on Drug Abuse Special Emphasis Panel; GOMED: Grand Opportunity in Medications Development for Substance-Related Disorders (U01).

Date: July 16, 2015.

Time: 9:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Strategic Alliances for Medications Development to Treat Substance Use Disorders (R01) (PAR–13–334).

Date: July 16, 2015.

Time: 10:45 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Translational Avant-Garde Award for Development of Medication to Treat Substance Use Disorders (UH2/UH3).

Date: July 16, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 22, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12900 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Drug Discovery for the Nervous System Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 10:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.
Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative Physiology of Obesity and Diabetes Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Dupont Circle Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.
Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Risk, Prevention and Health Behavior.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.
Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, (301) 594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.
Contact Person: Sharon S Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery for Aging, Neuropsychiatric and Neurologic Disorders.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.
Contact Person: Yuan Luo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–915–6303, *luoy2@mail.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Cancer Genetics Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.
Contact Person: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Urology and Urogynecology Applications.
Date: June 25, 2015.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.
Contact Person: Ryan G Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Diseases and Pathophysiology of the Visual System Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites—Convention Center, 900 10th Street, Washington, DC 20001.
Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, *gordiyenkon@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory, Vision and Low Vision Technologies.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 2001.
Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Developmental Brain Disorders Study Section.
Date: June 25–26, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.
Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.
Date: June 25–26, 2015.
Time: 8:30 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Villa Florence Hotel, 225 Powell Street, San Francisco, CA 94102.
Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 500–5829, *sechu@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurodifferentiation, Plasticity, Regeneration and Rhythmicity Study Section.
Date: June 25–26, 2015.
Time: 9:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marines' Memorial Club and Hotel, 609 Sutter Street, San Francisco, CA 94102.
Contact Person: Joanne T Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.
Date: June 25–26, 2015.
Time: 9:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront, 71 E Wacker Drive, Chicago, IL 60601.
Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: SBIR/STTR Informatics.

Date: June 25, 2015.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12795 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed 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 Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 BTRC Review (2015/10).

Date: July 15–17, 2015

Time: 7:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt House, 2795 South Water Street, Pittsburgh, PA 15203.

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, (301) 451–3398, *hayesj@mail.nih.gov.*

Dated: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12793 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Aging Special Emphasis Panel; Biomarker Translation.

Date: June 17, 2015.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, Ph.D., National Institutes On Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.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. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12798 Filed 5–27–15; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource-Related Research Projects (R24).

Date: June 22, 2015.

Time: 12:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3F100, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Brenda Lange-Gustafson, Ph.D., Scientific Review Officer NIAID/NIH/DHHS, SCIENTIFIC REVIEW PROGRAM, 5601 Fishers Lane, Room 3G13 Rockville, MD 20852, 240–669–5047, bgustafson@niaid.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: May 21, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12794 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Physical Sciences Oncology Center (U54).

Date: June 18–19, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville, MD 20850, 240–276–6384, *gravesr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Training.

Date: June 29, 2015.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Rockville, MD 20850, 240–276–6442, *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee A-Cancer Centers.

Date: August 13, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Bethesda, MD 20892, 240–276–6442, *ss537t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 21, 2015.

Melanie J. Gray-Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12800 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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 section 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: Heart, Lung, and Blood Initial Review Group NHLBI Mentored Patient-Oriented Research Review Committee Mentored Patient- Oriented Research (MPOR)–K23, K24, K25.

Date: June 17–18, 2015.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn—Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Stephanie Johnson Webb, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 21, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–12810 Filed 5–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4219–DR; Docket ID FEMA–2015–0002]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4219–DR), dated May 14, 2015, and related determinations.

DATES: *: Effective Date:* May 14, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 14, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, flooding, landslides, and mudslides during the period of April 3–5, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kari Suzann Cowie, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of West Virginia have been designated as adversely affected by this major disaster:

Boone, Cabell, Lincoln, Logan, Mingo, and Wayne Counties for Public Assistance.

All areas within the State of West Virginia are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12920 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

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

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–1464).	City of Phoenix (14–09–3896P).	The Honorable Greg Stanton, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	Mar. 16, 2015	040051
California:					
Monterey (FEMA Docket No.: B–1464).	City of Seaside (14–09–3525P).	The Honorable Ralph Rubio, Mayor, City of Seaside, 440 Harcourt Avenue, Seaside, CA 93955.	Public Works Division, 440 Harcourt Avenue, Seaside, CA 93955.	Mar. 23, 2015	060203

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Monterey (FEMA Docket No.: B–1464).	Unincorporated areas of Monterey County, (14–09–3525P).	The Honorable Louis R. Calcagno, Chairman, Monterey County Board of Supervisors, P.O. Box 1728, Salinas, CA 93902.	Monterey County Water Resources Department, 893 Blanco Circle, Salinas, CA 93901.	Mar. 23, 2015	060195
Riverside (FEMA Docket No.: B–1464).	City of Corona (14–09–3245P).	The Honorable Karen Spiegel, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	City Hall, 400 South Vicentia Avenue, Corona, CA 92882.	Mar. 12, 2015	060250
Colorado:					
Adams (FEMA Docket No.: B–1464).	City of Thornton, (14–08–1198P).	The Honorable Heidi Williams, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	Mar. 20, 2015	080007
Adams (FEMA Docket No.: B–1464).	Unincorporated areas of Adams County, (14–08–1198P).	The Honorable Charles Tedesco, Chairman, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Emergency Management Department, 4430 South Adams County Parkway, Brighton, CO 80601.	Mar. 20, 2015	080001
El Paso (FEMA Docket No.: B–1468).	Unincorporated areas of El Paso County, (14–08–1121P).	The Honorable Dennis Hisey, Chairman, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Regional Building Department, 101 West Costilla Street, Colorado Springs, CO 80903.	Mar. 24, 2015	080059
Jefferson (FEMA Docket No.: B–1464).	City of Arvada, (14–08–1331P).	The Honorable Marc Williams, Mayor, City of Arvada, 8101 Ralston Road, Arvada, CO 80001.	Engineering Division, 8101 Ralston Road, Arvada, CO 80001.	Mar. 27, 2015	085072
Jefferson (FEMA Docket No.: B–1464).	Unincorporated areas of Jefferson County, (14–08–1331P).	The Honorable Faye Griffin, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, CO 80419.	Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Golden, CO 80419.	Mar. 27, 2015	080087
Teller (FEMA Docket No.: B–1464).	City of Woodland Park, (14–08–0157P).	The Honorable Neil Levy, Mayor, City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866.	City Hall, 220 West South Avenue, Woodland Park, CO 80866.	Mar. 26, 2015	080175
Teller (FEMA Docket No.: B–1464).	Unincorporated areas of Teller County, (14–08–0157P).	The Honorable Dave Paul, Chairman, Teller County Board of Commissioners, P.O. Box 959, Cripple Creek, CO 80813.	Teller County Office of Emergency Management, P.O. Box 959, Cripple Creek, CO 80813.	Mar. 26, 2015	080173
Florida:					
Charlotte (FEMA Docket No.: B–1468).	Unincorporated areas of Charlotte County, (14–04–8892P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	Apr. 2, 2015	120061
Collier (FEMA Docket No.: B–1468).	Unincorporated areas of Collier County, (14–04–3496P).	The Honorable Tom Henning, Chairman, Collier County Board of Commissioners, 3299 Tamiami Trail East, Suite 303, Naples, FL 34112.	Collier County Planning and Zoning Department, 2800 North Horseshoe Drive, Naples, FL 34104.	Apr. 2, 2015	120067
Duval (FEMA Docket No.: B–1468).	City of Jacksonville, (14–04–8973P).	The Honorable Alvin Brown, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Development Services Department, 214 Hogan Street North, Jacksonville, FL 32202.	Mar. 24, 2015	120077
Escambia (FEMA Docket No.: B–1464).	Unincorporated areas of Escambia County, (14–04–7298P).	The Honorable Lumon May, Chairman, Escambia County Board of Commissioners, 221 Palafox Place, Suite 400, Pensacola, FL 32502.	Escambia County Planning and Zoning Division, 3363 West Park Place, Pensacola, FL 32505.	Mar. 26, 2015	120080
Miami-Dade (FEMA Docket No.: B–1468).	City of Miami, (14–04–7292P).	The Honorable Tomas Regalado, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Emergency Management Department, 444 Southwest 2nd Avenue, 10th Floor, Miami, FL 33130.	Apr. 2, 2015	120650
Manatee (FEMA Docket No.: B–1464).	Unincorporated areas of Manatee County, (14–04–7603P).	The Honorable Larry Bustle, Chairman, Manatee County, Board of Commissioners, P.O. Box 1000, Bradenton, FL 34205.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	Mar. 26, 2015	120153
Sumter (FEMA Docket No.: B–1464).	Unincorporated areas of Sumter County, (14–04–3829P).	The Honorable Al Butler, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Community Development Department, 7375 Powell Road, Wildwood, FL 34785.	Mar. 13, 2015	120296
Montana:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Missoula (FEMA Docket No.: B–1464).	Unincorporated areas of Missoula County, (14–08–0395P).	The Honorable Jean Curtiss, Chair, Missoula County Board of Commissioners, 200 West Broadway, Missoula, MT 59802.	Missoula County Community and Planning Services Department, 323 West Alder, Missoula, MT 59802.	Mar. 13, 2015	300048
North Carolina:					
Forsyth (FEMA Docket No.: B–1464).	Town of Kernersville, (14–04–6374P).	The Honorable Dawn H. Morgan, Mayor, Town of Kernersville, P.O. Box 728, Kernersville, NC 27284.	Town Hall, 134 East Mountain Street, Kernersville, NC 27284.	Mar. 16, 2015	370319
Gaston (FEMA Docket No.: B–1468).	City of Gastonia, (14–04–A889P).	The Honorable John Bridgeman, Mayor, City of Gastonia, P.O. Box 1748, Gastonia, NC 28053.	Garland Municipal Business Center, 150 South York Street, Gastonia, NC 28052.	Mar. 16, 2015	370100
Wake (FEMA Docket No.: B–1464).	Unincorporated areas of Wake County, (14–04–3226P).	Mr. Jim Hartmann, Manager, Wake County, P.O. Box 550, Raleigh, NC 27602.	Wake County Environmental Services Department, 336 Fayetteville Street, Raleigh, NC 27601.	Mar. 13, 2015	370368
South Carolina:					
Charleston (FEMA Docket No.: B–1468).	City of Charleston, (14–04–9826P).	The Honorable Joseph P. Riley, Jr., Mayor, City of Charleston, P.O. Box 652, Charleston, SC 29402.	Engineering Department, 75 Calhoun Street, Division 301, Charleston, SC 29401.	Apr. 2, 2015	455412
Charleston (FEMA Docket No.: B–1468).	Town of Mount Pleasant, (14–04–9102P).	The Honorable Linda Page, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Planning Department, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	Mar. 23, 2015	455417
South Dakota:					
Brown (FEMA Docket No.: B–1468).	City of Aberdeen, (14–08–1017P).	The Honorable Mike Levsen, Mayor, City of Aberdeen, 123 South Lincoln Street, Aberdeen, SD 57401.	City Engineer's Office, 123 South Lincoln Street, Aberdeen, SD 57401.	Mar. 26, 2015	460007
North Dakota:					
Stark (FEMA Docket No.: B–1468).	Unincorporated areas of Stark County, (14–08–1100P).	The Honorable Russ Hoff, Chairman, Stark County Board of Commissioners, P.O. Box 130, Dickinson, ND 58602.	Stark County Recorder's Office, 51 3rd Street East, Dickinson, ND 58601.	Apr. 2, 2015	385369
Tennessee:					
Wilson (FEMA Docket No.: B–1468).	City of Mt. Juliet, (14–04–5022P).	The Honorable Ed Hagerty, Mayor, City of Mt. Juliet, 2425 North Mt. Juliet Road, Mt. Juliet, TN 37122.	City Hall, 2425 North Mt. Juliet Road, Mt. Juliet, TN 37122.	Mar. 19, 2015	470290
Utah:					
Davis (FEMA Docket No.: B–1468).	City of Kaysville, (14–08–0801P).	The Honorable Steve A. Hiatt, Mayor, City of Kaysville, 23 East Center Street, Kaysville, UT 84037.	City Hall, 23 East Center Street, Kaysville, UT 84037.	Mar. 26, 2015	490046
Salt Lake (FEMA Docket No.: B–1468).	City of West Jordan, (14–08–0959P).	The Honorable Kim V. Rolfe, Mayor, City of West Jordan, 8000 South Redwood Road, West Jordan, UT 84088.	City Hall, 8000 South Redwood Road, West Jordan, UT 84088.	Apr. 2, 2015	490108
Washington (FEMA Docket No.: B–1468).	City of St. George, (14–08–1007P).	The Honorable Jon Pike, Mayor, City of St. George, 175 East 200 North, St. George, UT 84770.	Engineering Department, 175 East 200 North, St. George, UT 84770.	Feb. 19, 2015	490177

[FR Doc. 2015–12911 Filed 5–27–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4217–DR; Docket ID FEMA–2015–0002]

Kentucky; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Kentucky (FEMA–4217–DR), dated May 1, 2015, and related determinations.

DATES: Effective May 21, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Kentucky is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 1, 2015.

Carter County for Public Assistance (already designated for Individual Assistance). Floyd, Lincoln, Nicholas, Owen, Pike, Spencer, and Whitley Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially

Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12913 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4210–DR; Docket ID FEMA–2015–0002]

West Virginia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–4210–DR), dated March 31, 2015, and related determinations.

DATES: *Effective date:* May 8, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now March 3, 2015, through and including March 14, 2015.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12917 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4218–DR; Docket ID FEMA–2015–0002]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4218–DR), dated May 12, 2015, and related determinations.

DATES: Effective date: May 12, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 12, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky resulting from a severe winter storm, snowstorm, flooding, landslides, and mudslides during the period of March 3–9, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Joe M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this major disaster:

Anderson, Bell, Bourbon, Boyd, Breathitt, Bullitt, Butler, Calloway, Carter, Casey, Clay, Daviess, Elliott, Estill, Fleming, Floyd, Franklin, Fulton, Gallatin, Grant, Greenup, Hancock, Harrison, Hart, Jackson, Johnson, Knott, Knox, LaRue, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Marshall, Martin, Mason, Menifee, Metcalfe, Morgan, Nicholas, Ohio, Owen, Owsley, Perry, Pike, Powell, Robertson, Rockcastle, Rowan, Spencer, Trigg, Washington, Webster, Whitley, and Woodford Counties for Public Assistance.

Anderson, Boyd, Bourbon, Bullitt, Butler, Calloway, Carter, Daviess, Fleming, Franklin, Fulton, Gallatin, Grant, Hancock, Harrison, Hart, LaRue, Lewis, Marshall, Mason, Nicholas, Ohio, Owen, Robertson, Rowan, Spencer, Trigg, Washington, and Woodford Counties for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate the incident period.

All areas within the Commonwealth of Kentucky are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12916 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4213–DR; Docket ID FEMA–2015–0002]

Connecticut; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Connecticut (FEMA–4213–DR), dated April 8, 2015, and related determinations.

DATES: *Effective date:* May 8, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Connecticut is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 8, 2015.

New Haven County for Public Assistance.

New Haven County for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate the incident period.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12918 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4220–DR; Docket ID FEMA–2015–0002]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4220–DR), dated May 18, 2015, and related determinations.

DATES: *Effective Date:* May 18, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 18, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of West Virginia resulting from severe storms, flooding, landslides, and mudslides during the period of April 8–11, 2015, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Kari Suzann Cowie, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of West Virginia have been designated as adversely affected by this major disaster:

Braxton, Brooke, Doddridge, Gilmer, Jackson, Lewis, Marshall, Ohio, Pleasants, Ritchie, Tyler, and Wetzel Counties for Public Assistance.

All areas within the State of West Virginia are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12919 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4215–DR; Docket ID FEMA–2015–0002]

Georgia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–4215–DR), dated April 20, 2015, and related determinations.

DATES: *Effective date:* May 20, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 20, 2015.

Hart County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–12912 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2015–0014; OMB No. 1660–0059]

Agency Information Collection Activities: Proposed Collection; Comment Request; National Flood Insurance Program Call Center and Agent Referral Enrollment Form

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Flood Insurance Program Call Center and Agent Referral Enrollment Form.

DATES: Comments must be submitted on or before July 27, 2015.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2015–0014. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Jo Vrem, FloodSmart Program Manager, FEMA, Federal Insurance and Mitigation Administration at (202) 212–4727. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 212–4701 or email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: Under Flood Disaster Protection Act of 1973, Section 2(a)(6), 42 U.S.C. 4002(a)(6), Congress finds it is in the public interest for persons already living in flood prone areas to have an opportunity to purchase flood insurance and access to more adequate limits of coverage to be indemnified for their losses in the event of future flood disasters. To this end, FEMA established and carries out a National Flood Insurance Program (NFIP), which enables interested persons to purchase insurance against loss resulting from physical damage to or loss of real or personal property arising from any flood occurring in the United States. 42 U.S.C. 4011. In carrying out the NFIP, FEMA operates a call center in conjunction with the FloodSmart Web site (*www.FloodSmart.gov*). Together these methods of marketing and outreach provide the mechanism for current and potential policyholders to learn more about floods and flood insurance, contact an agent, or assess their risk. The information collected from callers/visitors is used to fulfill requests for published materials, email alerts, policy rates, and agent contact information.

Additionally, FEMA and the NFIP offer *Agents.FloodSmart.gov* as a resource for agents. Upon Web site registration, agents can enroll in the Agent Referral Program to receive free leads through the consumer site or the call center as outlined above. This information collection seeks approval to continue collecting name, address and telephone number information from: (1) Business and residential property owners and renters who voluntarily call to request flood insurance information and possibly an insurance agent referral and, (2) insurance agents interested in enrolling in the agent referral service.

Collection of Information

Title: National Flood Insurance Program Call Center and Agent Referral Enrollment Form.

Type of Information Collection: Extension, without change, of a currently approved information collection.

FEMA Forms: FEMA Form 517–0–1, National Flood Insurance Program Agent Site Registration; FEMA Form 512–0–1, National Flood Insurance Program Agent Referral Questionnaire.

Abstract: Consumer names, addresses, and telephone numbers collected through the Call Center or FloodSmart Web site will be used exclusively for providing information on flood insurance and/or facilitate the purchase of a flood insurance policy through referrals or direct transfers to insurance agents in the agent referral service. Agent names, addresses, telephone numbers, and business information is retained for dissemination to interested consumers who would like to talk to an agent about purchasing a flood insurance policy as part of the agent referral program.

Affected Public: Individuals or households; businesses or other for-profit.

Number of Respondents: 59,194.

Number of Responses: 59,194.

Estimated Total Annual Burden Hours: 2,819 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/form No.	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average hourly wage rate	Total annual respondent cost
Individuals or households.	NFIP Agent Referral Questionnaire/FEMA Form 512–0–1.	50,894	1	50,894	0.05 (3 mins.)	2,545	$22.33	$56,830
Businesses or other for-profit.	NFIP Agent Site Registration (Including electronic version)/FEMA Form 517–0–1.	8,300	1	8,300	0.033 (2 mins.)	274	30.58	8,379
Total	.....	59,194	.....	59,194	.....	2,819	.....	65,209

• **Note:** The ''Avg. Hourly Wage Rate'' for each respondent includes a 1.4 multiplier to reflect a fully-loaded wage rate.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $65,209. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $406,941.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: May 15, 2015.

Janice Waller,

Acting Director, Records Management Division, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015–12922 Filed 5–27–15; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N107; FXES11120800000–156–FF08EVEN00]

Habitat Conservation Plan for the Morro Shoulderband Snail; Kroll Parcel, Community of Los Osos, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for a 10-year incidental take permit under the Endangered Species Act of 1973, as amended. The application addresses the potential for ''take'' of the federally endangered Morro shoulderband snail likely to result incidental to the construction of a single-family residence, barn, septic system, and improved residential access; management of an existing open space area; and implementation of a conservation strategy. We invite comments from the public on the application package, which includes a habitat conservation plan (HCP) for the Morro shoulderband snail.

DATES: To ensure consideration, please send your written comments by June 29, 2015.

ADDRESSES: You may download a copy of the draft HCP and draft low-effect screening form and environmental action statement on the internet at *http://www.fws.gov/ventura/*, or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Julie M. Vanderwier, Senior Fish and Wildlife Biologist, at the above address or by phone at (805) 644–1766.

SUPPLEMENTARY INFORMATION: We have received an application from James and Sharon Kroll for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). The application addresses take of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) likely to occur incidental to the construction and maintenance of a single-family residence, barn, septic system, and improved road access; management of an existing open space area; and implementation of a conservation strategy on 3.09 acres within an existing legal 5.08-acre parcel located in western San Luis Obispo County, California. The requested permit term is 10 years. We invite comments from the public on the application package. Issuance of an ITP pursuant to this HCP has been determined to be eligible for a categorical exclusion under National Environmental Policy Act (NEPA).

Background

The Morro shoulderband snail was listed as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act and its implementing regulations (16 U.S.C. 1531 *et seq.*) prohibit the take of fish or wildlife species listed as endangered or threatened. Under the Act, ''take'' is defined to include the following activities: ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). Under section 10(a)(1)(B) of the Act, we may issue permits to authorize take of listed species if it is incidental to other lawful activities and not the

purpose of carrying out that activity. The Code of Federal Regulations provides those regulations governing incidental take permits for threatened and endangered species at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit must not jeopardize the existence of any federally listed fish, wildlife or plant species.

The Applicants' Proposed Project

James and Sharon Kroll (hereafter, the applicants) own a 5.08-acre residential suburban-zoned parcel legally described as County of San Luis Obispo Assessor Parcel Number 074–022–041 and located at 302/304 Madera Street in the western portion of Los Osos, an unincorporated community of San Luis Obispo County, California. The applicants have submitted a HCP in support of their application for an ITP to address take of Morro shoulderband snail likely to occur as the result of project activities that would occur within a 3.09-acre permit area within the larger parcel area. Proposed covered activities include direct impacts to up to 0.63 acre of predominantly nonnative grassland habitat associated with the construction and maintenance of a single-family residence, barn, septic system, and improved residential access; maintenance of a 0.93-acre open space area; and the restoration, monitoring, and management of 1.1 acres of habitat for Morro shoulderband snail.

The applicants propose to minimize and mitigate take of Morro shoulderband snail associated with the covered activities by fully implementing the HCP. The following minimization measures would be implemented: (1) Development and delivery of an environmental training program for Morro shoulderband snail to all personnel working onsite, (2) pre-construction and concurrent construction monitoring surveys for Morro shoulderband snail, (3) capture and moving out of harm's way all identified individuals of any life stage of Morro shoulderband snail to a Service-approved receptor site by an individual in possession of a current valid recovery permit for the species, (4) use of temporary construction fencing to prevent accidental egress into mitigation areas; and (5) installation of permanent fencing to separate use areas from conservation areas. To mitigate for unavoidable take of Morro shoulderband snail, the applicants would conserve and manage 1.1 acres of habitat for Morro shoulderband snail. This 1.1-acre area would be recorded under a conservation easement with the County of San Luis Obispo and restored to native coastal dune scrub following control of non-native grasses and removal of orchard plantings. The applicants have committed to fund up to $33,368 to ensure implementation of all minimization, mitigation, and reporting requirements identified in the HCP.

In the proposed HCP, the applicants consider two alternatives to the proposed action: ''No Action'' and ''Alternate Project Design.'' Under the ''No Action'' alternative, the Service would not issue an ITP, and the legal construction of a single-family residence and barn would not occur. Absent the ITP, there would be no conservation and restoration of habitat for the Morro shoulderband snail that would, in concert with nearby habitat, provide a benefit to the species. Since the property is privately owned, there are ongoing economic considerations associated with continued ownership absent its ability to realize its intended use upon purchase (*e.g.,* payment of associated taxes). The sale of this property for other than the currently zoned and identified purpose is not considered biologically meaningful or economically feasible. Because of economic considerations and because the proposed action results in a net benefit for the Morro shoulderband snail, the No Action Alternative has been rejected.

Under the ''Alternate Project Design'' alternative, the residence and barn would be located elsewhere within the parcel. No other configuration would result in a substantial increase in the net benefit to the species or better achieve the applicants' needs. As such, the Alternate Project Design alternative is also rejected.

Our Preliminary Determination

We have determined the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail, and the HCP qualifies for processing as a low-effect plan consistent with our Habitat Conservation Planning Handbook (November 1996). Three criteria form the basis for our determination: (1) the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. It is our preliminary determination that HCP approval and ITP issuance qualify for categorical exclusion under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, we may revise our determination based upon review of public comments received in response to this notice.

Next Steps

We will evaluate the permit application, including the HCP and comments we receive, to determine whether it meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service consultation pursuant to section 7(a)(2) of the Act.

Public Review

We request comments from the public regarding our preliminary determination that the applicants' proposal will have a minor or negligible effect on the Morro shoulderband snail and that the plan qualifies as a low-effect HCP. We will evaluate the comments we receive and make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will incorporate the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP. If all of our requirements are met, we will issue the ITP to the applicants. Permit issuance would not occur less than 30 days from the date of this notice.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods provided in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

Dated: May 21, 2015.

Stephen P. Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2015–12849 Filed 5–27–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N097; FXES11130200000–156–FF02ENEH00]

Receipt of an Incidental Take Permit Application for Participation in the Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, as amended (Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit application for take of the federally listed American burying beetle resulting from activities associated with the geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permit would be issued under the approved *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP).

DATES: To ensure consideration, written comments must be received on or before June 29, 2015.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP application by one of the following methods. Please refer to the permit number when requesting documents or submitting comments.

○ *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

○ *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at Environmental Review, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.;* Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on an incidental take permit (ITP) application for take of the federally listed American burying beetle (*Nicrophorus americanus*) resulting from activities associated with geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permit would be issued to the applicant under the *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP). The ICP was made available for comment on April 16, 2014 (79 FR 21480), and approved on May 21, 2014 (publication of the FONSI notice was on July 25, 2014; 79 FR 43504). The ICP and the associated environmental assessment/finding of no significant impact are available on the Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following application under the ICP, for incidental take of the federally listed ABB. Please refer to the appropriate permit number (TE–54185B) when requesting application documents and when submitting comments. Documents and other information the applicants have submitted with this application are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–66049B

Applicant: Quartz Mountain Oil & Gas, LLC, Oklahoma City, OK.

Applicant requests a new permit for gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, and reclamation of gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

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 your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: May 20, 2015.

Benjamin N. Tuggle,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2015–12860 Filed 5–27–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[OMB Control Number 1035–0NEW; 15XD0120AF DST000000.54FY DT11100000]

Proposed Collection of Information Collection: Tribal Evaluation of Indian Trust Programs Compacted by Tribes

AGENCY: Office of the Special Trustee for American Indians, Office of Trust Review & Audit, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Trust Review & Audit, Office of the Special Trustee for American Indians, Department of the Interior announces the proposed collection of information and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by *July 27, 2015.*

ADDRESSES: Send your written comments to Nolan Solomon, Office of

the Special Trustee for American Indians, U.S. Department of the Interior, 4400 Masthead Street NE., Albuquerque, NM 87109, fax 505–816–1380, or by electronic mail to *Nolan_Solomon@ost.doi.gov.* Please mention that your comments concern the ''OMB ID 1035–0NEW—Tribal Evaluation of Indian Trust Programs Compacted by Tribes''.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, see the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for collection of information and public comment.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

Under 25 CFR 1000.355, the Secretary's designated representative will conduct trust evaluations for each self-governance tribe that has an annual funding agreement. The end result is the issuance of a report, which is required by 25 CFR 1000.365. Currently, Department of the Interior, Office of the Special Trustee for American Indians, Office of Trust Review & Audit (OTRA), conducts an on-site review of trust operations where a tribe has compacted a trust program. During that review, under current methodology, interviews are conducted and documents are requested on site. Information collected is then brought back to the Albuquerque office and analyzed. A draft report is written and provided to the tribe for comment where applicable, comments received back are incorporated into the report, and a final report is issued to the tribe. The purpose of this notice is to inform tribes and solicit comment that the method of collecting the information to conduct that annual evaluation is changing to an electronic method. Each year, tribes that compact trust programs will be asked to conduct an online assessment where they respond to questions, upload documentation, and provide a certification upon completion that answers provided are true and complete to the best of their knowledge. The information received will then be analyzed by OTRA, and a draft and or a final report will be issued. Pending the responses provided, additional information may be requested. An on-site inspection will still occur, however, it may be less often than annually.

This notice of proposed information collection is being published by the Office of Trust Review & Audit, Office of the Special Trustee for American Indians, Department of the Interior,

II. Data

Title: Tribal Evaluation of Indian Trust Programs Compacted by Tribes.

OMB Control Number: 1035–0NEW.

Current Expiration Date: Not Applicable.

Type of Review: New Information Collection.

Affected Entities: Tribes that have an annual funding agreement in place to compact Indian trust programs.

Estimated annual number of respondents: 111.

Frequency of responses: Once per fiscal or calendar year (year the respective tribe operates under).

(2) Annual reporting and recordkeeping burden:

Total annual reporting per program: 6 hours.

Total number of estimated responses: 111 tribes with an estimated average of 7 compacted programs each.

Total annual reporting: 4,662 hours.

(3) Description of the need and use of the information: The need and use of the information is to comply with 25 CFR 1000.355. The CFR requires an annual review of each Tribe that has an annual funding agreement in place. Information electronically received will be used to conduct an initial review of all these compacted tribes on an annual basis. After the information is received and analyzed, an on-site review will occur as needed, based on risk. When an on-site review does occur, it will involve less time on-site than occurs with the current on-site reviews, as much of the documentation will have been submitted electronically. We are converting from collecting the information manually to collecting the information electronically as it is more efficient.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection of information and 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 appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of Trust Review & Audit, Office of the Special Trustee for American Indians, by calling (505) 816–1257. A valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Nolan Solomon,

Management & Program Analyst, Program Management, Office of the Special Trustee for American Indians.

[FR Doc. 2015–12838 Filed 5–27–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L13100000.EI0000.241A]

Call For Nominations and Comments for the 2015 National Petroleum Reserve in Alaska Oil and Gas Lease Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Alaska State Office is issuing a call for nominations and comments on tracts for the upcoming 2015 National Petroleum Reserve in Alaska (NPR–A) Oil and Gas Lease Sale. A map of the NPR–A showing areas available for leasing is online at *http://www.blm.gov/ak.*

DATES: BLM Alaska must receive all nominations and comments on these tracts for consideration on or before June 29, 2015.

ADDRESSES: Mail nominations and/or comments to: State Director, Bureau of Land Management, Alaska State Office, 222 West 7th Ave., Mailstop 13; Anchorage, AK 99513–7504. Before including your address, phone number, email address, or other personal identifying information in your nominations and/or 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.

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, BLM Alaska Energy and Minerals Branch Chief, 907–271–4407. 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 BLM is issuing a call for nominations and comments on tracts for the upcoming 2015 NPR–A Oil and Gas Lease Sale, pursuant to 43 CFR 3131.2. When describing tracts nominated for leasing or providing comments, please use the NPR–A maps, legal descriptions of the tracts, and additional information available through the BLM Alaska Web site at *http://www.blm.gov/ak.* The BLM also requests comments on tracts which should receive special consideration or analysis.

Bud C. Cribley,

State Director.

[FR Doc. 2015–12896 Filed 5–27–15; 8:45 am]

BILLING CODE 4310–JA–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Second Review)]

Saccharin From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930, that revocation of the antidumping duty order on saccharin from China would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), instituted this review on May 1, 2014 (79 FR 24749) and determined on August 4, 2014 that it would conduct a full review (79 FR 47478, August 13, 2014). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 30, 2014 (79 FR 66740). The hearing was held in Washington, DC, on March 31, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). It completed and filed its determination in this review on May 20, 2015. The views of the Commission are contained in USITC Publication 4534 (May 2015), entitled *Saccharin from China: Investigation No. 731–TA–1013 (Second Review).*

By order of the Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Issued: May 21, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–12827 Filed 5–27–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

On May 12, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Iowa in the lawsuit entitled *United States* v. *Twin Counties Dairy, LLC*, (S.D. Iowa), No. 3:15–cv–00051.

The Consent Decree resolves the United States' claims against Twin Counties Dairy, LLC, for alleged violations of the Clean Water Act, 33 U.S.C. 1251, *et seq.,* as set forth in the United States' complaint filed on May 12, 2015. In this action, the United States sought injunctive relief and penalties pursuant to Section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b), (d), against Twin Counties Dairy, LLC. (the ''Settling Defendant''). The Complaint alleged that the Settling Defendant violated the conditions of National Pollutant Discharge Elimination System (''NPDES'') permits issued by the State of Iowa pursuant to the Clean Water Act, 33 U.S.C. 1342, at its dairy in Kalona, Iowa. The Consent Decree provides that Defendant will pay a civil penalty of $190,000 for these violations and implement proper closure procedures for the Facility, as the Settling Defendant ceased operations in October 2014.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Twin County Dairy, Inc.* (S.D. Iowa) No. 3:15–cv–00051, D.J. Ref. 90–5–1–1–10716. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–12886 Filed 5–27–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On May 21, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Illinois in the lawsuit entitled *United States of America* v. *Illinois Tool Works Inc.* 12–cv–1233–NJR–SCW.

The proposed Consent Decree would resolve Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') claims and certain other related claims concerning Site 14 (''Site 14'' or ''the Site'') of the Miscellaneous Areas Operable Unit at the Crab Orchard National Wildlife Refuge Superfund Site near Marion, Illinois. The total response costs for Site 14 are roughly $5.8 million, including about $3.66 million spent by Illinois Tool Works (''ITW'') and about $2.15 million spent by the U.S. Department of the Interior (''DOI'') and the U.S. Environmental Protection Agency (''EPA''). The proposed settlement would require ITW to pay an additional $78,617, including $62,739 being paid into the DOI Central Hazardous Materials Fund and $15,878 being paid into the EPA Superfund. No prior payments have been made on account of the alleged CERCLA liability of the Department of the Army (''Army'') and DOI (the ''Settling Federal Agencies''). Under this settlement, the United States would pay $1,677,549 on behalf of the Settling Federal Agencies, including $1,338,745 being paid into the DOI Central Hazardous Materials Fund and $338,804 being paid into the EPA Superfund.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Illinois Tool Works Inc.,* D.J. Ref. No. 90–11–3–643/1.

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	Acting Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–12826 Filed 5–27–15; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 8, 2015.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 8, 2015.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 30th day of April 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[23 TAA petitions instituted between 4/13/15 and 4/24/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85,937	Advanced Supply Chain International, LLC (Company)	Prudhoe Bay, AK	04/13/15	04/10/15
85,938	Technicolor Videocassette of Michigan Inc. (Company)	Livonia, MI	04/14/15	04/02/15

APPENDIX—Continued

[23 TAA petitions instituted between 4/13/15 and 4/24/15]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85,938A	Leased Workers from Employment Plus (Company)	Livonia, MI	04/14/15	04/02/15
85,939	TMK—IPSCO (Workers)	Catoosa, OK	04/14/15	04/07/15
85,940	Alcoa Technical Support (Workers)	Alcoa Center, PA	04/14/15	04/13/15
85,941	CareFusion (State/One-Stop)	San Diego, CA	04/15/15	04/14/15
85,942	Halliburton (State/One-Stop)	Pocasset, OK	04/15/15	04/14/15
85,943	Robert Shaw Controls (Workers)	Carol Stream, IL	04/16/15	04/15/15
85,944	Koppers Inc. (Company)	Green Spring, WV	04/16/15	04/15/15
85,945	International Business Machines (IBM) (State/One-Stop)	Hopewell Junction, NY	04/16/15	04/15/15
85,946	DJO Global/Exos (State/One-Stop)	Arden Hills, MN	04/17/15	04/16/15
85,947	LA Darling (State/One-Stop)	Piggott, AR	04/17/15	04/16/15
85,948	Syncreon (Workers)	Allentown, PA	04/17/15	04/02/15
85,949	Asset Acceptance, a wholly owned subsidiary of Encore Capital (Workers).	Warren, MI	04/20/15	04/20/15
85,950	TE Connectivity (Company)	Middletown, PA	04/20/15	04/16/15
85,951	U.S. Steel Oilwell Services, LLC Offshore Operations Hopuston (State/One-Stop).	Houston, TX	04/20/15	04/17/15
85,952	Mcissick Crosby Group Inc. (Workers)	Tulsa, OK	04/22/15	04/20/15
85,953	Hewlett Packard (State/One-Stop)	Conway, AR	04/23/15	04/22/15
85,954	Baker Hughes (Workers)	Broken Arrow, OK	04/23/15	04/22/15
85,955	Prestolite Electric, Incorporated (Company)	Plymouth, MI	04/23/15	04/21/15
85,956	Cameron Measurements (Workers)	Duncan, OK	04/24/15	04/23/15
85,957	Tatung Company of America (State/One-Stop)	Carson, CA	04/24/15	04/23/15
85,958	Meritor (Union)	Heath, OH	04/24/15	04/23/15

[FR Doc. 2015–12878 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,578; A–W–85,578A]

Avery Dennison, Retail Branding and Information Solutions (Rbis) Division, Including On-Site Leased Workers of Adecco, Lenior, North Carolina; Leased Workers of Manpower and Zero Chaos, Working On-Site at Avery Dennison, Retail Branding and Information Solutions (RBIS) Division, Lenior, North Carolina; Notice of Revised Determination on Reconsideration

On November 3, 2014, the Department issued a Notice of Termination of Investigation applicable to workers and former workers of Avery Dennison, Retail Branding and Information Solutions (RBIS) Division, Lenoir, North Carolina (subject firm). The subject firm is engaged in the production of printed fabric labels, heat transfer ribbon, woven edge tape and coated inks. Workers at the subject firm are not separately identifiable by product line.

Workers of the subject firm, including on-site leased workers of Adecco, are eligible to apply for Trade Adjustment Assistance under TA–W–82,139 (which expires on December 5, 2014). The afore-mentioned certification excludes workers separated after December 5, 2014 and excludes on-site leased workers of Manpower and Zero Chaos.

Following the issuance of the afore-mentioned Notice, the Department determined that the termination of investigation was issued error and conducted a reconsideration investigation.

Section 222(a)(1) has been met because a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated.

Section 222(a)(2)(B) has been met because the employment decline is related to the shift in production of like or directly competitive articles to foreign countries that are a party to a free trade agreement with the United States.

In accordance with Section 246 the Trade Act of 1974, as amended (''Act''), 26 U.S.C. 2813, the Department herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

The group eligibility requirements for workers of a firm under Section 246(a)(3)(A)(ii) of the Trade Act are satisfied if the following criteria are met:

(I) Whether a significant number of workers in the workers' firm are 50 years of age or older;

(II) Whether the workers in the workers' firm possess skills that are not easily transferable; and

(III) The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Section 246(a)(3)(A)(ii)(I) has been met because a significant number of workers in the workers' firm are 50 years of age or older. Section 246(a)(3)(A)(ii)(II) has been met because the workers in the workers' firm possess skills that are not easily transferrable. Section 246(a)(3)(A)(ii)(III) has been met because conditions within the workers' industry are adverse.

Conclusion

After careful review of the information obtained during the reconsideration investigation, I determine that workers of Avery Dennison, Retail Branding and Information Solutions (RBIS) Division, including on-site leased workers, Lenoir, North Carolina, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Avery Dennison, Retail Branding and Information Solutions (RBIS) Division, including on-site leased workers of Adecco, Lenoir, North Carolina (TA–W–85,578), who became totally or partially separated from employment on or after December 6, 2014 through two years from the date of this certification, and all leased workers of Manpower and Zero Chaos working on-site at Avery Dennison, Retail Branding and Information Solutions (RBIS)

Division, Lenoir, North Carolina (TA–W–85,578A), who became totally or partially separated from employment on or after October 7, 2013 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 26th day of November, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

Editorial Note: This document was received for publication by the Office of the Federal Register on May 22, 2015.

[FR Doc. 2015–12881 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,844]

A Schulman, Inc. Including Workers Whose Wages Are Reported Under Ferro Corp. Stryker, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 18, 2015, applicable to workers from A Schulman, Inc., Stryker, Ohio. The Department's Notice of Determination was published in the **Federal Register** on April 13, 2015 (80 FR 19691).

At the request of a State Workforce Official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of plastic colorants.

The investigation confirmed that workers' wages were reported under Ferro Corp., FEIN 34–0217820. Based on these findings, the Department is amending this certification to include workers whose wages were reported under Ferro Corp., FEIN 34–0217820.

The amended notice applicable to TA–W–85,844 is hereby issued as follows:

All workers of A Schulman, Inc., including workers whose wages were reported under Ferro Corp., Stryker, Ohio, who became totally or partially separated from employment on or after February 19, 2014 through March 18, 2017, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 16th day of April, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–12880 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,367]

Pixel Playground, Inc., Woodland Hills, California; Notice of Revised Determination on Reconsideration

On December 9, 2014, the Department of Labor issued a Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers and former workers of Pixel Playground, Inc., Woodland Hills, California (subject firm). The Department's Notice was published in the **Federal Register** on September 29, 2014 (79 FR 58383). Workers at the subject firm were engaged in employment related to the supply of digital augmentation services.

In an application dated January 26, 2015, a former worker via legal counsel requested administrative reconsideration of the negative determination applicable to workers and former workers of the subject firm. The request for reconsideration alleges that workers at the subject firm are eligible to apply for Trade Adjustment Assistance (TAA) under Section 222(b) of the Trade Act, 19 U.S.C. 2272(b).

A careful review of administrative record and additional investigation confirmed the following:

Section 222(b)(1) has been met because a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated.

Section 222(b)(2) has been met because Pixel Playground Inc., Woodland Hills, California is a Supplier to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a), and such supply is related to the service that was the basis for such certification.

Section 222(b)(3)(B) has been met because the loss of business by Pixel Playground Inc., Woodland Hills, California with the firm that employed a certified worker group contributed importantly to worker separations at Pixel Playground Inc., Woodland Hills, California.

Conclusion

After careful review, I determine that workers and former workers of the subject firm, who are engaged in employment related to the supply of digital augmentation services, meet the worker group certification criteria under Section 222(b) of the Act, 19 U.S.C. 2272(b). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Pixel Playground Inc., Woodland Hills, California, who became totally or partially separated from employment on or after April 23, 2012 through two years from the date of this certification, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 22nd day of April 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–12883 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 13, 2015 through April 24, 2015.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially

separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,826, Safariland, LLC, Ontario. California. February 10, 2014.

85,859, Pfizer—Rouses Point, Rouses Point, New York. April 26, 2015.

85,859A, Leased Workers From Atrium, Rouses Point, New York. February 27, 2014.

85,872, Concurrent Manufacturing Solutions, LLC, Ozark, Missouri. March 10, 2014.

85,873, John Deere Waterloo Works, Waterloo, Iowa. March 5, 2014.

85,886, Instrumentation and Specialty Controls (ISC), West Chicago, Illinois. March 18, 2014.

85,886A, Instrumentation and Specialty Controls (ISC), Grand Junction, Colorado. March 18, 2014.

85,888, General Mills, New Albany, Indiana. March 18, 2014.

85,900, Fort Dearborn Company, Bowling Green, Kentucky. March 25, 2014.

85,906, Finisar Corporation, Horsham, Pennsylvania. May 18, 2015.

85,922, Chromalloy Gas Turbine, LLC, Gardena, California. April 9, 2015.

85,924, AstraZeneca LP, Westborough, Massachusetts. March 31, 2014.

85,926, KIK Custom Products, Inc., Memphis, Tennessee. April 7, 2014.

85,931, Mage Solar USA, Dublin, Georgia. March 30, 2014.

85,938, Technicolor Videocassette of Michigan Inc., Livonia, Michigan. May 16, 2015.

85,938A, Leased Workers from Employment Plus, Livonia, Michigan. April 2, 2014.

83,367, Pixel Playground, Inc., Woodland Hills, California. April 23, 2012.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

85,781, Asahi America, Inc., Lawrence, Massachusetts.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,790, Corsa Coal Corporation, Friedens, Pennsylvania.

85,898, Siemens Energy Inc., Mount Vernon, Ohio.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,788, Engineered Polymer Solutions, Garland, Texas.

85,832, BpRex Healthcare Brookville, Inc., Brookville, Pennsylvania.
85,835, S4 Carlisle Publishing Services, Dubuque, Iowa.
85,871, Multiband Corporation, Richmond, Kentucky.
85,878, MicroTelecom Systems LLC, Uniondale, New York.
85,882, The Nielsen Company (US), LLC, Shelton, Connecticut.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,883, Schlumberger, Anchorage, Alaska.
85,917, CP Medical Inc., Portland, Oregon.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,696, Hewlett Packard Company, Omaha, Nebraska.
85,853, Hewlett Packard Company, Omaha, Nebraska.

The following determinations terminating investigations were issued because the Department issued a negative determination on petitions related to the relevant investigation period applicable to the same worker group. The duplicative petitions did not present new information or a change in circumstances that would result in a reversal of the Department's previous negative determination, and therefore, further investigation would duplicate efforts and serve no purpose.

85,794, Weyant Trucking, LLC, Friedens, Pennsylvania.

I hereby certify that the aforementioned determinations were issued during the period of *April 13, 2015 through April 24, 2015.* These determinations are available on the Department's Web site *www.tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 30th day of April 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–12882 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,726]

Hewlett-Packard Co. HP Enterprise Group Americas Supply Chain Houston Manufacturing Including On-Site Leased Workers From Advantage Technical Resourcing, Bucher and Christian Consulting, Inc., CBSI LLC, Manpower, National Employment Service, Pinnacle Technical Resources, Inc., and Staff Management (a Subsidiary of Seaton, LLC) Houston, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 2, 2015, applicable to workers of Hewlett-Packard Co., HP Enterprise Group, Americas Supply Chain Houston Manufacturing, including on-site leased workers from Advantage Technical Resourcing, Bucher and Christian Consulting, Inc., CBSI LLC, Manpower, National Employment Service, Pinnacle Technical Resources, Inc., and Staff Management, Houston, Texas. The workers were engaged in activities related to the production of server cabinets and parts.

At the request of a state workforce official to clarify the worker group, the Department reviewed the certification for workers of the subject firm. The company reports that the leased worker agency, Staff Management, is a subsidiary of Seaton, LLC.

Based on these findings, the Department is amending this certification to include workers leased from Staff Management (a subsidiary of Seaton, LLC) working on-site at the Houston, Texas location of Hewlett-Packard Co., HP Enterprise Group, Americas Supply Chain Houston Manufacturing.

The amended notice applicable to TA–W–85,726 is hereby issued as follows:

All workers of Hewlett-Packard Co., HP Enterprise Group, Americas Supply Chain Houston Manufacturing, including on-site leased workers from Advantage Technical Resourcing, Bucher and Christian Consulting, Inc., CBSI LLC, Manpower, National Employment Service, Pinnacle Technical Resources, Inc., and Staff Management (a subsidiary of Seaton, LLC), Houston, Texas, who became totally or partially separated from employment on or after December 15, 2013 through March 2, 2017, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 23rd day of April 2015.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–12879 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,674]

Levi Strauss & Company Eugene, Oregon; Notice of Negative Determination on Reconsideration

On March 10, 2015, the Department of Labor issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of Levi Strauss and Company, Eugene, Oregon. The notice was published in the **Federal Register** on March 31, 2015 (80 FR 17080).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on findings that the worker separations at Levi Strauss & Co., Eugene, Oregon are not attributable to increased imports of articles or a shift in production of articles to a foreign country. The investigation also confirmed that the subject firm is not a Supplier or Downstream Producer.

The request for reconsideration asserts that the workers perform

production forecasting activities and order management support of Levi Strauss' production of clothing and apparel. The reconsideration application concludes that both activities drive production and has been shifted to a foreign country.

Information obtained during the investigation confirmed that Levi Strauss & Co. does not produce articles within the United States. The investigation confirmed that all production of articles for the Levi Strauss & Co. brand is done by another firm not covered under the definition of a ''firm'' in 29 CFR 90.2.

Therefore, after careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review, I determine that the requirements of Section 222 of the Act, 19 U.S.C. 2272, have not been met and, therefore, deny the petition for group eligibility of Levi Strauss & Company, Eugene, Oregon, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C. 2273.

Signed in Washington, DC, on this 22nd day of April, 2015.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2015–12884 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; YouthBuild Reporting System

ACTION: Notice.

SUMMARY: On May 29, 2015, the Department of Labor (DOL) will submit the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''YouthBuild Reporting System,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 29, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201409-1205-004* (this link will only become active on May 30, 2015) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the YouthBuild Reporting System information collection. YouthBuild grantees collect and report selected standardized information pertaining to customers in YouthBuild programs for general program oversight, evaluation, and performance assessment purposes. The ETA provides all grantees with a YouthBuild management information system to use for collecting participant data and for preparing and submitting the required quarterly reports. YouthBuild Transfer Act section 2(c)(4)(L) and Workforce Investment Act sections 185(d) and 189(d) authorize this information collection. *See* 29 U.S.C. 2918a.(2)(c)(4)(L), 2935(d), 2939(d).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0464.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2015. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 26, 2015 (80 FR 16209).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0464. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: YouthBuild Reporting System.

OMB Control Number: 1205–0464.

Affected Public: Individuals or Households and Private Sector—not-for-profit institutions.

Total Estimated Number of Respondents: 7,225.

Total Estimated Number of Responses: 8,425.

Total Estimated Annual Time Burden: 36,813 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: May 21, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015–12875 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0096]

Proposed Information Collection; Underground Retorts

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Underground Retorts.

DATES: All comments must be received on or before July 27, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0011.
- *Regular Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street S., Suite 400, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator bank.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR 57.22401 sets forth the safety requirements for using a retort to extract oil from shale in underground metal and nonmetal I–A and I–B mines (those that operate in a combustible ore and either liberate methane or have the potential to liberate methane based on the history of the mine or the geological area in which the mine is located). At present, this applies only to underground oil shale mines. The standard requires that prior to ignition of underground retorts; mine operators must submit a written ignition operation plan to the appropriate MSHA District Manager which contains site-specific safeguards and safety procedures for the underground areas of the mine which are affected by the retorts.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Underground Retorts. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on MSHA's Web site and on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Underground Retorts. MSHA has updated the data in respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0096.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Frequency: On occasion.

Number of Responses: 1.

Annual Burden Hours: 160 hours.

Annual Respondent or Recordkeeper Cost: None.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 21, 2015.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–12841 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0146]

Proposed Extension of Information Collection; Refuge Alternatives for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of

1995, 44 U.S.C. 3506(c)(2)(A). This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Refuge Alternatives for Underground Coal Mines.

DATES: All comments must be received on or before July 27, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0012.
- *Regular Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939.
- *Hand Delivery:* USDOL—Mine Safety and Health Administration, 201 12th Street S., Suite 400, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator bank.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Each underground coal mine has an emergency response plan (ERP) and refuge alternative(s) (RA) that protect miners when escape from a mine during a mine emergency is not possible by providing secure spaces with isolated atmospheres that create life-sustaining environments.

Title 30 CFR 75.1506 requires mine operators to provide refuge alternatives.

Section 75.1507 requires the development and implementation of emergency response plans. It requires that the ERP provide detailed information about the RAs used in the mine. This information assists miners, supervisors, emergency responders, and MSHA in assuring that all essential preparations are made and required materials are readily available and in working order. A mine operator may notify the District Manager and update the existing ERP if there is a need to locate a RA in a different location than the one identified in the ERP for that mine (as required by section 75.1506(c)(2)).

Section 75.1508 requires the mine operator to certify that persons assigned to examine, maintain, and repair RAs and components are trained for those tasks. Training certifications assist MSHA in determining that persons received the required training. The training certification for persons assigned to examine RAs is integrated into existing requirements for preshift examinations of the mine under section 75.360 (OMB 1219–0088). The training certification for persons assigned to maintain and repair RAs is included in this package under section 75.1508(a).

Section 75.1508(b) requires a record of any maintenance and repair performed on a refuge alternative. This record assists MSHA in identifying design flaws or other weaknesses in the refuge alternative or its components that could adversely impact the safety of miners.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Refuge Alternatives for Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The information collection request will be available on MSHA's Web site and on *http://www.regulations.gov*. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov*.

The public may also examine publicly available documents at MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Refuge Alternatives for Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0146.

Affected Public: Business or other for-profit.

Number of Respondents: 16.

Frequency: On occasion.

Number of Responses: 49.

Annual Burden Hours: 219 hours.

Annual Respondent or Recordkeeper Cost: $50.40.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 21, 2015.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–12840 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0103]

Proposed Extension of Information Collection; Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A). This

program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres.

DATES: All comments must be received on or before July 27, 2015.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2015–0010.
- *Regular Mail:* Send comments to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939.
- *Hand Delivery:* USDOL-Mine Safety and Health Administration, 201 12th Street S., Suite 400, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator bank.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Methane is a flammable gas found in underground mines in the United States. Although methane is often associated with underground coal mines, it also occurs in some metal and nonmetal mines. Underground metal and Nonmetal mines are categorized according to the potential to liberate methane (30 CFR 57.22003—Mine category or subcategory). Methane is a colorless, odorless, tasteless gas, and it tends to rise to the roof of a mine because it is lighter than air. Although methane itself is nontoxic, its presence reduces the oxygen content by dilution when mixed with air and, consequently, can act as an asphyxiant when present in large quantities.

Methane may enter the mining environment from a variety of sources including fractures, faults, or shear zones overlying or underlying the strata that surround the ore body, or from the ore body itself. It may occur as an occluded gas within the ore body. Methane mixed with air is explosive in the range of 5 to 15 percent, provided that 12 percent or more oxygen is present. The presence of dust containing volatile matter in the mine atmosphere may further enhance the explosion potential of methane in a mine. Section 103(i) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, requires additional inspections be conducted at mines depending on the amount of methane liberated from a mine.

Title 30 CFR 57.22004(c) requires operators of underground metal and nonmetal mines mines to notify MSHA as soon as possible if any of the following events occur: (a) There is an outburst that results in 0.25 percent or more methane in the mine atmosphere, (b) there is a blowout that results in 0.25 percent or more methane in the mine atmosphere, (c) there is an ignition of methane, or (d) air sample results indicate 0.25 percent or more methane in the mine atmosphere of a I–B, I–C, II–B, V–B, or Category VI mine. Under sections 57.22239 and 57.22231, if methane reaches 2.0 percent in a Category IV mine or if methane reaches 0.25 percent in the mine atmosphere of a Subcategory I–B, II–B, V–B, or VI mine, MSHA shall be notified immediately. Although the standards do not specify how MSHA is to be notified, MSHA anticipates that the notifications would be made by telephone.

Title 30 CFR 57.22229 and 57.22230 require that the mine atmosphere be tested for methane and/or carbon dioxide at least once every seven days by a competent person or atmospheric monitoring system or a combination of both. Section 57.2229 applies to underground metal and nonmetal mines mines categorized as I–A, III, and V–A mines where the atmosphere is tested for both methane and carbon dioxide. Section 57.22230 applies to underground metal and nonmetal mines mines categorized as II–A mines where the atmosphere is tested for methane. Where examinations disclose hazardous conditions, affected miners must be informed. Title 30 CFR 57.22229(d) and 57.22230(c) require that the person performing the tests certify by signature and date that the tests have been conducted. Certifications of examinations shall be kept for at least one year and made available to authorized representatives of the Secretary of Labor.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on MSHA's Web site and on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, VA. Sign in at the receptionist's desk on the 21st floor.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Notification of Methane Detected in Underground Metal and Nonmetal Mine Atmospheres. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0103.

Affected Public: Business or other for-profit.

Number of Respondents: 4.

Frequency: On occasion.

Number of Responses: 213.

Annual Burden Hours: 18 hours.

Annual Respondent or Recordkeeper Cost: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 21, 2015.

Sheila McConnell,

Certifying Officer.

[FR Doc. 2015–12842 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO)

AGENCY: Veterans' Employment and Training Service (VETS), Labor.

ACTION: Notice of ACVETEO Charter Renewal.

SUMMARY: In accordance with section 4110 of Title 38, U.S. Code, and the provisions of the Federal Advisory Committee Act (FACA) and its implementing regulations issued by the U.S. General Services Administration (GSA), the Secretary of Labor is renewing the charter for the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO).

The ACVETEO's responsibilities are to: (a) Assess employment and training needs of veterans and their integration into the workforce; (b) determine the extent to which the programs and activities of the Department of Labor (DOL) are meeting such needs; (c) assist the Assistant Secretary for Veterans' Employment and Training (ASVET) in conducting outreach to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans; (d) make recommendations to the Secretary of Labor, through the ASVET, with respect to outreach activities and the employment and training needs of veterans; and (e) carry out such other activities deemed necessary to making required reports and recommendations under section 4110(f) of Title 38, U.S. Code.

Per section 4110(c)(1) of Title 38, U.S. Code, the Secretary of Labor shall appoint at least twelve, but no more than sixteen, individuals to serve as Special Government Employees of the ACVETEO as follows: Seven individuals, one each from the following organizations: (i) The Society for Human Resource Management; (ii) the Business Roundtable; (iii) the National Association of State Workforce Agencies; (iv) the United States Chamber of Commerce; (v) the National Federation of Independent Business; (vi) a nationally recognized labor union or organization; and (vii) the National Governors' Association. The Secretary shall appoint not more than five individuals nominated by veterans' service organizations that have a national employment program and not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of DOL. Members will serve as Special Government Employees.

The ACVETEO will function in compliance with the provisions of the FACA, and its charter will be filed under the FACA. For more information, contact Timothy A. Green, Designated Federal Official, ACVETEO, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4700.

Signed at Washington, DC, on May 20, 2015.

Keith Kelly,

Assistant Secretary for Veterans' Employment and Training Service.

[FR Doc. 2015–12923 Filed 5–27–15; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–043]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize agencies to preserve records of continuing value in the National Archives of the United States and to destroy, after a specified period, records lacking administrative, legal, research, or other value. NARA publishes notice for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: NARA must receive requests for copies in writing by June 29, 2015. Once NARA completes appraisal of the records, we will send you a copy of the schedule you requested. We usually prepare appraisal memoranda that contain additional information concerning the records covered by a proposed schedule. You may also request these. If you do, we will also provide them once we have completed the appraisal. You have 30 days after we send these requested documents in which to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR); 8601 Adelphi Road; College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

Fax: 301–837–3698.

You must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and a mailing address. If you would like an appraisal report, please include that in your request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, by mail at Records Management Services (ACNR); National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, by phone at 301–837–1799, or by email at *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year, Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless otherwise specified. An item in a schedule is media neutral when an agency may apply the disposition instructions to records regardless of the medium in which it has created or maintains the records. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No agencies may destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after a thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value.

In addition to identifying the Federal agencies and any subdivisions requesting disposition authority, this notice lists the organizational unit(s) accumulating the records or that the schedule has agency-wide applicability (in the case of schedules that cover records that may be accumulated throughout an agency), provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction), and includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. You may request additional information about the disposition process at the addresses above.

Schedules Pending:

1. Department of the Army, Agency-wide (DAA–AU–2015–0013, 1 item, 1 temporary item). Master files of an electronic information system used to track soldier career development training.

2. Department of the Army, Agency-wide (DAA–AU–2015–0023, 1 item, 1 temporary item). Master files of an electronic information system that contains soldier assignment data.

3. Department of Defense, Office of the Secretary of Defense (DAA–0330–2015–0005, 3 items, 3 temporary items). Records relating to cybersecurity, including assessments, incident response and master files of an electronic information system containing incident reports.

4. Department of Defense, Office of the Secretary of Defense (DAA–0330–2015–0006, 2 items, 2 temporary items). Records relating to sexual assault case files including victim reporting preference statements and forensic examination reports.

5. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0003, 1 item, 1 temporary item). Audit records including findings and recommendations, progress reports and related correspondence.

6. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0006, 1 item, 1 temporary item). Agency-wide administrative policy letters.

7. Department of Defense, Defense Threat Reduction Agency (DAA–0374–2014–0029, 1 item, 1 temporary item). Continuity of operations plans and planning records.

8. Department of Homeland Security, Immigration and Customs Enforcement (DAA–0567–2015–0002, 2 items, 2 temporary items). Master files of an electronic information system maintaining detainee health records.

9. Department of State, Bureau of Diplomatic Security (DAA–0059–2014–0020, 5 items, 5 temporary items). Records of the Office of Domestic Facilities Protection used to manage operational security and security support programs.

10. Court Services and Offenders Supervision Agency for the District of Columbia, Pretrial Services Agency (DAA–0562–2013–0018, 16 items, 16 temporary items). Drug testing records related to defendant and offender results, sample handling and testing, and instrument calibration and maintenance.

11. Environmental Protection Agency, Agency-wide (DAA–0412–2013–0018, 5 items, 4 temporary items). Permit records, including administrative records maintained separately from the permit files; routine permits; dredging and fill permits; and financial and state assurance documents. Proposed for permanent retention are historically significant permits.

12. Peace Corps, Director's Office (DAA–0490–2013–0003, 2 items, 2 temporary items). Records of the Office of Victim Advocacy related to support services for those who have been the victim of a crime.

Dated: May 19, 2015.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2015–12887 Filed 5–27–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request; for Reinstatement, With Change, of a Previously Approved Collection; Notice of Change of Officials and Senior Executive Officers Forms

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: NCUA intends to submit a collection of information related to the Notice of Change of Officials and Senior Executive Officers Forms to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments will be accepted until June 29, 2015.

ADDRESSES: Comments should be directed to: (i) Desk Officer for the National Credit Union Administration, 3133–0121, U.S. Office of Management and Budget, 725 17th Street NW., #10102, Washington, DC 20503, *oirasubmission@omb.eop.gov*; and (ii) Jessica Khouri, 1775 Duke Street, Alexandria, VA 22314–3428, *OCIOPRA@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Jessica Khouri at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at *OCIOPRA@ncua.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is requesting an extension of the previously approved collection for 3133–0121. The Federal Credit Union (FCU) Act specifically requires all federally insured credit unions to notify NCUA at least 30 days prior to a change in official or senior executive officer if that credit union is newly chartered or in troubled condition. During that 30-day period, NCUA can disapprove the credit union's request. Since the last submission for 3133–0121, NCUA amended 12 CFR 701.14 to redefine ''troubled condition'' in relation to federally insured state chartered credit unions (FISCUs). The revised rule redefines a FISCU in ''troubled condition'' to be not only when its state supervisory authority (SSA) assigns it a ''4'' or ''5'' composite code rating, but

also when either its SSA or NCUA assigns such a rating. Prior definitions of troubled credit unions did not include FISCUs rated a code 4 or 5 only by NCUA.

The FCU Act requires notice from the insured credit union to include certain personal information about the individual to determine the individual's fitness for the position. NCUA regulation at 12 CFR 701.14 implements Section 212. Section 701.14 requires that within 10 calendar days of receiving the notice, the Regional Director must inform the credit union either that the notice is complete or that additional specified information is required to be submitted within 30 calendar days. Additionally, this section requires the Regional Director or Director of Office of National Examinations and Supervision to issue a written decision of approval or disapproval to the individual and the credit union within 30 calendar days of receipt of the notice. Otherwise, the individual is approved. NCUA's regulation at 12 CFR 741.205 requires federally insured state-chartered credit unions to follow section 701.14.

NCUA's regulations at 12 CFR part 747 (subpart J) sets forth the rights an individual or a credit union may exercise and procedures to be followed in responding to a notice of disapproval by NCUA.

NCUA's forms 4063 and 4063a provide a uniform method for credit unions and individuals to submit information to NCUA regarding changes to officials and senior executive officers. NCUA uses the information to determine an individual's fitness for the position.

In the **Federal Register** of January 22, 2015 (80 FR 3255), NCUA published a 60-day notice requesting public comment on the proposed collection of information. NCUA received no comments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

NCUA requests that you send your comments on the information collection requirements outlined by 12 CFR 701.14 to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Notice of Change of Officials and Senior Executive Officers Forms.

OMB Number: 3133–0121.

Form Number: NCUA Form 4063 and NCUA Form 4063a.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: To comply with statutory requirements, NCUA must obtain sufficient information from new officials or senior executive officers of newly chartered or troubled credit unions to determine the individual's fitness for the positon. This is established by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. These forms standardize the information gathered to evaluate the individual's fitness for the position.

Respondents: Credit unions defined as newly chartered or in troubled condition and individuals applying for senior executive officer or official positions within a credit union defined as newly chartered or in troubled condition.

Estimated Number of Respondents/Record keepers: 424.

Estimated Burden Hours per Response: 1–2 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 1,907 hours.

Estimated Total Annual Cost: $34,948.

By the National Credit Union Administration Board on May 21, 2015.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2015–12814 Filed 5–27–15; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review; Reinstatement of a Previously Approved Collection; Comment Request; Loans in Areas Having Special Flood Hazards

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for Comment.

SUMMARY: National Credit Union Administration is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The purpose of this notice is to allow for 30 days of public comment.

This information collection is published to obtain comments from the public. The information collection relates to the requirements under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (Flood Acts),[1] as amended by the National Flood Insurance Reform Act of 1994.[2] NCUA has implemented these flood insurance requirements in its regulations. Under the Flood Acts and the regulations, federally insured credit unions must follow recordkeeping and disclosure provisions regarding certain loans that require flood insurance.

DATES: Comments will be accepted until June 29, 2015.

ADDRESSES: Interested persons are invited to submit comments to:

(i) Desk Officer for the National Credit Union Administration, 3133–0143, U.S. Office of Management and Budget, 725 17th Street NW., #10102, Washington, DC 20503, *oirasubmissions@omb.eop.gov;* and

(ii) Jessica Khouri, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–837–2861, *OCIOPRA@NCUA.GOV.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Jessica Khouri by mail at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, by fax at Fax No. 703–837–2861, or by email at *OCIOPRA@NCUA.GOV.*

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 3133–0143 (12 CFR part 760, Loans in Areas Having Special Flood Hazards). The Flood Acts made the purchase of flood insurance mandatory in connection with loans made by

[1] These statutes are codified at 42 U.S.C. 4001–4129.

[2] Title V of the Riegle Community Development and Regulatory Improvement Act of 1994, also known as the National Flood Insurance Reform Act of 1994, comprehensively amended the Federal flood insurance statutes. *See* Public Law 103–325, 108 Stat. 2255 (1994).

regulated lending institutions (such as credit unions) when the loans are secured by improved real estate or mobile homes located in a special flood hazard area in a participating community. NCUA, along with other financial institution regulators, issued regulations governing the lending institutions they supervise. Therefore, under part 760 of NCUA's regulations, a federally insured credit union shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. A designated loan means a loan secured by a building or mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the Flood Acts. The credit union must also provide certain disclosures to borrowers and abide by recordkeeping requirements.

Specifically, a federally insured credit union is required to:

- Retain a completed copy of the Standard Flood Hazard Determination Form developed by the Federal Emergency Management Agency (FEMA). This form is used by lenders, such as credit unions, to document their determination of whether a building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available.
- Notify a borrower and the servicer when a building or mobile home offered as collateral security for a loan is determined to be in a special flood hazard area and notify them whether flood insurance is available.
- Notify a borrower and the servicer if the secured property becomes newly located in a special flood hazard area due to remapping of flood hazard areas by FEMA, which would obligate the borrower to obtain flood insurance. In addition, the credit union or its servicer must purchase flood insurance on the borrower's behalf if the borrower, after notification, fails to obtain mandated flood insurance due to remapping, and charge the borrower for the cost.
- Notify a borrower whose mandated flood insurance policy has expired or if the policy covers an amount less than the required amount, of the borrower's obligation to obtain a flood insurance policy for the required amount. If the borrower fails to obtain a flood insurance policy for the required amount following this notification, the credit union or its servicer must purchase flood insurance on the borrower's behalf and charge the borrower for the cost.
- Notify FEMA of the identity of, and any change in, the servicer of a loan secured by a building or mobile home located or to be located in a special flood hazard area.

On August 12, 2013, NCUA published a notice in the **Federal Register** (78 FR 48912) requesting public comments for 60 days on the reinstatement of 3133–0143, a previously approved information collection for 12 CFR part 760 (Loans in Areas Having Special Flood Hazards). NCUA received no comments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. NCUA requests that you send your comments on this collection to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Loans in Areas Having Special Flood Hazards, 12 CFR part 760.

OMB Number: 3133–0143.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Description: Federally insured credit unions are required by the Flood Acts and 12 CFR part 760 to make certain disclosures and maintain compliance records related to flood insurance.

Borrowers use the disclosed information to make valid purchase decisions. NCUA uses the maintained records to verify compliance with the Flood Acts and part 760.

Respondents: Federally insured credit unions granting real estate loans.

Estimated No. of Respondents: 4,032 credit unions.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 102,144.

Estimated Total Annual Cost: $4.43 million.

The following are the specific underlying ICRs that comprise the total:

ICR related to required recordkeeping of the Standard Flood Hazard Determination Form.

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 270.

Estimated Time per Response: 2.5 minutes (1/24 hour) per loan.

Estimated Annual Burden: 45,360 recordkeeping hours.

ICRs related to disclosures:

1. Notice of Special Flood Hazards to Borrower and Servicer

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 54.

Estimated Time per Response: 5 minutes (1/12 hour) to execute this notice.

Estimated Annual Burden: 18,144 reporting hours.

2. Notice to FEMA of Servicer

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 54.

Estimated Time per Response: 5 minutes (1/12 hour) to execute this notice.

Estimated Annual Burden: 18,144 reporting hours.

3. Notice to FEMA of Change in Servicer

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 27.

Estimated Time per Response: 5 minutes (1/12 hour) to execute this notice.

Estimated Annual Burden: 9,072 reporting hours.

4. Notice to Borrower of Lapsed Mandated Flood Insurance

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 11.

Estimated Time per Response: 5 minutes (1/12 hour) to execute this notice.

Estimated Annual Burden: 3,696 reporting hours.

5. Purchase of Force-Placed Flood Insurance

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 3.

Estimated Time per Response: 15 minutes (1/4 hour) to execute this notice.

Estimated Annual Burden: 3,024 reporting hours.

6. Notice to Borrower and Servicer of Remapping

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 5.

Estimated Time per Response: 5 minutes (1/12 hour) to execute this notice.

Estimated Annual Burden: 1,680 reporting hours.

7. Purchase of Force-Placed Flood Insurance for Borrower from Remapping

Respondents: 4,032 credit unions.

Estimated Annual Frequency of Response: 3.

Estimated Time per Response: 15 minutes (1/4 hour) to execute this notice.

Estimated Annual Burden: 3,024 reporting hours.

Therefore, NCUA estimates that the total burden hours for this collection of information is:

45,360 recordkeeping hours.
56,784 disclosure hours.
102,144 total burden hours.

By the National Credit Union Administration Board on May 21, 2015.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2015–12821 Filed 5–27–15; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–040 and 52–041; NRC–2009–0337]

Combined License Application for Turkey Point Nuclear Plant, Units 6 and 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; request for comment; reopening of comment period.

SUMMARY: On June 30, 2009, the Florida Power and Light Company (FPL) submitted an application for combined licenses (COL) for two nuclear power reactors, Turkey Point Units 6 and 7, at the Turkey Point site near Homestead, Florida (Application). On March 5, 2015, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (USACE), Jacksonville District, issued a **Federal Register** notice in which the NRC solicited comments on NUREG–2176, ''Draft Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Nuclear Plant, Units 6 and 7,'' to support the environmental review of the application. The public comment period closed on May 22, 2015. The NRC has decided to reopen the public comment period to allow more time for members of the public to develop and submit their comments. The reopened comment period will expire on July 17, 2015.

DATES: The comment period for the document published on March 5, 2015 (80 FR 12043), has been reopened. Comments should be filed no later than July 17, 2015. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0337. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alicia Williamson, telephone: 301–415–1878; email: *Alicia.Williamson@nrc.gov* or Jennifer Dixon-Herrity, telephone: 301–415–2967; email:*Jennifer.Dixon-Herrity@nrc.gov.* Both are staff of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2009–0337 when contacting the NRC about the availability of information regarding this action. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0337.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the 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. The draft environmental impact statement (DEIS) is available in ADAMS under Accession Nos. ML15055A103 and ML15055A109.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *Project Web site:* In addition, the DEIS can be accessed online at the Turkey Point COL specific Web page at *http://www.nrc.gov/reactors/new-reactors/col/turkey-point/documents.html.*

B. Submitting Comments

Please include Docket ID NRC–2009–0337 in the subject line of your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

By letter dated June 30, 2009, FPL submitted the application for COLs for Turkey Point Units 6 and 7, in which it proposed to construct and operate two new nuclear power units at its Turkey Point site near Homestead, Florida. Among other items, the application included an environmental report (ER), which documented FPL's assessment of

the environmental impacts of the proposal. The NRC staff published a notice of intent to prepare a DEIS and to conduct a scoping process in the **Federal Register** on June 15, 2010 (75 FR 33851). On March 5, 2015 (80 FR 12043), the NRC solicited comments on NUREG–2176, ''Draft Environmental Impact Statement for Combined Licenses (COLs) for Turkey Point Nuclear Plant, Units 6 and 7,'' to support the environmental review for the application. The public comment period closed on May 22, 2015.

The NRC's regulations set a minimum public comment period of 45 days for a draft environmental impact statement, and contemplate reasonable requests for a 15-day extension, if practicable (10 CFR 51.73). In the **Federal Register** notice announcing the availability of the Turkey Point DEIS, the NRC staff allowed 75 days for public comment, *i.e.,* the NRC staff already included two 15-day extensions to the minimum comment period for the DEIS (80 FR 12043). On May 5, 2015, the USACE forwarded to the NRC staff a request from the Seminole Tribe of Florida (Tribe) to extend the comment period on the DEIS until July 13, 2015. The Tribe requested this additional time in order to formulate comments on the DEIS after the Tribe meets with the USACE and the NRC staff to discuss the DEIS. The meeting is currently scheduled for June 23, 2015. In the peculiar circumstances present here, the Tribe was unable to meet with the USACE and the NRC staff in time to submit comments within the original comment period, *i.e.,* by May 22, 2015. The NRC staff has reviewed the Tribe's request, and considered that the meeting with the Tribe cannot be held until close to the last week of June and that two other Federal agencies have requested to extend the comment period. The NRC staff has determined that the Tribe's requested extension is warranted to allow the Tribe to provide reasoned comments in light of information discussed in the meeting scheduled for June 23, 2015, and is practicable, within the constraints of the NRC staff review schedule for the application. The NRC staff, however, is not limiting the reopened comment period to the Tribe. Accordingly, the NRC has decided to reopen the public comment period on the DEIS (NUREG–2176) until July 17, 2015.

Dated at Rockville, Maryland, this 21st day of May, 2015.

For the Nuclear Regulatory Commission.

Frank M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2015–12935 Filed 5–27–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–38; Order No. 2499]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 80 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 29, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

On May 21, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 80 negotiated service agreement (Existing Agreement) approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment. *Id.* Attachment A.

The Postal Service also filed the unredacted Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. Notice at 1. The Postal Service states that the Amendment does not materially affect cost coverage; therefore, the supporting financial documentation and certification originally filed in this docket remain applicable. *Id.*

The Amendment revises section I.C. of the Existing Agreement and requires the customer to submit a written list of permit numbers used for shipment of packages and only reported permit numbers will count toward the volume commitment. *Id.* Attachment A at 1. In addition, section I.E. revises the total volume commitment for the customer during the remaining years of the Existing Agreement. *Id.*

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. *Id.* Notice at 1.

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 29, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–38 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Cassie D'Souza to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than May 29, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–12907 Filed 5–27–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–25; Order No. 2498]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 80, with Portions Filed Under Seal, May 21, 2015 (Notice).

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 105 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 29, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On May 21, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 105 negotiated service agreement (Existing Agreement) approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment. *Id.* Attachment A.

The Postal Service also filed the unredacted Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information it has filed under seal. Notice at 1. The Postal Service states that the Amendment does not materially affect cost coverage; therefore, it asserts that the supporting financial documentation and certification remain applicable. *Id.*

The Amendment replaces section I.B of the Existing Agreement, which concerns the minimum commitment required for eligibility for certain prices. *Id.* Attachment A at 1.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1.

II. Notice of Filing

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than May 29, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints James F. Callow to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2015–25 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, the Commission appoints James F. Callow to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than May 29, 2015.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–12906 Filed 5–27–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 105, with Portions Filed Under Seal, May 21, 2015 (Notice).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75025; File No. SR–CFE–2015–004]

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing of a Proposed Rule Change Regarding Audit Trail Retention Requirements

May 21, 2015.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 8, 2015 CBOE Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'')[2] on May 8, 2015.

[1] 15 U.S.C. 78s(b)(7).

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to amend its rules related to audit trail retention requirements. The scope of this filing is limited solely to the application of the rule amendments to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE's Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index security futures. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed CFE rule amendments included as part of this rule change is to amend CFE's requirements regarding the maintenance of front-end audit trail information under CFE Rule 403 (Order Entry). The rule amendments included as part of this rule change are to apply to all products traded on CFE, including both non-security futures and security futures.

CFE Rule 403(c) currently requires every CFE Trading Privilege Holder (''TPH'') to maintain front-end audit trail information for all electronic orders entered into CFE's trading system, including order modifications and cancellations. The amendments provide that only CFE clearing members[3] and

[2] 7 U.S.C. 7a–2(c).

[3] CFE Rule 121 defines ''Clearing Member'' to mean a member of The Options Clearing Corporation (''OCC'') that is a CFE TPH and that is authorized under OCC Rules to clear trades in any or all CFE contracts.

TPHs that are futures commission merchants (''FCMs'') or introducing brokers (''IBs'') are required by Rule 403(c) to maintain front-end audit trail information for all electronic orders as well as quotes entered by that party into CFE's trading system, including all related modifications and cancellations. In addition, the amendments provide that each CFE clearing member must also maintain, or cause to be maintained, front-end audit trail information for all electronic orders and quotes entered into CFE's trading system by any TPH for which the clearing member is identified in the order or quote submission as the clearing member for the execution of the order or quote, including all related modifications and cancellations. Because the first amended sentence of Rule 403(c) requires each CFE clearing member to maintain audit trail information entered by that party and the second amended sentence of Rule 403(c) requires each CFE clearing member to maintain audit trail information where the clearing member has been identified as the clearing member for the execution, there is the potential for some limited overlap in the information CFE clearing members must maintain under these two provisions. In addition, the amendments make clear that each TPH is still obligated to comply with the provisions of CFTC Regulation 1.35 [4] as applicable to that TPH notwithstanding any of the provisions of Rule 403(c). Among other things, CFTC Regulation 1.35 provides requirements relating to records that FCMs, IBs, and members of a designated contract market (''DCM'') must retain. Lastly, the amendments change the title of Rule 403 from ''Order Entry'' to ''Order Entry and Maintenance of Front-End Audit Trail Information'' to provide greater clarity as to the requirements covered by the Rule.

Front-end audit trail information is a chronological record that provides documentary evidence of the transactions effected on CFE's trading system. The CFTC's DCM Core Principle 10 (Trade Information) [5] and the CFTC's related regulations codified in CFTC Regulations 38.551–553 [6] require that a DCM maintain an audit trail program in order to prevent and detect customer and market abuse.

CFE is proposing these amendments for the following reasons. First, when CFE initially established its audit trail program and set forth CFE Rule 403, CFE provided that each TPH was required to maintain front-end audit trail information sufficient to allow CFE to conduct an annual audit trail exam of that TPH, a requirement that went above and beyond what the CFTC requires. The CFTC permits CFE to require clearing members to retain this information for purposes of audit trail exams and to conduct audit trail exams of clearing members in lieu of conducting them of a clearing member's TPH customers. Since Rule 403's inception, there is now an efficient format and mechanism for CFE clearing members to obtain CFE audit trail data for their TPH customers, whereas there was no such format and mechanism when CFE established its current requirements related to the maintenance of front-end audit trail information. Second, it is more efficient for CFE to collect audit trail data from its clearing members than all of its TPHs for audit trail reviews and doing so will enhance the effectiveness of CFE's regulatory program. CFE clearing members now have a standardized method for maintaining and submitting audit trail data of their TPHs, and CFE will be able to access all of the same audit trail information CFE currently can access under Rule 403's current language. Finally, other futures exchanges currently have similar requirements in place.[7]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(5) [9] and 6(b)(7) [10] in particular in that it is designed:

- 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, and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would strengthen and make more efficient and effective CFE's administration of its audit trail program which will contribute to preventing and detecting customer and market abuse. The change provides that only CFE clearing members and TPHs that are FCMs or IBs, rather than all TPHs, are required to maintain front-end audit trail information for all electronic orders as well as quotes entered into CFE's trading system, including all related modifications and cancellations. In addition, the change provides that CFE clearing members must also maintain, or cause to be maintained, this information for their TPH customers. This proposed rule change promotes efficiencies because CFE clearing members now have available an efficient format and mechanism to obtain CFE audit trail data for their TPH customers. In addition, it is more efficient for CFE to collect audit trail data from its clearing members than all of its TPHs for audit trail reviews and doing so will enhance the effectiveness of CFE's regulatory program. Finally, this proposed rule change is consistent with the requirements of other futures exchanges. In summary, CFE is requiring the same audit information to be maintained and is simply changing who is required to keep it.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the rule change will enhance CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the amendments regarding the maintenance of front-end audit trail information apply equally to all parties that are subject to the applicable requirements.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective on or after May 22, 2015, on a date to be announced by the Exchange through the issuance of a circular. At any time within 60 days of

[4] 17 CFR 1.35.

[5] 17 CFR 38.550.

[6] 17 CFR 38.551–553.

[7] See CME Rule 536.B.2 (''Clearing members guaranteeing a connection to Globex are responsible for maintaining or causing to be maintained the electronic audit trail for such systems.''); ICE Futures U.S. Rule 27.12A (''Each Clearing Member connecting to the ETS [ICE electronic trading system] by Direct Access is responsible for (1) maintaining or causing to be maintained . . . the audit trail for all orders submitted to the Exchange through its Direct Access connection and any Order Routing system. . . .'').

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(7).

the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[11]

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–CFE–2015–004 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–CFE–2015–004. 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–CFE–2015–004, and should be submitted on or before June 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12831 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(1).

[12] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75030; File No. SR–DTC–2015–006]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify That Participants Are Required To Participate in Operational Testing by DTC, Including Testing of DTC's Business Continuity and Disaster Recovery Plans

May 21, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4[2] thereunder, notice is hereby given that on May 12, 2015, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(1)[4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a change to Rule 2 of the Rules of DTC to clarify that Participants are required to participate in operational testing by DTC, including testing of DTC's business continuity and disaster recovery plans, as more fully described below.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

[5] Terms not otherwise defined herein have the meaning set forth in the DTC Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to DTC's Rule 2 (Participants and Pledgees), a DTC Participant is required to have ''adequate physical facilities, books and records and procedures to fulfill its anticipated commitments to, and to meet the operational requirements of, the Corporation, other Participants and Pledgees with necessary promptness and accuracy and to conform to any condition and requirement which the Corporation reasonably deems necessary for its protection.'' DTC is proposing to update Rule 2, as marked on Exhibit 5 hereto,[6] in order to clarify that this requirement may include engagement in operational testing, including testing of DTC's business continuity and disaster recovery plans. The proposed change to Rule 2 reflects an existing policy with respect to the meaning of an existing rule, and will provide transparency regarding an existing requirement.

2. Statutory Basis

The proposed rule change is consistent with the Ac [sic], and the rules and regulations thereunder, in particular Section 17A(b)(3)(F)[7] because it will promote the prompt and accurate clearance and settlement of securities transactions in that it will provide clarity to DTC Participants regarding their membership requirements.

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change will not have any impact, or impose any burden, on competition.

[6] The Commission notes that Exhibit 5 is attached to the filing, not to this Notice.

[7] 15 U.S.C. 78q–1(b)(3)(F).

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [8] of the Act and paragraph (f) of Rule 19b–4 [9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2015–006 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–DTC–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 Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site. (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2015–006 and should be submitted on or before June 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12834 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75029; File No. SR–CBOE–2015–051]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay Implementation of Rule 15.2A

May 21, 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 May 20, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of Rule 15.2A. There is no proposed change to the rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 13, 2014, the Commission approved CBOE Rules 6.53(y) and 15.2A.[5] Rule 6.53(y) defines a tied to stock order [6] and requires the representing Trading Permit Holder to include an indicator on each tied to stock order upon systemization, subject to certain exceptions. Rule 15.2A requires, in a manner and form prescribed by the Exchange, each Trading Permit Holder (''TPH''), on the business day following the order execution date, to report to the Exchange certain information regarding the executed stock or convertible security legs of qualified contingent cross (''QCC'') orders,[7] stock-option

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Securities Exchange Act Release No. 72839 (August 13, 2014), 79 FR 49123 (August 19, 2014) (SR–CBOE–2014–040) (order approving Rules 6.53(y) and 15.2A).

[6] Rule 6.53(y) provides that an order is ''tied to stock'' if, at the time the Trading Permit Holder representing the order on the Exchange receives the order (if the order is a customer order) or initiates the order (if the order is a is a proprietary order), has knowledge that the order is coupled with an order(s) for the underlying stock or a security convertible into the underlying stock (''convertible security'' and, together with underlying stock, ''non-option'').

[7] A QCC order is an order to buy (sell) at least 1,000 standard option contracts or 10,000 mini-option contracts that is identified as being part of a qualified contingent trade coupled with a contra-side order to sell (buy) an equal number of contracts. These orders may only be entered in the standard increments applicable to simple orders in

orders and other tied to stock orders that the TPH executed on the Exchange that trading day. The Exchange stated in rule filing SR–CBOE–2014–040 that it would issue a circular announcing the implementation date for these rules within 90 days of the date of filing, which implementation date would be within 180 days of the date of filing.

On January 7, 2015, CBOE submitted a rule filing to delay the implementation of these rules based on feedback it received from TPHs.[8] The Exchange stated in that rule filing that it would issue a circular announcing the implementation date for the rules within 90 days of the date of the rule filing, which implementation date would be within 180 days of the date of filing. In accordance with that filing, the Exchange recently issued a regulatory circular on April 7, 2015, which announced a July 1, 2015 implementation date for the tied to stock marking and reporting requirements.[9]

While the Exchange believes there has been sufficient training and circulars provided to Trading Permit Holders on the marking requirement to move forward with implementation of that requirement on July 1, 2015, the Exchange believes it is appropriate to delay the implementation of the reporting requirement. Therefore, the Exchange proposes to further delay the implementation date of the tied to stock reporting requirement for tied to stock orders.[10] During this time, the Exchange plans to evaluate the information obtained via the marking requirement under Rule 6.53(y) in conjunction with information available through other sources and further consider the reporting requirement format. In that regard, the Exchange notes that CBOE recently entered into a Regulatory Services Agreement with the Financial Industry Regulatory Authority, Inc. (''FINRA''). As a result, CBOE plans to evaluate the format of the reports with FINRA to ensure that the information to be provided in the reports can be incorporated into surveillances in an efficient and effective manner.[11] Therefore, the Exchange seeks to extend the implementation date of Rule 15.2A until the Exchange can conclude whether or not this additional information is necessary in order to enhance its ability to effectively monitor and conduct surveillance of the CBOE markets with respect to orders that are tied to stock whose execution information is not electronically captured by the audit trail.[12]

The Exchange expects its evaluation to be completed and to implement the reporting requirement within 12 to 18 months of the date of this filing. This will provide CBOE with sufficient time to conduct this evaluation and TPHs with sufficient time to implement any potential changes to the reporting requirement format. The Exchange will issue a regulatory circular announcing the new implementation date for the reporting requirement as least 90 days prior to that date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the delayed implementation of Rule 15.2A will provide the Exchange with sufficient time to evaluate the information obtained through the marking requirement and the related reporting requirement format to ensure that the Exchange receives reports from TPHs in a manner that can be incorporated into surveillance systems in an efficient and effective manner. This will ultimately improve the Exchange's ability to tie executed non-option legs to the applicable option legs that were separately submitted for execution, which will assist in the Exchange's efforts to prevent fraudulent and manipulative acts and practices with respect to tied to stock orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change does not impose any burden on competition, as it is simply seeking to delay the implementation of the tied to stock reporting requirement.

the options class under Rule 6.42. For purposes of this order type, a ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. QCC orders may execute without exposure provided the execution is not at the same price as a public customer order resting in the electronic book and is at or between the national best bid or offer. A QCC order will be cancelled if it cannot be executed. *See* Rule 6.53(u). The Exchange notes that it deactivated the QCC functionality effective August 11, 2014 and will announce any reactivation of QCC functionality by Regulatory Circular. *See* Regulatory Circular RG14–121.

[8] Securities Exchange Act Release No. 74067 (January 15, 2015), 80 FR 3267 (January 22, 2015) (SR–CBOE–2015–004) (notice of immediate effectiveness of rule filing).

[9] CBOE Regulatory Circular RG15–056 (April 7, 2015).

[10] Pursuant to Regulatory Circular RG13–102, CBOE imposed a reporting requirement with respect to QCC orders prior to the adoption of Rule 15.2A. Once the Exchange implements Rule 15.2A, the reporting requirement in that rule will supersede the current QCC order reporting requirement described in that circular. As noted above, QCC functionality is currently not active. However, if the Exchange reactivates the functionality prior to implementation of Rule 15.2A, then the reporting requirement for QCC orders described in Regulatory Circular RG13–102 will continue to be in effect until the implementation of Rule 15.2A.

[11] During this delay, CBOE intends to review the number of tied to stock orders for which information regarding the stock or convertible security leg is not available from CBOE's internal data, which will permit CBOE to evaluate the number of reports it can expect to receive and the potential impact of the reports on CBOE's surveillances.

[12] The Exchange notes that Rule 15.2A, Interpretation .03 provides that a Market-Maker (or its clearing firm) may include the information required by Rule 15.2A in the equity reported submitted to CBOE pursuant to Rule 8.9(b). Because the proposed rule change is delaying the implementation of Rule 15.2A, Market-Makers (or their clearing firms) will continue to submit reports pursuant to Rule 8.9(b) in the same manner they do today.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 [16] and Rule 19b–4(f)(6) [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–CBOE–2015–051 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE-*2015–051.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE-*2015–051* and should be submitted on or before June 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12833 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75031; File No. SR–NASDAQ–2015–023]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade the Shares of the Tuttle Tactical Management Multi-Strategy Income ETF of ETFis Series Trust I

May 21, 2015.

I. Introduction

On March 25, 2015, The NASDAQ Stock Market LLC (''Exchange'' or ''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to list and trade shares (''Shares'') of the Tuttle Tactical Management Multi-Strategy Income ETF (''Fund''), a series of ETFis Series Trust I (''Trust'') under NASDAQ Rule 5735. The proposed rule change was published for comment in the **Federal Register** on April 10, 2015.[4] On May 20, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to list and trade the Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Fund will be an actively-managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust.[6] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[7] The Fund is a series of the Trust.

Etfis Capital LLC will be the investment adviser (''Adviser'') to the Fund. Tuttle Tactical Management, LLC will be the investment sub-adviser (''Sub-Adviser'') to the Fund. ETF Distributors LLC will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon will act as the administrator, accounting agent, custodian, and transfer agent to the Fund. The Exchange states that the Adviser and Sub-Adviser are not registered as broker-dealers but that the Adviser is affiliated with a broker-dealer.[8] In addition, the Exchange states that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 74653 (April 6, 2015), 80 FR 19371 (''Notice'').

[5] In Amendment No. 1, the Exchange clarified that under normal market conditions, the Fund will invest only in those assets listed under the ''Principal Investments'' section of the Notice. Amendment No. 1 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[6] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30607 (July 23, 2013).

[7] *See* Registration Statement on Form N–1A for the Trust filed on January 30, 2015 (File Nos. 333–187668 and 811–22819).

[8] *See* Notice, *supra* note 4, 80 FR at 19372.

subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.[9] In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.[10]

The Exchange has made the following representations and statements regarding the Fund.[11]

Investments for the Fund

The Fund's investment objective will be to seek current income while maintaining a secondary emphasis on long-term capital appreciation and low volatility. The Fund will seek to achieve its investment objective by utilizing a long-only, multi-strategy, tactically-managed exposure to the U.S. equity market. To obtain such exposure, the Sub-Adviser will invest, under normal market conditions,[12] the Fund's assets in ETFs, exchange-traded notes (''ETNs''),[13] exchange-traded trusts that hold commodities (''ETTs'') (collectively, ETFs, ETNs and ETTs are referred to hereinafter as ''exchange-traded products'' or ''ETPs''), individually selected U.S. exchange-traded common stocks (when the Sub-Adviser determines that is more efficient or otherwise advantageous to do so), money market funds, U.S. treasuries or money market instruments. The Exchange states that, to the extent that the Fund invests in ETFs or money market funds to gain domestic exposure, the Fund is considered, in part, a ''fund of funds.''

Investment Restrictions

- The Fund will not use derivative instruments, including options, swaps, forwards and futures contracts.
- The Fund will not invest in leveraged, inverse, or leveraged inverse ETPs.
- The Fund's net assets that are invested in exchange-traded equities, including ETPs and common stock, will be invested in instruments that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.[14]
- The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities and other illiquid assets (calculated at the time of investment).[15]
- The Fund does not presently intend to engage in any form of borrowing for investment purposes, and will not be operated as a ''leveraged ETF'', *i.e.,* it will not be operated in a manner designed to seek a multiple of the performance of an underlying reference index.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[17] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[18] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares and any underlying exchange-traded products will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares.

Price information regarding the ETPs, equity securities, U.S. treasuries, money market instruments and money market Funds held by the Fund will be available through the U.S. exchanges trading such assets, in the case of exchange-traded securities, as well as automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Intra-day price information for all assets held by the Fund will also be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by authorized participants and other investors. Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The Commission also believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. On each business day, before commencement of trading in Shares in the Regular Market Session[19] on the

[9] *See id.*

[10] *See id.*

[11] Additional information regarding, among other things, the Fund, the Shares, the Fund's investment objectives, the Fund's strategies, methodology and restrictions, risks; fees and expenses associated with the Shares, creations and redemptions of Shares, availability of price information, trading rules and halts, and surveillance procedures can be found in the Notice and the Registration Statement. *See* Notice, *supra* note 4, and Registration Statement, *supra* note 7, respectively.

[12] The term ''under normal market conditions'' includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[13] The Exchange states that ETNs are limited to those described in Nasdaq Rule 5710.

[14] *See* Notice, *supra* note 4, 80 FR at 19375.

[15] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets. Illiquid securities and other illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[19] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern

Continued

Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio,'' as defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[20] The Web site information will be publicly available at no charge. The NAV will be determined as of the close of trading (normally 4:00 p.m., E.T.) on each day the New York Stock Exchange is open for business. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[21] The Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[22] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[23] The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.[24]

The Exchange represents that it may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[25] Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[26] The Exchange states that the Adviser and Sub-Adviser are not registered as broker-dealers, but that the Adviser is affiliated with a broker-dealer. In addition, the Exchange states that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio.[27] In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.[28]

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of ISG,[29] and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange. Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. In support of this proposal, the Exchange represented that:

(1) The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) Trading in the Shares will be subject to the existing trading surveillances administered by both Nasdaq and FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(3) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 [30] under the Act.

time (''E.T.''); (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

[20] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[21] *See* Notice, *supra* note 4, 80 FR at 19375.

[22] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service. The Exchange represents that GIDS offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs, and that GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

[23] *See id.* at 19374.

[24] *See id.*

[25] These may include: (1) The extent to which trading is not occurring in the securities and/or the other assets constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. *See id.* at 19375.

[26] *See id.*

[27] *See id.* at 19372.

[28] *See supra* text accompanying note 10.

[29] For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[30] *See* 17 CFR 240.10A–3.

(6) The Fund will not use derivative instruments, including options, swaps, forwards and futures contracts, both listed and OTC.

(7) The Fund's net assets that are invested in exchange-traded equities, including ETPs and common stock, will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(8) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities and other illiquid assets (calculated at the time of investment).

(9) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act [31] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[32] that the proposed rule change (SR–NASDAQ–2015–023), as modified by Amendment No. 1, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12835 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75032; File No. SR–NYSEArca–2015–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Modify the Appointment Process Utilized by the Exchange

May 21, 2015.

On March 20, 2015, NYSE Arca, Inc., (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the Market Maker appointment and withdrawal process used by the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 8, 2015.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is May 23, 2015. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would modify the Market Maker appointment and withdrawal process used by the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates July 7, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2015–17).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12836 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74635 (April 2, 2015), 80 FR 18909.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75024; File No. SR–BX–2015–029]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Penny Pilot Options Fees and Rebates

May 21, 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 May 11, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled ''Options Pricing'' and Section 2, entitled ''Options Market—Fees and Rebates''. Specifically, the Exchange proposes to: (1) Decrease the Fee to Add Liquidity in Penny Pilot Options; [3] (2) decrease the Rebate to Remove Liquidity in Penny Pilot Options; and (3) delete the Monthly Volume Tiers that apply to Lead Market Makers.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Penny Pilot Options are options that quote and trade pursuant to the Penny Pilot, an industry-wide program. The Penny Pilot was established on the Exchange in June 2012 and last extended in December 2014. *See* Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030) (order approving BX option rules and establishing Penny Pilot); and 73689 (November 25, 2014), 79 FR 71488 (December 2, 2014) (SR–BX–2014–057) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2015).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Chapter XV, Section 2. Specifically, the Exchange proposes to: (1) Decrease the Fee to Add Liquidity in Penny Pilot Options for Customers [4] and BX Options Market Makers;[5] (2) decrease the Rebate to Remove Liquidity in Penny Pilot Options for Customers; and (3) delete the Monthly Volume Tiers (''Tiers'') that apply to Lead Market Makers (''LMMs'', also known as ''BX LMMs'') [6] when adding liquidity in Penny Pilot Options and contra to a Customer.[7]

Fees and Rebates for Penny Pilot Options

The Penny Pilot, established on the Exchange in 2012, allows options to quote and trade in penny increments. The Exchange's options pricing for execution of contracts on the BX Options Market has a separate section for fees and rebates for Penny Pilot Options.

Currently, Section 2(1) of Chapter XV reflects Penny Pilot Options fees and rebates for Penny Pilot Options for Customer, BX Options Market Maker, and Non Customer [8] as follows:

FEES AND REBATES

[Per executed contract]

	Customer	BX Options Market Maker	Non-Customer [1]
Penny Pilot Options:			
Rebate to Add Liquidity	[2] $0.00	[2] $0.10	N/A
Fee to Add Liquidity	[3] 0.40	[3 4] 0.40	$0.45
Rebate to Remove Liquidity	0.35	N/A	N/A
Fee to Remove Liquidity	N/A	0.46	0.46

There is also one note applicable to the Fee to Add Liquidity for BX Options Market Makers section that does not change.[9]

The Exchange proposes to decrease by a penny the Fee to Add Liquidity in Penny Pilot Options for Customers and BX Options Market Makers, and to decrease by a penny the Rebate to Remove Liquidity in Penny Pilot Options for Customers.[10] As a result, the fees for adding such liquidity will be the same for all Customers and BX Options Market Makers (as well as LMMs); and the rebates for removing such liquidity will be the same for all Customers. Thus, as a result of this filing the Fee to Add Liquidity in Penny Pilot Options for Customers and BX Options Market Makers will decrease to $0.39 (previously $0.40) per executed contract, but only when the Customer or BX Options Market Maker is contra to a Customer. And, as a result of this proposal, the Rebate to Remove Liquidity in Penny Pilot Options for Customers will decrease to $0.34 (previously $0.35) per executed contract, regardless of the contra party. The proposed fee and rebate structure will continue to incentivize adding liquidity on BX.

In addition to reducing the fee and rate schedule as discussed, the Exchange also proposes to delete note 4, which is applicable to the Fee to Add Liquidity in Penny Pilot Options for BX Options Market Makers only. Note 4, which applies to LMMs in their specifically allocated options classes when adding liquidity and contra to a Customer, currently indicates fees of $0.40, $0.38, and $0.37 depending on Monthly Volume Tier A, B, and C thresholds, respectively.[11] Thus, as a result of the deletion of note 4, LMMs would incur, like BX Options Market Makers, a Fee to Add Liquidity in Penny Pilot Options of $0.39 (previously $0.40) per executed contract. The Exchange believes that the current, more complex Tier structure applicable to LMMs is no longer needed in light of the proposed reduction of the fee and rebate, which continues to incentivize bringing Penny Pilot Options liquidity to BX. The Exchange believes that having the same fees and rebates across the board for all Penny Pilot Options will, as discussed, incentivize BX Options Market Makers and Customers to interact with a greater number of Penny Pilot Options orders on the Exchange.

The Exchange believes that the proposed changes are consistent with the Act and raise no novel issues.

[4] The term ''Customer'' means a Public Customer or a broker-dealer, and the term ''Public Customer'' means a person that is not a broker or dealer in securities. *See* Chapter I, Section 1(a)(22) and 1(a)(50).

[5] The term ''BX Options Market Maker'' means an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VII of these Rules. *See* Chapter I, Section 1(a)(9). For discussion regarding Market Maker quotations, *see* Chapter VII, Section 6.

[6] The term ''Lead Market Maker'' or ''LMM'' applies to a registered BX Options Market Maker that is approved pursuant to Chapter VII, Section 13 to be the LMM in an options class (options classes). *See also* Securities Exchange Act Release No. 72883 (August 20, 2014), 79 FR 50971 (August 26, 2014) (SR–BX–2014–035) (order approving introduction of LMMs on BX).

[7] Fees and rebates may together also be referred to as ''fees/rebates'' or ''rates''.

[8] A Non-Customer includes a Professional, Firm, Broker-Dealer and Non-BX Options Market Maker.

[9] Unchanged note 3 is as follows. The Fee to Add Liquidity will be assessed to a Customer or BX Options Market Maker only when the Customer or BX Options Market Maker is contra to a Customer. As discussed, the Exchange proposes to delete note 4, which is currently applicable to the Fee to Add Liquidity for BX Options Market Makers section.

[10] There continues to be no Rebate to Remove Liquidity in Penny Pilot Options available for BX Options Market Makers.

[11] Per note 4, the Tier A threshold is Total Volume up to 0.20% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day; the Tier B threshold is Total Volume above 0.20% to 0.30%; and the Tier C threshold is Total Volume of 0.31% or more. ''Total Volume'' is defined in note 4 as Customer, BX Options Market Marker, LMM, and Non-Customer volume in Penny Pilot Options and/or Non-Penny Pilot Options which either adds or removes liquidity on BX Options. For purposes of determining Monthly Volume Tiers, any day that the market is not open for the entire trading day will be excluded from such calculation.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. BX operates in an intensely competitive environment and seeks to offer the same services that its competitors offer and in which its customers find value.

The Exchange believes that applying the same fees to add liquidity for Customers and BX Options Market Makers in all Penny Pilot Options, and applying the same rebates to remove liquidity for Customers in all Penny Pilot Options, promotes just and equitable principles of trade, and fosters cooperation and coordination with persons engaged in facilitating transactions in Penny Pilot Options. As a result, the fees for adding such liquidity will be the same for all Customers and BX Options Market Makers (as well as LMMs); and the rebates for removing such liquidity will be the same for all Customers.

The proposed rule change also protects investors and the public interest and seeks to establish and promote just and equitable principles of trade by creating more uniformity and consistency related to fees and rebates for Penny Pilot Options. The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange by ensuring fees and rebates that are reasonable and provide incentive for trading Penny Pilot Options on the Exchange. With this proposal, the same fees for adding Penny Pilot Options liquidity will be applicable for Customers and BX Options Market Makers; and the same rebates for removing Penny Pilot Options liquidity will be applicable for Customers.

The proposal to moderately decrease the Fee to Add Liquidity in Penny Pilot Options and the Rebate to Remove Liquidity in Penny Pilot Options, and to delete the Tiers that apply to LMMs, is reasonable, equitable, and not unfairly discriminatory.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Fees and Rebates for Penny Pilot Options

The Exchange's proposal to decrease the Customer and BX Options Market Maker Fee for Removing Liquidity in Penny Pilot Options from $0.40 to $0.39, and to decrease the Customer Rebate for Removing Liquidity in Penny Pilot Options from $0.35 to $0.34 per contract, is reasonable because it will continue to incentivize bringing Penny Pilot Options liquidity to the Exchange. This should benefit all market participants through increased liquidity and order interaction. The Exchange believes that the proposed fee/rebate change will incentivize market participants to select the Exchange as a venue to post liquidity and attract additional order flow to the benefit of all market participants. Increased liquidity provides more trading opportunities, which attracts other market participants, including market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, in constructing the Exchange's fee and rebate program, the Exchange aims to remain competitive with other venues so that it is a superior choice for market participants.

The Exchange believes that its proposal to decrease the Customer and BX Options Market Maker Fee for Removing Liquidity in Penny Pilot Options from $0.40 to $0.39, and to decrease the Customer Rebate for Removing Liquidity in Penny Pilot Options from $0.35 to $0.34 per contract, is equitable and not unfairly discriminatory because the Exchange will assess the fees and rebates uniformly to all members [sic], as applicable regardless of activity level. The fees for adding Penny Pilot Options liquidity will be the same for all Customers and BX Options Market Makers; and the rebates for removing Penny Pilot Options liquidity will be the same for all Customers.

The Exchange will continue to assess all Non-Customers a higher $0.45 fee to Add Liquidity in Penny Pilot Options. The Exchange believes that this is equitable and not unfairly discriminatory. The proposed differentiation between BX Options Market Makers and other market participants such as Non-Customers recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. BX Options Market Makers, unlike other market participants, have obligations to the market and regulatory requirements,[14] which normally do not apply to other market participants. A BX Options Market Maker has the obligation to make continuous markets, engage in course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with such course of dealings. On the other hand, Non-Customers, including Professionals, Firms, Broker-Dealers and Non-BX Options Market Makers, do not have such obligations on the Exchange.

The Exchange further believes that is reasonable to delete the Tiers applicable to LMMs in respect of the Rebate to Remove Liquidity in Penny Pilot Options. The Exchange believes that in light of the proposed reduced fees/rebates discussed herein the Tiers are no longer necessary to incentivize LMMs to provide liquidity. The Exchange believes that under such circumstances it is reasonable and desirable to treat all uniformly in terms of the rates, as discussed.[15]

The Exchange believes that its proposal to delete the Tiers applicable to LMMs is equitable and not unfairly discriminatory because the Exchange will assess the fees and rebates uniformly to all members [sic], as applicable.

The Exchange operates in a highly competitive market, comprised of twelve exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange, as described in the proposal, are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues; that is, the Exchange's fees and rebates must continue to be reasonable and equitably allocated to those members that opt to

[14] Chapter VII, Section 5 indicates that in registering as a Market Maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all such Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* Chapter VII, Sections 5 and 6.

[15] Unlike Customers, BX Options Market Makers and Non-Customers continue not being eligible for any Rebate to Remove Liquidity in Penny Pilot Options.

direct orders to the Exchange rather than competing venues.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, BX has designed its fees and rebates to compete effectively for the execution and routing of Penny Pilot Options contracts on the Exchange.

The Exchange believes that the proposed amended fees and rebates will attract market participants and BX Options Market Makers to engage in market making activities at the Exchange, which results in tighter markets and order interaction and benefits all market participants. Moreover, BX Options Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[16] While BX Options Market Makers will continue to pay a Fee to Add Liquidity in all Penny Pilot Options that will not be higher than for Customers, Customers will pay a fee which is lower than that assessed to Non-Customers. The Exchange believes that this does not present an undue burden on competition because the pricing seeks to reward liquidity providers, which in turn benefits all market participants.

The Exchange believes the proposals discussed herein do not pose an undue burden on intermarket competition. The Exchange operates in a highly competitive market comprised of twelve U.S. options exchanges in which sophisticated and knowledgeable market participants can and do send order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fee and rebate scheme discussed herein is competitive. The Exchange believes that this competitive marketplace materially impacts the fees and rebates present on the Exchange today and substantially influences the proposal set forth above.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[16] In registering as a BX Options Market Maker, an Options Participant commits himself to various obligations. *See* Chapter VII, Sections 5 and 6.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[17] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2015–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–029 and should be submitted on or before June 18, 2015.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12830 Filed 5–27–15; 8:45 am]

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[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75026; File No. SR–CBOE–2015–048]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Exchange Rules Related to Order Tickets

May 21, 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 May 11, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend its rules related to order tickets. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.53. Certain Types of Orders Defined

* * * * *

. . . Interpretations and Policies:

.01 No change.

.02 Complex orders of twelve (12) legs or less (one leg of which may be for an underlying security or security future, as applicable) must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by Regulatory Circular), complex orders of more than twelve (12) legs (one leg of which may be for an underlying security or security future, as applicable) may be split across multiple order tickets if the Trading Permit Holder representing the complex order [includes twelve (12) legs on one of the order tickets] *uses the fewest order tickets necessary to systematize the order* and identifies for the Exchange the order tickets that are part of the same complex order (in a form and manner prescribed by the Exchange).

* * * * *

Rule 24.20. SPX Combo Orders

* * * * *

. . . Interpretations and Policies:

.01 An SPX Combo Order for twelve (12) legs or less must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by Regulatory Circular), an SPX Combo Order for more than twelve (12) legs may be represented or executed as a single SPX Combo Order in accordance with this Rule 24.20 if it is split across multiple order tickets and the Trading Permit Holder representing the SPX Combo Order [includes twelve (12) legs on one of the order tickets] *uses the fewest order tickets necessary to systematize the order* and identifies for the Exchange the order tickets that are part of the same SPX Combo Order (in a manner and form prescribed by the Exchange).

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the order ticket requirements applicable to complex orders in open outcry pursuant to Rule 6.53, as well as SPX Combo Orders [5] pursuant to Rule 24.20.

Background

On February 26, 2015, rule change filing SR–CBOE–2015–011 was approved by the Securities and Exchange Commission (the ''Commission'').[6] As amended by SR–CBOE–2015–011, Rule 6.53 requires complex orders of twelve (12) legs or less (one leg of which may be for an underlying security or security future, as applicable) to be entered on a single order ticket at time of systemization. Rule 6.53, as amended, also states that if permitted by the Exchange (which the Exchange will announce by Regulatory Circular), complex orders of more than twelve (12) legs (one leg of which may be for an underlying security or security future, as applicable) may be split across multiple order tickets, if the Trading Permit Holder (''TPH'') representing the complex order includes twelve (12) legs on one of the order tickets and identifies for the Exchange the order tickets that are part of the same complex order (in a form and manner prescribed by the Exchange).

Rule 24.20, as amended, also requires that an SPX Combo Order for twelve (12) legs or less be entered on a single order ticket at time of systemization. An SPX Combo Order that contains more than twelve (12) legs may be represented and executed as a single SPX Combo Order in accordance with Rule 24.20 if it is split across multiple order tickets and the TPH representing the SPX Combo Order includes twelve (12) legs on one of the order tickets and identifies for the Exchange the order tickets that are part of the same SPX Combo Order (in a manner and form prescribed by the Exchange).

As noted above, SR–CBOE–2015–011 specifically provided that if an open outcry complex order or an SPX Combo Order with more than twelve legs is split across multiple order tickets, one of the order tickets must contain twelve legs. For example, a thirteen leg order could not have seven legs on one ticket and six legs on another ticket; rather, one ticket must have twelve legs and the other ticket must have one leg. However, prior to the Commission's approval of SR–CBOE–2015–011, the Exchange held an informational session for Floor Broker Trading Permit Holders regarding the requirement to use a single order ticket to enter complex orders and SPX Combo Orders of twelve legs or fewer.[7] At the informational session, Floor Broker TPHs indicated that for a 13 leg order in SPX (where the rule requires 12 legs to be on 1 order ticket and the 13th leg to be on a

[5] An ''SPX Combo Order'' consists of an order to purchase or sell one or more SPX option series and the offsetting number of SPX combinations defined by the delta, where an ''SPX combination'' is a purchase (sale) of an SPX call and sale (purchase) of an SPX put having the same expiration date and strike price and a ''delta'' is the positive (negative) number of SPX combinations that must be sold (bought) to establish a market neutral hedge with one or more SPX option series.

[6] Securities Exchange Act Release No. 34–74389 (February 26, 2015), 80 FR 11717 (March 4, 2015) (''Order'').

[7] *See CBOE Information Circular* IC15–012 (February 24, 2015).

separate order ticket), the 13th leg would not be able to execute in complex order increments (pennies) because CBOE's Hybrid System (the ''System'') would block the trade.[8] In effect, the System would treat the 13th leg as a simple order that is ineligible to execute in penny increments.[9]

Additionally, for complex orders with over twelve legs and an equal number of put legs versus call legs, Floor Broker TPHs expressed the desire to place the put legs on one order ticket and the call legs on a separate order ticket. The Floor Broker TPHs indicated that splitting an order across multiple order tickets in this manner is a more efficient and simpler way to price the entire complex order.

Proposal

In an effort to address the above concerns and maintain an effective audit trail, the Exchange is seeking to amend Rules 6.53.02 and 24.20.1 by removing the requirement that for orders with over 12 legs TPHs must include 12 legs on one of the order tickets. As proposed, Rule 6.53.02 will provide:

- Complex orders of twelve (12) legs or less (one leg of which may be for an underlying security or security future, as applicable) must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by Regulatory Circular), complex orders of more than twelve (12) legs (one leg of which may be for an underlying security or security future, as applicable) may be split across multiple order tickets if the Trading Permit Holder representing the complex order uses the fewest order tickets necessary to systematize the order and identifies for the Exchange the order tickets that are part of the same complex order (in a form and manner prescribed by the Exchange).

Proposed Rule 24.20.01 will similarly provide:

An SPX Combo Order for twelve (12) legs or less must be entered on a single order ticket at time of systemization. If permitted by the Exchange (which the Exchange will announce by Regulatory Circular), an SPX Combo Order for more than twelve (12) legs may be represented or executed as a single SPX Combo Order in accordance with this Rule 24.20 if it is split across multiple order tickets and the Trading Permit Holder representing the SPX Combo Order uses the fewest order tickets necessary to systematize the order and identifies for the Exchange the order tickets that are part of the same SPX Combo Order (in a manner and form prescribed by the Exchange).

As noted in the rule text, the Exchange will announce via Regulatory Circular whether an open outcry complex order or SPX Combo Order may have more than 12 legs.[10] In addition, for orders with more than 12 legs, the Exchange will not prescribe the number of legs that must be on each order ticket, except that TPHs must use the fewest number of tickets necessary to systematize the order.[11] This will allow TPHs to split orders with more than 12 legs across multiple order tickets in any manner they choose, provided they use the fewest number of order tickets. For example, a 13 legged order could be split across two order tickets with 6 legs on one order ticket and 7 legs on another ticket but the order could not be split across three order tickets because the fewest number of order tickets required for an order with 13 to 24 legs is two.[12] The only restriction, as provided in the rule text, is that for orders greater than 12 legs TPHs must use the fewest number of order tickets necessary to systematize the order. Without the proposed restriction there would be no limit on the number of order tickets a TPH could use to systematize an order, which could burden the manual process by which the CBOE Regulatory Division reviews these large orders. For example, without the restriction, an order with 13 legs could potentially be split across 13 different order tickets, which would require the Regulatory Division to manually review 13 different order tickets.

The Exchange will announce the implementation date of the proposed rule change, as well as the specific order ticket requirements to be set by the Exchange in accordance with this proposed rule, in a Regulatory Circular to be published within 90 days of the effective date of this filing. The implementation date of this filing will be within 180 days of the effective date of this filing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the

[8] For certain options, SPX options included, single leg orders may not be executed in $0.01 increments, but individual legs of complex orders may be executed in $0.01 increments. *See* Rule 6.42.

[9] The Exchange notes that the System would treat any standalone leg of a complex order in the same manner.

[10] As noted in SR–CBOE–2015–011, current Exchange system limitations prevent a multi-part order with more than 12 legs from being entered on a single order ticket for representation and execution in open outcry as a complex order or SPX Combo Order.

[11] The Exchange notes that the requirement to use the fewest order tickets necessary to systematize an order is not meant to allow the Exchange the flexibility to increase the number of legs that must be on a single order ticket; rather, the Exchange will submit a rule filing to amend Rules 6.53.02 and 24.20.01 if the Exchange seeks to modify the number of legs required to be on a single order ticket.

[12] The fewest number of order tickets necessary to systematize an order is based on the current Exchange system limitation, which caps the number of legs that can be on a single order ticket at 12 legs. Thus, orders with 12–24 legs would be required to be on no more than two order tickets, orders with 25–36 legs would be required to be on no more than three order tickets, and so forth. As previously noted, the Exchange will submit a rule filing to amend Rules 6.53.02 and 24.20.01 if the Exchange seeks to modify the number of legs required to be on a single order ticket.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

proposed rule change is consistent with the Section 6(b)(5) [15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will allow the Exchange to maintain an enhanced audit trail with respect to open outcry complex order processing and SPX Combo Orders, which helps to protect investors and the public interest because an enhanced audit trail promotes transparency and aids in surveillance, as well as, provides the Exchange the ability to better enforce compliance by the Exchange's TPHs (and persons associated with its TPHs) with the Act, the rules and regulations thereunder and the rules of the Exchange, thereby protecting investors. Additionally, the Exchange believes allowing TPHs to split orders across multiple order tickets as proposed would allow TPHs to more quickly and efficiently systematize and execute open outcry complex orders and SPX Combo Orders, which helps to remove impediments to and perfect the mechanism of a free and open market. Finally, the proposal to require TPHs to use the fewest number of order tickets to systematize an order will prevent TPHs from utilizing five order tickets, for example, when two would suffice, which aids in surveillance and provides the Exchange the ability to better enforce compliance by TPHs.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition because the order ticket requirements will be applicable to all TPHs executing complex orders in open outcry and SPX Combo Orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 [16] and Rule 19b–4(f)(6) [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2015–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–048. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–048 and should be submitted on or before June 12, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12832 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[15] *Id.*

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75022; File No. SR–CBOE–2015–049]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees Schedule

May 21, 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 May 11, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective May 11, 2015. On January 2, 2015, the Exchange established an FBW fee for an updated version of FBW (''FBW2''), which the Exchange had anticipated making available shortly thereafter to all TPHs.[3] The Exchange at that time also proposed adopting a fee waiver for the months of January and February 2015, as well as provide that, after March 1, 2015, the monthly fee for FBW2 login IDs would be waived for the first month. The launch of FBW2 however, was delayed and as such the Exchange extended the fee waiver for the months of March and April 2015. Additionally, the Exchange provided that after May 1, 2015 (instead of March 1, 2015) the monthly fee for FBW2 login IDs would be waived for the first month. The Exchange notes that to date, FBW2 has not launched. The Exchange anticipates launching FBW2 on May 11, 2015. In light of this delay, the Exchange proposes to delete the now outdated language and extend the fee waiver for the months of May and June 2015. Additionally, the Exchange will provide that after July 1, 2015 (instead of May 1, 2015) the monthly fee for FBW2 login IDs will be waived for the first month.[4] The purpose of the proposed fee waivers is to give new users time to become familiar with and fully acclimated to the new FBW workstation functionality. The Exchange notes that after July 2015 (and absent an applicable fee waiver noted above), TPHs will be charged each of $400 for FBW and FBW2 (*i.e.,* total of $800) if such users continue to use both FBW and FBW2.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes it is reasonable to provide a waiver of FBW2 fees for the months of May and June 2015 because it allows new users time to become familiar with and fully acclimated to the new FBW functionality and incentivizes the users to begin this process as soon as the new functionality becomes available. The Exchange believes it is reasonable to provide a waiver for the first month for a new login ID beginning July 1, 2015, because it allows a new user after June 2015 to fully acclimate to the new FBW functionality. Additionally, the Exchange notes it is merely extending existing waivers to correspond with the delayed launch of FBW2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because it applies to all Trading Permit Holders. The Exchange believes this proposal will not cause an unnecessary burden on intermarket competition because the proposal only affects trading on CBOE. To the extent that the proposed changes make CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2015–049 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.

[3] *See* Securities Exchange Act Release No. 74134 (January 26, 2015), 80 FR 20 [sic] (January 30, 2015) (SR–CBOE–2015–005). The adopted fee for FBW2 is the same as the existing FBW fee (*i.e.,* $400 per month (per login ID).

[4] For example, if a user adds a new login ID in July 2015, the user would receive a fee waiver for that login ID for July 2015.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–CBOE–2015–049. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–049 and should be submitted on or before June 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12828 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75033; File No. SR–NYSEMKT–2015–17]

Self-Regulatory Organizations; NYSE MKT LLC.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Modify the Appointment Process Utilized by the Exchange

May 21, 2015.

On March 20, 2015, NYSE MKT LLC, (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the Market Maker appointment and withdrawal process used by the Exchange. The proposed rule change was published for comment in the **Federal Register** on April 8, 2015.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is May 23, 2015. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would modify the Market Maker appointment and withdrawal process used by the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates July 7, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEMKT–2015–17).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12837 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74636 (April 2, 2015), 80 FR 18884.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75023; File No. SR–NYSEArca–2014–100]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to the Listing and Trading of Shares of the SPDR SSgA Global Managed Volatility ETF Under NYSE Arca Equities Rule 8.600

May 21, 2015.

I. Introduction

On September 5, 2014, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the SPDR SSgA Global Managed Volatility ETF (''Fund'') under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on September 24, 2014.[3] On November 4, 2014, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5]

On December 22, 2014, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] In the Order Instituting Proceedings, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73141 (Sept. 18, 2014), 79 FR 57161 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 73515, 79 FR 66758 (Nov. 10, 2014). The Commission designated a longer period within which to take action on the proposed rule change and designated December 23, 2014, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 73914, 79 FR 78524 (Dec. 30, 2014) (''Order Instituting Proceedings''). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.,* 79 FR at 78530.

Commission solicited responses to specified matters related to the proposal.[8] The Commission received no comment letters on the proposed rule change.

The Exchange subsequently filed Amendment No. 1 to the proposed rule change on January 20, 2015.[9] On March 20, 2015, pursuant to Section 19(b)(2) of the Act,[10] the Commission designated a longer period for Commission action on proceedings to determine whether to disapprove the proposed rule change.[11] On April 7, 2015, the Exchange filed Amendment No. 2 to the proposed rule change.[12] The Commission published a Notice of Filing of Amendment Nos. 1 and 2 to the proposed rule change for comment in the **Federal Register** on April 21, 2014.[13] The Commission received no comments on the proposal, as modified by Amendment Nos. 1 and 2 thereto.

This order grants approval of the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto.

II. Description of the Proposal, as Modified by Amendment Nos. 1 and 2 Thereto

NYSE Arca proposes to list and trade Shares of the Fund under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by SSgA Active ETF Trust (''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an open-end management investment company.[14] SSgA Funds Management, Inc. will serve as the investment adviser to the Fund (''Adviser'').[15] State Street Global Markets, LLC will be the principal underwriter and distributor of the Fund's Shares, and State Street Bank and Trust Company (''Custodian'') will serve as the administrator, custodian, and transfer agent for the Fund. The Exchange has made the following representations and statements in describing the Fund and its investment strategy, including the Fund's portfolio holdings and investment restrictions.[16]

A. The Exchange's Description of the Fund's Principal Investment Policies

According to the Exchange, the Fund will seek to provide competitive, long-term returns while maintaining low, long-term volatility relative to the broad global market. Under normal circumstances,[17] the Fund will invest all of its assets in the SSgA Global Managed Volatility Portfolio (''Portfolio''), a separate series of the SSgA Master Trust with an identical investment objective as the Fund. As a result, the Fund will invest indirectly through the Portfolio.[18]

According to the Exchange, the Adviser will utilize a proprietary quantitative investment process to select a portfolio of exchange-listed-and-traded equity securities that the Adviser believes will exhibit low volatility and provide competitive, long-term returns relative to the broad global market.[19] The Portfolio will invest its assets in both U.S. and foreign investments. The Portfolio will generally invest at least 80% of its net assets in global equity securities and at least 30% of its net assets in global equity securities of issuers economically tied to countries other than the United States. The Portfolio will generally hold securities of issuers economically tied to at least three countries, including the United States.[20] The Portfolio may purchase

[8] *See id.* (soliciting public comment on the statements of the Exchange contained in the Notice, including statements made in connection with information sharing procedures with respect to certain non-U.S. equity security holdings and the Exchange's arguments regarding the applicability of the definition of ''Actively-Traded Securities'' under Regulation M (''Reg M'')).

[9] The text of Amendment No. 1, which amends and replaces the proposed rule change in its entirety, is available on the Exchange's Web site, at the principal office of the Exchange, and at the Commission's Public Reference Room. The text of Amendment No. 1 to the proposed rule change is also available on the Commission's Web site. *See* Letter from Martha Redding, Senior Counsel and Assistant Secretary, New York Stock Exchange, to Kevin M. O'Neill, Deputy Secretary, Commission (Jan. 22, 2015), *available at http://www.sec.gov/comments/sr-nysearca-2014-100/nysearca2014100-1.pdf.*

[10] 15 U.S.C. 78s(b)(2).

[11] *See* Securities Exchange Act Release No. 74559, 80 FR 16047 (Mar. 26, 2015). The Commission designated a longer period within which to take action on the proposed rule change and designated May 7, 2015 as the date by which it should determine whether to disapprove the proposed rule change. *See also* Securities Exchange Act Release No. 74559A (Apr. 13, 2015) (correcting the date by which the Commission must take action on proceedings to determine whether to disapprove the proposed rule change to May 22, 2015).

[12] *See* Amendment No. 2, *available at http://www.sec.gov/comments/sr-nysearca-2014-100/nysearca2014100-2.pdf.*

[13] *See* Securities Exchange Act Release No. 74729 (Apr. 15, 2015), 80 FR 22242.

[14] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). According to the Exchange, on September 20, 2012, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act'') and under the 1940 Act relating to the Fund (File Nos. 333–173276 and 811–22542) (''Registration Statement''). In addition, the Exchange states that the Trust has obtained from the Commission certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 29524 (Dec. 13, 2010) (File No. 812–13487).

[15] The Exchange represents that the Adviser is not a registered broker-dealer but is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition of or changes to the Fund's portfolio. The Exchange further represents that, in the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, the Adviser or any new adviser or sub-adviser, as the case may be, will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate, as applicable, regarding access to information concerning the composition of or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the portfolio.

[16] The Commission notes that additional information regarding the Fund, the Trust, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, calculation of net asset value (''NAV''), distributions, and taxes, among other things, can be found in Amendment No. 1 and the Registration Statement, as applicable. *See* Amendment No. 1 and Registration Statement, *supra* notes 9 and 14, respectively.

[17] With respect to the Fund, the term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[18] According to the Exchange, the Fund is intended to be managed in a ''master-feeder'' structure, under which the Fund will invest substantially all of its assets in the Portfolio (*i.e.,* a ''master fund''), which is a separate 1940 Act-registered mutual fund that has an identical investment objective. As a result, the Fund (*i.e.,* the ''feeder fund'') will have an indirect interest in all of the securities owned by the corresponding Portfolio. Because of this indirect interest, the Fund's investment returns should be the same as those of the Portfolio, adjusted for the expenses of the Fund. The Exchange represents that, in general, the Portfolio, which will be where investments will be held, will primarily consist of equity securities and, to a lesser extent, other investments as described under ''Non-Principal Investment Policies'' below. The Fund will invest in shares of the Portfolio and will not invest in investments described under ''Non-Principal Investment Policies,'' but may be exposed to such investments by means of the Fund's investment in shares of the Portfolio. The Exchange states that in extraordinary instances, the Fund reserves the right to make direct investments in equity securities and other investments.

[19] Volatility is a statistical measurement of the magnitude of up and down fluctuations in the value of a financial instrument or index over time. Volatility may result in rapid and dramatic price swings.

[20] Investments in common stock of foreign corporations may also be in the form of American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), and European Depositary Receipts (''EDRs'') (collectively ''Depositary Receipts''). Depositary Receipts are receipts, typically issued by a bank or trust company, that evidence ownership of underlying securities issued by a foreign corporation. For ADRs, the depository is typically a U.S. financial institution, and the underlying securities are issued by a foreign issuer. For other Depositary Receipts, the depository may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. Depositary Receipts will not necessarily be denominated in the same currency as their underlying securities. Generally, ADRs, in

exchange-listed-and-traded common stocks and preferred securities of U.S. and foreign corporations (referred to herein as ''non-U.S. equity securities'').[21] Under normal circumstances, the Portfolio will include a minimum of 20 exchange-listed-and-traded equity securities. The Adviser expects to favor securities with low exposure to market risk factors and low security-specific risk. The Adviser will consider market risk factors to include, among others, a security's size, momentum, value, liquidity, leverage, and growth. While the Adviser will attempt to manage the Fund's volatility exposure to stabilize performance, there can be no guarantee that the Fund will reach its target volatility. Additionally, the Adviser will implement risk constraints at the security, industry, size exposure, and sector levels. Through this quantitative process of security selection and portfolio diversification, the Adviser expects that the Portfolio will be subject to a low level of absolute risk (as defined by standard deviation of returns) and thus should exhibit low volatility over the long term.

The Adviser will manage the investments of the Portfolio. Under the master-feeder arrangement, and pursuant to the investment advisory agreement between the Adviser and the Trust, investment advisory fees charged at the Portfolio level will be deducted from the advisory fees charged at the Fund level. This arrangement avoids a ''layering'' of fees, *i.e.,* the Fund's total annual operating expenses would be no higher as a result of investing in a master-feeder arrangement than they would be if the Fund pursued its investment objectives directly. In addition, the Fund may discontinue investing through the master-feeder arrangement and pursue its investment objectives directly if the Fund's Board of Trustees (''Board'') determines that doing so would be in the best interests of shareholders.

Under normal circumstances, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (1) Non-U.S. equity securities each shall have a minimum market value of at least $100 million; (2) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (3) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (4) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting.[22]

The Portfolio and Fund do not intend to concentrate their investments in any particular industry. The Portfolio and Fund will look to the Global Industry Classification Standard (''GICS'') Level 3 (Industries) in making industry determinations.[23]

The Portfolio may invest in exchange-traded preferred securities. Preferred securities pay fixed or adjustable rate dividends to investors and have ''preference'' over common stock in the payment of dividends and the liquidation of a company's assets.

B. The Exchange's Description of the Fund's Non-Principal Investment Policies

In certain situations or market conditions, in order to take temporary defensive positions, the Fund may (either directly or through the Portfolio) temporarily depart from its normal investment policies and strategies, provided that the alternative is consistent with the Fund's investment objective and is in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress. According to the Exchange, in addition to the principal investments described above, the Portfolio may invest its remaining net assets in other investments, as described below. The investment practices of the Portfolio are the same in all material respects as those of the Fund.

The Portfolio may invest in U.S. Government obligations[24] and U.S.-registered, dollar-denominated bonds of foreign corporations, governments, agencies, and supra-national entities. The Portfolio also may invest in restricted securities.[25]

The Portfolio may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies).

The Portfolio may invest in exchange-traded products (''ETPs''), including exchange-traded funds (''ETFs'') registered under the 1940 Act, exchange-traded commodity trusts, and exchange-traded notes.[26] The Portfolio

registered form, are designed for use in the U.S. securities market, and EDRs, in bearer form, are designated for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world. The Portfolio may invest in unsponsored Depositary Receipts. The issuers of unsponsored Depositary Receipts are not obligated to disclose material information in the United States, and, therefore, there may be less information available regarding such issuers, and there may not be a correlation between such information and the market value of the Depositary Receipts. Unsponsored Depositary Receipts will not exceed 10% of the Fund's net assets.

[21] For purposes of this filing, the term ''non-U.S. equity securities'' includes the following: Common stocks and preferred securities of foreign corporations; non-U.S. exchange-traded real estate investment trusts (''REITs''), as referenced below; and Depositary Receipts (excluding Depositary Receipts that are registered under the Act).

[22] These criteria are similar to certain ''generic'' listing criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .01(a)(B), which relate to criteria applicable to an index or portfolio of U.S. and non-U.S. stocks underlying a series of Investment Company Units to be listed and traded on the Exchange pursuant to Rule 19b–4(e) under the Act.

[23] GICS classifications can be found on the Standard & Poor's Web site at *http://www.us.spindices.com/search/?query=gics+map.*

[24] U.S. Government obligations are a type of bond. U.S. Government obligations include securities issued or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities. One type of U.S. Government obligation, U.S. Treasury obligations, are backed by the full faith and credit of the U.S. Treasury and differ only in their interest rates, maturities, and times of issuance. U.S. Treasury bills have initial maturities of one-year or less; U.S. Treasury notes have initial maturities of one to ten years; and U.S. Treasury bonds generally have initial maturities of greater than ten years. Other U.S. Government obligations are issued or guaranteed by agencies or instrumentalities of the U.S. Government including, but not limited to, the Federal National Mortgage Association, the Government National Mortgage Association (''Ginnie Mae''), the Small Business Administration, the Federal Farm Credit Administration, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Banks, Banks for Cooperatives (including the Central Bank for Cooperatives), the Federal Land Banks, the Federal Intermediate Credit Banks, the Tennessee Valley Authority, the Export-Import Bank of the United States, the Commodity Credit Corporation, the Federal Financing Bank, the National Credit Union Administration, and the Federal Agricultural Mortgage Corporation. Some obligations issued or guaranteed by U.S. Government agencies or instrumentalities, including, for example, Ginnie Mae pass-through certificates, are supported by the full faith and credit of the U.S. Treasury.

[25] Restricted securities are securities that are not registered under the Securities Act, but which can be offered and sold to ''qualified institutional buyers'' under Rule 144A under the Securities Act. The Board has delegated to the Adviser the responsibility for determining the liquidity of Rule 144A restricted securities that the Portfolio may invest in. In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[26] For purposes of this filing, ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca

Continued

also may invest in the securities of other investment companies, including money market funds and exchange-traded closed-end funds, subject to applicable limitations under Section 12(d)(1) of the 1940 Act.[27] The Portfolio may invest up to 25% of its total assets in one or more ETPs that are qualified publicly traded partnerships (''QPTPs'')[28] and whose principal activities are the buying and selling of commodities or options, futures, or forwards with respect to commodities. The Portfolio may invest in exchange-traded shares of REITs.

The Portfolio may invest in repurchase agreements with commercial banks, brokers, or dealers to generate income from its excess cash balances and to invest securities lending cash collateral.[29] The Portfolio may also enter into reverse repurchase agreements.[30]

In addition to repurchase agreements, the Portfolio may invest in short-term instruments, including money market instruments (including money market funds advised by the Adviser), cash, and cash equivalents, on an ongoing basis to provide liquidity or for other reasons.[31]

C. The Exchange's Description of the Fund's Investment Restrictions

According to the Exchange, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Exchange represents that the Portfolio and the Fund will be classified as a ''non-diversified'' investment company under the 1940 Act. A non-diversified classification means that the Portfolio or Fund is not limited by the 1940 Act with regard to the percentage of its assets that may be invested in the securities of a single issuer. This means that the Portfolio or Fund may invest a greater portion of its assets in the securities of a single issuer than a diversified fund. Although the Portfolio and Fund will be non-diversified for purposes of the 1940 Act, the Portfolio and Fund intend to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a ''regulated investment company'' for purposes of the Internal Revenue Code of 1986.

The Exchange represents that neither the Fund nor the Portfolio will invest in options, futures contracts, or swap agreements. The Exchange further represents that the Fund's and Portfolio's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[32] In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, is consistent with Section 6(b)(5) of the Exchange Act,[33] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[34] which sets forth the finding of Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Indicative Optimized

Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The Portfolio may invest in ETFs managed by the Adviser. The Adviser may receive management or other fees from the ETPs in which the Portfolio or Fund may invest, as well as a management fee for managing the Fund. The ETPs all will be listed and traded in the U.S. on national securities exchanges.

[27] The Fund will invest substantially all of its assets in the Portfolio. The Exchange states that, pursuant to Section 12(d)(1) of the 1940 Act, a fund may invest in the securities of another investment company (the ''acquired company'') provided that the fund, immediately after such purchase or acquisition, does not own in the aggregate: (i) More than 3% of the total outstanding voting stock of the acquired company; (ii) securities issued by the acquired company having an aggregate value in excess of 5% of the value of the total assets of the fund; (iii) securities issued by the acquired company and all other investment companies (other than Treasury stock of the fund) having an aggregate value in excess of 10% of the value of the total assets of the fund; or (iv) in the case of investment in a closed-end fund, more than 10% of the total outstanding voting stock of the acquired company. The Fund may also invest in the securities of other investment companies if such securities are the only investment securities held by the Fund, such as through a master-feeder arrangement. The Fund currently will pursue its investment objective through such an arrangement. To the extent allowed by law, regulation, the Fund's investment restrictions, and the Trust's exemptive relief, the Fund may invest its assets in securities of investment companies that are money market funds, including those advised by the Adviser or otherwise affiliated with the Adviser, in excess of the limits discussed above.

[28] A QPTP is an entity that is treated as a partnership for federal income tax purposes, subject to certain requirements. If such an ETP fails to qualify as a QPTP, the income generated from the Portfolio's investment in the ETP may not comply with certain income tests necessary for the Portfolio to qualify as a regulated investment company under Subchapter M of the Internal Revenue Code.

[29] A repurchase agreement is an agreement under which a fund acquires a financial instrument (*e.g.,* a security issued by the U.S. government or an agency thereof, a banker's acceptance, or a certificate of deposit) from a seller, subject to resale to the seller at an agreed upon price and date (normally, the next business day). A repurchase agreement may be considered a loan collateralized by securities. The resale price reflects an agreed upon interest rate effective for the period the instrument is held by a fund and is unrelated to the interest rate on the underlying instrument.

[30] Reverse repurchase agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date, and interest payment, and have the characteristics of borrowing.

[31] Money market instruments are generally short-term investments that may include but are not limited to: (i) Shares of money market funds; (ii) obligations issued or guaranteed by the U.S. government, its agencies, or its instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit, bankers' acceptances, fixed time deposits, and other obligations of U.S. and foreign banks (including foreign branches) and similar institutions; (iv) commercial paper rated at the date of purchase ''Prime-1'' by Moody's or ''A–1'' by Standard & Poor's, or if unrated, of comparable quality as determined by the Adviser; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; (vi) short-term U.S. dollar-denominated obligations of foreign banks (including U.S. branches) that, in the opinion of the Adviser, are of comparable quality to obligations of U.S. banks which may be purchased by the Portfolio; and (vii) variable rate demand notes.

[32] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78f(b)(5).

[34] 15 U.S.C. 78k–1(a)(1)(C)(iii).

Portfolio Value (''IOPV''),[35] which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.[36] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[37] In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange (''NYSE'') via the National Securities Clearing Corporation. The basket represents one Creation Unit of the Fund.

The NAV of the Portfolio will be calculated by the Custodian and determined at the close of the regular trading session on the NYSE (ordinarily 4:00 p.m. Eastern time) on each day that the NYSE is open, provided that fixed-income assets (and, accordingly, the Portfolio's NAV) may be valued as of the announced closing time for trading in fixed-income instruments on any day that the Securities Industry and Financial Markets Association (or applicable exchange or market on which the Portfolio's investments are traded) announces an early closing time.[38]

Information regarding market price and trading volume of the Shares will be continuously available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The Exchange represents that, with respect to U.S. exchange-listed equity securities, the intra-day, closing and settlement prices of common stocks and exchange-traded equity securities (including shares of preferred securities, ETPs, closed-end funds, QPTPs, REITs, and U.S. exchange-listed Depositary Receipts) will be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. With respect to non-U.S. exchange-listed equity securities, intra-day, closing, and settlement prices of common stocks and other equity securities (including shares of preferred securities and non-U.S. Depositary Receipts) will be available from the foreign exchanges on which such securities trade as well as from major market-data vendors. Pricing information regarding each asset class in which the Fund or Portfolio will invest, including Rule 144A securities, repurchase agreements, reverse repurchase agreements, and securities of investment companies (other than ETFs registered under the 1940 Act), will generally be available through nationally recognized data service providers through subscription arrangements. Quotation information from brokers and dealers or pricing services will be available for fixed income securities, including U.S. Government obligations; U.S. registered, dollar-denominated bonds of foreign corporations, governments, agencies, and supra-national entities; short-term instruments; unsponsored Depositary Receipts; and spot and forward currency transactions held by the Fund and Portfolio.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading in Shares of the Fund will be halted if the circuit-breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[39] Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth

[35] The IOPV calculation will be an estimate of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IOPV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the IOPV and the market price of the Shares may occur. The IOPV should not be viewed as a ''real-time'' update of the NAV per Share of the Fund, which will be calculated only once a day.

[36] According to the Exchange, several major market data vendors display and make widely available IOPVs taken from CTA or other data feeds.

[37] On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of the Fund and of the Portfolio the following information on the Fund's Web site: ticker symbol (if applicable); name of security and financial instrument; number of shares and dollar value of financial instruments held in the portfolio; and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[38] The NAV per Share for the Fund will be computed by dividing the value of the net assets of the Portfolio (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding, rounded to the nearest cent. According to the Exchange, common stocks and exchange-traded equity securities (including shares of preferred securities, ETPs, closed-end funds, QPTPs, REITs, and Depositary Receipts (other than unsponsored Depositary Receipts traded in the OTC market) traded on a national securities exchange generally will be valued at the last reported sale price or the official closing price on that exchange where the stock is primarily traded on the day that the valuation is made. Foreign exchange-traded equities and listed ADRs will be valued at the last sale or official closing price on the relevant exchange on the valuation date. If, however, neither the last sale price nor the official closing price is available, each of these securities will be valued at either the last reported sale price or official closing price as of the close of regular trading of the principal market on which the security is listed. According to the Exchange, securities of investment companies (other than ETFs registered under the 1940 Act), including affiliated funds, money market funds, and closed-end funds, will be valued at NAV. Unsponsored Depositary Receipts, which are traded in the OTC market, will be valued at the last reported sale price from the OTC Bulletin Board or OTC Link LLC on the valuation date. Rule 144A securities, repurchase agreements, and reverse repurchase agreements will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in such instruments. Spot currency transactions will generally be valued at bid prices received from independent pricing service converted into U.S. dollars at current market rates on the date of valuation. Foreign currency forwards normally will be valued on the basis of quotes obtained from broker-dealers or third party pricing services. According to the Exchange, fixed income securities, including U.S. Government obligations; U.S. registered, dollar-denominated bonds of foreign corporations, governments, agencies; and supra-national entities; and short-term instruments will generally be valued at bid prices received from independent pricing services as of the announced closing time for trading in fixed-income instruments in the respective market or exchange. In determining the value of a fixed income investment, pricing services determine valuations for normal institutional-size trading units of such securities using valuation models or matrix pricing, which incorporates yield and/or price with respect to bonds that are considered comparable in characteristics such as rating, interest rate, and maturity date and quotations from securities dealers to determine current value. Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current market rates on the date of valuation as quoted by one or more sources. In the event that current market valuations are not readily available or such valuations do not reflect current market value, the SSgA Master Trust's procedures require the Pricing and Investment Committee to determine a security's fair value if a market price is not readily available, in accordance with the 1940 Act.

[39] These may include: (1) The extent to which trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

circumstances under which Shares of the Fund may be halted.

The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees.

The Exchange represents that the Adviser is not a registered broker-dealer but is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to that broker-dealer regarding access to information concerning the composition or changes to the Fund's portfolio.[40] Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[41]

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has also made the following representations:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(4) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, ETPs, and certain exchange-traded securities underlying the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, ETPs and certain exchange-traded securities underlying the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETPs, and certain exchange-traded securities underlying the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[42] The Exchange states that FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in a Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (i) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (ii) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (iii) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (iv) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (v) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[43] as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A restricted securities deemed illiquid by the Adviser.

(8) Neither the Fund nor the Portfolio will invest in options, futures contracts, or swap agreements.

(9) The Fund's and Portfolio's investments will be consistent with its investment objective and will not be used to enhance leverage.

(10) Under normal circumstances, the non-U.S. equity securities in the Fund's portfolio will meet the following criteria at time of purchase: (a) Non-U.S. equity securities each shall have a minimum market value of at least $100 million; (b) non-U.S. equity securities each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (c) the most heavily weighted non-U.S. equity security shall not exceed 25% of the weight of the Fund's entire portfolio, and, to the extent applicable, the five most heavily weighted non-U.S. equity securities shall not exceed 60% of the weight of the Fund's entire portfolio; and (d) each non-U.S. equity security shall be listed and traded on an exchange that has last-sale reporting. In addition, under normal circumstances, the Portfolio will include a minimum of 20 exchange-listed and traded equity securities.

(11) The Portfolio and Fund do not intend to concentrate their investments in any particular industry. The Portfolio and Fund will look to the GICS Level 3 (Industries) standard in making industry determinations.

(12) Not more than 10% of the net assets of the Fund will be invested in unsponsored ADRs.

(13) A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange.

[40] *See supra* note 15. The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[41] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[42] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[43] 17 CFR 240.10A–3.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, Amendment Nos. 1 and 2 to the proposed rule change, and the Exchange's description of the Fund. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, is consistent with Section 6(b)(5) of the Act [44] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[45] that the proposed rule change (SR–NYSEArca–2014–100), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–12829 Filed 5–27–15; 8:45 am]

BILLING CODE 8011–01–P

[44] 15 U.S.C. 78f(b)(5).

[45] 15 U.S.C. 78s(b)(2).

[46] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 9152]

Privacy Act; System of Records: Official Gift Records and Gift Donor Vetting Records, State-80

SUMMARY: Notice is hereby given that the Department of State proposes to create a system of records, Official Gift Records and Gift Donor Vetting Records, State-80, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Appendix I.

DATES: This system of records will be effective on July 7, 2015, unless we receive comments that will result in a contrary determination.

ADDRESSES: Any persons interested in commenting on the new system of records may do so by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100.

FOR FURTHER INFORMATION CONTACT: John Hackett, Acting Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100, or at *Privacy@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State proposes that the new system will be named ''Official Gift Records and Gift Donor Vetting Records.'' Official Gift Records consist of an accounting of all donations received on behalf of the Department of State for the purposes of: (a) Maintaining an historical record, (b) properly allocating donations given for a particular purpose, (c) determining future solicitation and gift acceptance, and (d) providing donors with acknowledgment letters for tax purposes.

Gift Donor Vetting Records are maintained for the purpose of: (a) Maintaining an historical record, and (b) keeping an accounting of the due diligence vetting conducted on individuals to determine the potential for conflicts of interest with respect to gifts and potential gifts to, and potential partnerships with, the Department of State.

The Department's report was filed with the Office of Management and Budget. The new system description, ''Official Gift Records and Gift Donor Vetting Records, State-80,'' will read as set forth below.

Joyce A. Barr,

Assistant Secretary for Administration, U.S. Department of State.

STATE-80

SYSTEM NAME:

Official Gift Records and Gift Donor Vetting Records.

SYSTEM CLASSIFICATION:

Unclassified and Classified.

SYSTEM LOCATION:

Department of State, 2201 C Street NW., Washington, DC 20520. Abroad at U.S. embassies, U.S. consulates general, and U.S. consulates; U.S. missions; Department of State annexes; various field and regional offices throughout the United States.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have donated gifts, who are being solicited to donate gifts, and who are otherwise being vetted in connection with potential gifts to, or partnerships with, the Department of State (defined for the purposes of this System of Records Notice to include its subsidiary divisions including U.S. embassies, U.S. consulates general, U.S. consulates, U.S. missions, Department of State annexes, or various field and regional offices throughout the United States); and individuals who are points of contact for corporations or foundations that donate gifts to the Department of State.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include information about gifts to the Department of State (''official gifts''), including gift donor and recipient information and information about individuals who are points of contact for corporate or foundation donors. Such information includes but is not limited to:

(a) Information about the donor or point of contact including name and title, address, and relevant business affiliations;

(b) Information about gifts and recipients including descriptions of gifts and decorations; the dollar value of gifts; the recipient bureau, region, post or office; the purpose of the donation as expressed by the donor and/or the soliciting office; the authority under which the gift was received; the date of receipt; type of gift (cash or in-kind); date of check deposit; deposit number; appropriation type (conditional or unconditional); copies of checks donated; copies of donor letters; copies of acknowledgment letters; and

(c) Vetting records, which include (1) identifying information about individual gift donors or potential gift donors or potential partners that is used to conduct and narrow due diligence research including the individual's full name, date of birth, last known residence, Web site if any, affiliation if any, and other identifying information used to conduct vetting; and (2) information obtained as a result of due diligence searches, including but not limited to criminal history information, financial history information including bankruptcies, information regarding judgments, liens, and global sanctions, and any other information relevant to the determination as to whether there is a conflict of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2621, 22 U.S.C. 2625, Foreign Service Buildings Act of 1926, Sec. 9, as amended (22 U.S.C. 300), State Department Basic Authorities Act of 1956, Sec. 25, as amended (22 U.S.C. 2697), Foreign Assistance Act of 1961, Sec. 695(d), as amended (22 U.S.C. 2395(d)), Migration and Refugee Assistance Act of 1962, Sec. 3(a)(2), as amended (22 U.S.C. 2602), Foreign Gifts and Decorations Act, as amended (5

U.S.C. 7342 and 22 CFR part 3) Acceptance of travel and related expense from non-Federal Sources (31 U.S.C. 1353) Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays), Sec. 105(f) and Sec. 108A, as amended (22 U.S.C. 2455(f) and 22 U.S.C. 2458(a)) 41 CFR parts 301 and 41 CFR part 304.

PURPOSE:

Official Gift Records consist of an accounting of all donations received on behalf of the Department of State for the purposes of: (a) Maintaining an historical record, (b) properly allocating donations given for a particular purpose, (c) determining future solicitation and gift acceptance, and (d) providing donors with acknowledgment letters for tax purposes.

Gift Donor Vetting Records are maintained for the purpose of: (a) Maintaining an historical record, and (b) keeping an accounting of the due diligence vetting conducted on individuals to determine the potential for conflicts of interest with respect to gifts and potential gifts to, and potential partnerships with, the Department of State.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system can be shared with federal, state, and local tax authorities in connection with tax and bankruptcy matters and other lawful purposes.

The Department of State publishes periodically in the **Federal Register** its Prefatory Statement of Routine Uses which applies to all of its Privacy Act System of Records. These standard routine uses apply to Official Gift Records and Gift Donor Vetting Records, State-80.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and hard copy media.

RETRIEVABILITY:

By an individual name; individual address; date of birth; individual Web site; donor country; recipient bureau, region, post or office; purpose; dollar value; date/fiscal year of receipt or deposit; corporation, foundation, or entity name; gift type (cash or in-kind); authority under which gift was received; deposit number; appropriation type.

SAFEGUARDS:

All users are given cyber security awareness training which covers the procedures for handling Sensitive But Unclassified (SBU) information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Engaged Staff who handle PII are required to take the Foreign Service Institute distance learning course, PA 459, instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Official Gift Records and Gift Donor Vetting Records, a user must first be granted access to the Department of State computer system.

Remote access to the Department of State network from non-Department owned systems is authorized only to unclassified systems and only through a Department approved access program. Remote access to the network is configured with the Office of Management and Budget Memorandum M–07–16 security requirements which include but are not limited to two-factor authentication and time out function.

All Department of State employees and contractors with authorized access have undergone a thorough background security investigation. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

RETENTION AND DISPOSAL:

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing to the following address: Director, Office of Information Programs and Services, A/GIS/IPS; SA–2, Department of State; 515 22nd Street NW., Washington, DC 20522–8100.

SYSTEM MANAGER(S) AND ADDRESS:

Gift Fund Director, Office of Emergencies in the Diplomatic and Consular Service, Department of State, 2201 C Street NW., Washington, DC 20520.

Vetting Unit, Secretary's Office of Global Partnerships, Department of State, 2201 C Street NW., Washington, DC 20520.

Director and Curator, Diplomatic Reception Rooms, Department of State, 2201 C Street NW., Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have cause to believe that the Official Gift Records and Gift Donor Vetting Records System may contain records pertaining to him or her should write to the following address: Director, Office of Information Programs and Services, A/GIS/IPS; SA–2 Department of State; 515 22nd Street NW., Washington, DC 20522–8100.

The individual must specify that the Official Gift Records and Gift Donor Vetting Records System should be checked. At a minimum, the individual must include the following: Name, date and place of birth, current mailing address and zip code, signature, and any other information helpful in identifying the record.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of Information Programs and Services (address above).

CONTESTING RECORD PROCEDURES:

(See above).

RECORD SOURCE CATEGORIES:

These records contain information collected directly from: The individual who is the subject of these records; employers and public references; other officials in the Department of State; other government agencies; foreign governments; federal and public searchable databases; and other public and professional institutions possessing relevant information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2015–12910 Filed 5–27–15; 8:45 am]

BILLING CODE 4710–36–P

DEPARTMENT OF STATE

[Public Notice: 9150]

Culturally Significant Object Imported for Exhibition Determinations: ''Pleasure and Piety: The Art of Joachim Wtewael'' Exhibition

ACTION: Notice; correction.

SUMMARY: On March 27, 2015, notice was published on pages 16492 and 16493 of the **Federal Register** (volume 80, number 59) of determinations made by the Department of State pertaining to the exhibition ''Pleasure and Piety: The Art of Joachim Wtewael.'' The referenced notice is corrected here to include an additional object as part of the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the additional object to be included in the exhibition ''Pleasure and Piety: The Art of Joachim Wtewael,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The additional object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the additional object at the National Gallery of Art, Washington, DC, from on or about June 28, 2015, until on or about October 4, 2015, at the Museum of Fine Arts, Houston, Houston, Texas, from on or about November 1, 2015, until on or about January 31, 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 description of the additional exhibit object, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: May 19, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–12909 Filed 5–27–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9151]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Holocaust'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The Holocaust,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the United States Holocaust Memorial Museum, Washington, District of Columbia, from on or about July 15, 2015, until on or about May 20, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: May 19, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–12908 Filed 5–27–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2015–31]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 17, 2015.

ADDRESSES: You may send comments identified by docket number FAA–2009–1058 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to

http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *mark.forseth@faa.gov,* phone (425) 227–2796; or Sandra Long, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *sandra.long@faa.gov,* phone (202) 267–4714.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 22, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2009–1058.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: § 25.981(a)(3).

Description of Relief Sought: The petitioner is seeking relief for Boeing Model 747–8/–BF airplanes to remove the requirement to cap-seal the ¼-in. diameter wing-tank rivets through Certification Project No. PS14–1034.

[FR Doc. 2015–12864 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on June 18, 2015, starting at 1:00 p.m. Eastern Standard Time. Arrange oral presentations by June 11, 2015.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 10th floor, MacCracken Conference Room.

FOR FURTHER INFORMATION CONTACT: Renee Pocius, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-5093; fax (202) 267–5075; email *Renee.Pocius@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on June 18, 2015, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

The Agenda includes:

1. Status Reports From Active Working Groups

a. Airman Certification Systems Working Group (ARAC)

b. Aircraft Systems Information Security/Protection Working Group (ARAC)

c. Airworthiness Assurance Working Group (TAE)

d. Engine Harmonization Working Group (TAE)—Engine Endurance Testing Requirements—Revision of Section 33.87

e. Flight Test Harmonization Working Group (TAE)—Phase 2 Tasking

f. Materials Flammability Working Group (TAE)

g. Transport Airplane Metallic and Composite Structures Working Group (TAE)—Transport Airplane Damage-Tolerance and Fatigue Evaluation

h. Transport Airplane Crashworthiness and Ditching Evaluation Working Group (TAE)

2. New Tasks

a. Air Traffic Controller Basic Qualification Training Working Group (ARAC)

3. Status Report from the FAA

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than June 11, 2015. Please provide the following information: full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by June 11, 2015 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on May 22, 2015.

Lirio Liu,

Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2015–12866 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2015–29]

Petition for Exemption; Summary of Petition Received

June 12, 2015

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on this petition must identify the petition docket number and must be received on or before June 17, 2015.

ADDRESSES: You may send comments identified by Docket Number FAA–2015–1081 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alphonso Pendergrass (202) 267–4713. This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 22, 2015.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2015–1081.

Petitioner: Mr. Michael Young, SimCom Training Centers.

Section of 14 CFR Affected: § 91, SFAR No. 108, 5.(4), (b), (3)(iii).

Description of Relief Sought: On behalf of SimCom Training Centers, Mr. Michael Young petitions the FAA for an exemption from 14 CFR 91, SFAR No. 108, §§ 5(a)(4) and 5(b)(3)(ii) to allow candidate instructor pilots not qualified in the Mitsubishi MU–2B to become simulator only instructor pilots without meeting the pilot–in-command experience requirements of § 91, SFAR No. 108.

[FR Doc. 2015–12865 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice to Rescind Notice of Intent to Prepare an Environmental Impact Statement: Polk County, IA

AGENCY: Federal Highway Administration (FHWA), Iowa Department of Transportation (Iowa DOT), and Polk County, DOT.

ACTION: Rescind Notice of Intent (NOI) to prepare and environmental impact statement.

SUMMARY: The FHWA, the Iowa DOT and Polk County are issuing this notice to rescind the NOI published on October 13, 2006 and to advise the public that studies for the environmental impact statement (EIS) will cease for the proposed transportation project in Polk County, Iowa.

FOR FURTHER INFORMATION CONTACT: Michael LaPietra, Environment and Realty Manager, FHWA Iowa Division Office, 105 Sixth Street, Ames, IA 50010, Phone 515–233–7302; or James P. Rost, Director, Office of Location and Environment, Iowa Department of Transportation, 800 Lincoln Way, Ames, IA 50010, Phone 515–239–1225; or Robert Rice, Director Public Works Department, Polk County, IA, 5885 NE 14th Street, Des Moines, IA 50313, Phone 515–286–3705.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document is available for free download from the Federal Bulletin Board (FBB). The FBB is a free electronic bulletin board service of the Superintendent of Documents, U.S. Government Publishing Office (GPO).

The FBB may be accessed in four ways: (1) Via telephone in dial-up mode or via the Internet through (2) telnet, (3) FTP, and (4) the World Wide Web. For dial-up mode a user needs a personal computer, modem, telecommunications software package, and telephone line. A hard disk is recommended for file transfers.

For Internet access a user needs Internet connectivity. Users can telnet or FTP to: *fedbbs.access.gpo.gov.* Users can access the FBB via the World Wide Web at *http://fedbbs.access.gpo.gov.*

User assistance for the FBB is available from 7 a.m. until 5 p.m., Eastern Standard Time (EST), Monday through Friday (except federal holidays) by calling the GPO Office of Electronic Information Dissemination Services at 202–512–1530, toll-free at 888–293–6498; sending an email to *gpoaccess@gpo.gov;* or sending a fax to 202–512–1262.

Access to this notice is also available to Internet users through the **Federal Register**'s home page at *http://www.nara.gov/fedreg.*

Project Background

On October 13, 2006 the FHWA, in cooperation with the Iowa Department of Transportation (Iowa DOT) and Polk County will published an NOI to begin preparation of an EIS to evaluate potential transportation improvement alternatives for serving northwest Des Moines and its neighboring communities between IA 415/NW 26th Street and Euclid Avenue/M.L King Parkway in Des Moines, Iowa. The proposed project is being terminated due to significant and unavoidable impacts to Section 4(f) properties owned by the United Stated Army Corps of Engineers (USACE) and project funding.

To ensure that a full range of issues are addressed in relation to the proposed action and that significant issues are identified, interested parties are invited to submit comments and suggestions. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA or Iowa Department of Transportation at the address provided on page one in the section titled **FOR FURTHER INFORMATION CONTACT**.

(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.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Dated: May 21, 2015.

Karen Bobo,

Division Administrator, FHWA, Iowa Division.

[FR Doc. 2015–12846 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0133]

Agency Information Collection Activities; New Information Collection Request: State Commercial Driver's License Program Plan

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment. The FMCSA requests approval of a new ICR titled, *''State Commercial Driver's License Program Plan,''* as a result of requirements from

Section 32305 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, dated July 6, 2012. The Act requires States to submit a plan to the Secretary describing the actions the State will take to address any deficiencies in the State's commercial driver's license (CDL) program, as identified by the Secretary in the most recent audit of the program. This ICR is needed to ensure that the States are complying with notification and recordkeeping requirements for information related to testing, licensing, violations, convictions and disqualifications and that the information is accurate, complete and transmitted and recorded within certain time periods as required by the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), as amended.

DATES: Please send your comments by June 29, 2015. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2014–0133. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Gordon, Office of State Programs, Commercial Driver's License Division (MC–ESL),, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 304–549–2651; email *michael.gordon2@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: State Driver's License Program Plan.

OMB Control Number: 2126–00XX.

Type of Request: New collection.

Respondents: State Driver Licensing Agencies (SDLAs).

Estimated Number of Respondents: 51 State respondents.

Estimated Time per Response: 40 hours per SDLA.

Expiration Date: N/A. New collection.

Frequency of Response: One-time effort.

Estimated Total Annual Burden: 2,040 hours.

FMCSA estimates that each SDLA would need approximately 40 hours to complete the State Commercial Driver's License Program Plan and submit it to FMCSA. The Program Plan is completed on a one-time basis as required by Section 32305 of MAP–21. There is no continuing information collection function associated with submitting this Program Plan. The Program Plan asks for information which is readily available to the filer.

For the purposes of the CDL program, the District of Columbia is considered a State. Therefore, there are 51 State responses with an estimated 40 hours per response to complete and submit the Program Plan to FMCSA.

The FMCSA estimates the SDLAs total annual burden is 2,040 hours (51 responses × 40 hours = 2,040 hours).

Background: The FMCSA is responsible for compliance and oversight of SDLAs. SDLAs are required to comply with the requirements of 49 CFR part 384, titled ''State Compliance with Commercial Driver's License Program.'' Section 32305 of MAP–21 amends 49 U. S.C. 31311 by adding paragraph (d) State Commercial Driver's License Program Plan requirements. In paragraph (d)(1), a State shall submit a plan to the Secretary of Transportation for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016. In paragraph (d)(2), a plan submitted by a State under paragraph (d)(1) shall identify—(A) the actions that the State will take to address any deficiencies in the State's Commercial Driver's License Program, as identified by the Secretary in the most recent audit of the program; and (B) other actions that the State will take to comply with the requirements under subsection (a). Paragraph (d)(3) establishes the following: ''(A) Implementation Schedule—A plan submitted by a State under paragraph (d)(1) shall include a schedule for the implementation of the actions identified under paragraph (d)(2). In establishing the schedule, the State shall prioritize actions to address any deficiencies highlighted by the Secretary as critical in the most recent audit of the program. (B) Deadline for Compliance with the requirements.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the requirements of subsection (a) not later than September 30, 2015.

This collection of information supports the DOT strategic goal of safety by requiring the States to assure that drivers of CMVs are properly licensed according to all applicable Federal requirements. States will be required to complete a Commercial Driver's License Program Plan using a spreadsheet or pdf document that will be provided by FMCSA to each SDLA. The spreadsheet has been placed in the FMCSA docket and is available for immediate public consideration at the location *http://www.regulations.gov/#!documentDetail;D=FMCSA-2014-0133-0007* as item 7. The plan will be completed by the State and provided to FMCSA's CDL Division via the Automated Compliance Review System (ACRS), for review and concurrence. FMCSA may reject a State's Commercial Driver's License Program Plan if it is determined to be deficient by not adequately addressing the State's deficiencies and/or assurances. Within the plan, the State will identify any deficiencies from the most recent audit and will be required to provide detailed information to demonstrate how the State will obtain compliance with the Section 32305 of MAP–21 requirement to be in compliance with the CDL Regulations by September 30, 2015, and remain in compliance through September 30, 2016. This will enable FMCSA to determine a State's level of compliance with the CDL requirements. Previous to Section 32305 of MAP–21, there was no requirement for a SDLA to submit a Commercial Driver's License Program Plan.

The spreadsheet was developed by FMCSA. The spreadsheet will be sent to each SDLA. The SDLA will complete the spreadsheet and send directly to FMCSA via electronic transmission. FMCSA will then review each plan to assess each State's level of compliance with the CDL requirements. The spreadsheets will then be uploaded into FMCSA's ACRS. Appropriate feedback will be provided from MC–ESL to each State after review.

Comments From the Public

General Summary

FMCSA received four comments to the 60-day **Federal Register** notice published on November 13, 2014 (79 FR 67540) regarding the Agency's Information Collection Activities; New Information Collection: State Commercial Driver's License Program Plan. Comments were received from the Nebraska Department of Motor Vehicles, New York Department of Motor

Vehicles, Colorado Department of Revenue, and North Carolina Department of Transportation. Comments and responsive considerations are as follows:

The Nebraska Department of Motor Vehicles commented that the proposed rule indicates that States will be required to complete a Commercial Driver's License Program Plan using a spreadsheet or pdf document that will be provided by FMCSA to each SDLA. The Plan will be completed by the State and provided to FMCSA's Division via the Automated Compliance Review System (ACRS), for review and concurrence. The Nebraska DMV recommends that the desired information be placed on ACRS for entry by the SDLA in lieu of the paper spreadsheet or pdf document being used. The proposed rule states that FMCSA estimates that each SDLA would need approximately 40 hours to complete the State Commercial Driver's License Program Plan. The Nebraska DMV already spends an inordinate amount of time working on CDL federal requirements. The Nebraska DMV questions the value of a spreadsheet that takes 40 hours to complete as SDLAs have other responsibilities besides the CDL Program. Quantity does not necessarily equate to quality. The proposed rule says that the spreadsheet was developed by FMCSA. However, it is not attached to this proposed rule. The Nebraska DMV suggests that the SDLAs be allowed to comment on the information being gathered and the tool used to gather the information. This promotes a better understanding by the SDLAs in knowing what is needed, why it is needed and may after comments, help FMCSA reduce duplication of information, and understand why the spreadsheet may not be relevant or needed. It is difficult to provide feedback and comments on a document sight unseen.''

The FMCSA agrees with Nebraska's recommendation that the ACRS should be utilized to its fullest capacity to complete the State Plan. The spreadsheet has been placed in the FMCSA docket and is available for immediate public consideration at the location *http://www.regulations.gov/#!documentDetail;D=FMCSA-2014-0133-0007* as item 7. FMCSA's intention is to utilize ACRS to deliver the final version of the spreadsheet to each SDLA. The SDLA will be able to download, complete and sign the document and re-upload via the ACRS State Plans function. ACRS's functionality prevents the use of the system to complete a State Plan within ACRS.

The FMCSA does not expect it to take 40 hours for each CDL Coordinator to complete the spreadsheet. The estimation was based upon the differences in complexities and extent of compliance deficiencies, the various 51 SDLAs have in regards to the number of existing compliance findings. This estimation is also based upon the consideration that a new CDL Coordinator with limited experience may be completing the spreadsheet. In creating the spreadsheet, FMCSA took into consideration the demands being placed upon the SDLAs and attempted to implement the most efficient and least demanding process to meet the Section 32305 of MAP–21 requirement.

The New York Department of Motor Vehicles stated opinion is that the ICR is unnecessary for the performance of FMCSA's functions in that the information requested to be collected from the Commercial Driver's License Program Plan is already made available to FMCSA via the ACRS System. New York has maintained updates to our audits and annual program review action plans and fails to understand why FMCSA needs states to duplicate information that is already supplied to them.

The New York DMV also commented on the Section 32305 of MAP–21 compliance date of September 30, 2015. New York stated while it is working diligently towards that goal, the deadline is unrealistic, considering the many obstacles New York and the other states face. New York does not understand why a deadline is even essential, in that all of New York's Action Plans listed on ACRS include our estimated completion dates for each project. With FMCSA changing from a 3 year CDL Program Review to an annual review, deficiencies are discovered earlier and therefore, corrected earlier, helping the states to achieve compliance. Over the last six years, FMCSA has published two major rulemakings and numerous smaller rulemakings related to the CDL Program. FMCSA has indicated that more Final rulemakings are to be published within the year. Due to strained fiscal circumstances states have scarce resources, making it difficult to implement the significant number of changes in order to fully comply with all the federal requirements by the regulatory deadline. Both New York's ITS staff that maintain our CDL programs and the DMV business units that administer the programs are severely challenged in complying with the complexity and enormity of federal regulation. At the same time, such staff must continue to serve our many clients, including eleven and a half million licensed drivers, a half million of which hold a CDL. The complexity of the CLP rule is reflected in the monthly CLP Permit Rule Roundtable, where states and the FMCSA discuss issues and concerns about the rule. FMCSA continues to modify its interpretation of the rule. Which causes implementation delays for the states. New York would like to petition for the elimination of a deadline for full State compliance, or if one absolutely needs to be established, an extension of the September 30, 2015, full compliance date, for at a minimum, another year (September 30, 2016). New York is dedicated to fulfilling all the necessary requirements needed to obtain full compliance and we are reiterating that our mission is to make our highways safe for all drivers and for all types of operations. The elimination or extension of the deadline would allow more time for states to ensure the accuracy of all final programming and procedural changes.

The FMCSA notes that the State Plan is in response to the mandated Section 32305 of MAP–21 requirement. The FMCSA understands the information contained within ACRS. This approach and the spreadsheet were developed in such a manner as to not require a State to provide duplicative information that already exists within ACRS, but only reference it. This approach allows the State to provide the assurances required by Section 32305 of MAP–21, that the State will remain in compliance through September 30, 2016.

The FMCSA did not set the deadline for September 30, 2015. This was a Section 32305 of MAP–21 requirement. The FMCSA understands that States have existing action plans that have been approved by FMCSA in ACRS. As previously stated FMCSA has attempted to mitigate redundant work by a State. The FMCSA has created a spreadsheet that allows a State to refer to an existing (approved) action plan within ACRS when referring to a deficiency or finding. The spreadsheet will meet the additional Section 32305 of MAP–21 requirement for a State to provide assurances that they will remain in compliance through September 30, 2016. The FMCSA understands and appreciates the many demands that recent rulemaking have placed upon the states.

The Colorado Department of Revenue stated that it wholeheartedly appreciates and supports FMCSA's mission of promoting highway safety, preventing accidents and getting the bad driver off the road. Colorado also, within reason, agrees with FMCSA's approach of making each SDLA responsible for their

individual CDL program. However, within this proposal there are some concerns. Colorado is concerned that there is no disclosure of what will be contained in the proposed spreadsheet. Additionally, regarding data accuracy there is no indication as to what level of error constitutes a compliance issue. Colorado feels that there should be an opportunity to comment on all information that will be contained in the proposed spreadsheet and what will meet compliance and what will not. Moving forward, Colorado would like a better understanding as to the relationship between what is contained in the proposed spreadsheet and the Annual Performance Review (APR). Will both documents still be required and will they be done at the same time? Colorado would also like clarification as to whether the 40 hours discussed in the proposed rule also covers time spent completing the APR documents. Colorado would hope that effort to prevent duplicity has been made. Colorado would also like clarification on this remark. The program plan is completed on a one time basis as required by Section 32305 of MAP–21.

There is no continuing information collection function associated with submitting the Program Plan. What does this mean? Overall, to fully comment on this proposal, Colorado would like a better understanding as to what FMCSA is going to require from the SDLAs regarding what is compliance and what a SDLA will have to do to remain or get into compliance and how long they will have to do so.

When developing the spreadsheet to meet the Section 32305 of MAP–21 requirement, FMCSA decided upon an approach that would limit the amount of duplicity and redundancy of the various FMCSA requirements. The spreadsheet has been placed in the FMCSA docket and is available for immediate public consideration at the location *http://www.regulations.gov/#!documentDetail;D=FMCSA-2014-0133-0007* as item 7. Specifically, the spreadsheet focuses on each specific section of 49 CFR part 384 and asks the question if the State is in compliance with each requirement? If not, the follow-up question is, does a State have an approved Action Plan within ACRS? If yes, then the State has fulfilled that specific requirement. If not, then the State would have to provide an action plan for each compliance finding or deficiency within the spreadsheet that does not have an approved action plan within ACRS. A finding or deficiency is an instance where the State is not in compliance with a particular part of the regulations. This could be from any number of activities, including an Annual Program or Skills Test Review, a review of a State's data, and operation performance, a comprehensive compliance review, or any other means by which FMCSA may become aware that a State is not in compliance. This particular aspect has not changed by the State Plan requirement, and the publishing of this ICR. The State Plan requirement is not a reoccurring requirement. Section 32305 of MAP–21 required the submittal of a State Plan one time.

The North Carolina Department of Transportation stated that it contends that the requirement to submit the CDL Program Plan is redundant since this information is already available to FMCSA on ACRS. This requirement places an additional burden on the states when efforts are needed most to work toward compliance with the regulations.

The FMCSA has developed the spreadsheet to eliminate redundancy and limit the amount of time and effort for each State to complete and to comply with this requirement. In addition, the Section 32305 of MAP–21 requirement for States to provide assurances that they will remain in compliance through September 30, 2016, is not information that is currently available to FMCSA.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority of 49 CFR 1.87 on: May 18, 2015.

G. Kelly Regal,

Associate Administrator, Office of Research and Information Technology.

[FR Doc. 2015–12856 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0146]

Agency Information Collection Activities; Extension of a Currently Approved Collection; Training Certification for Entry-Level Commercial Motor Vehicle Operators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The Agency is asking OMB to renew without change FMCSA's estimate of the paperwork burden imposed by its regulations pertaining to the training of certain entry-level drivers of commercial motor vehicles (CMVs). Since 2004, FMCSA regulations have prohibited the operation of certain CMVs by individuals with less than 1 year of CMV-driving experience until they obtain this training.

DATES: We must receive your comments on or before July 27, 2015.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2015–0146 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.
- *Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

• *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

• *Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8–794.pdf.*

• *Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division, Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC, 20590. Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (49 U.S.C. 31301 *et seq.*) established the commercial driver's license (CDL) program and directed the Federal Highway Administration (FHWA), FMCSA's predecessor agency, to establish minimum qualifications for issuance of a CDL. After public notice and an opportunity for comment, the FHWA established standards for the knowledge and skills that a CDL applicant must satisfy.

In 1985, the FHWA published the ''Model Curriculum for Training Tractor-Trailer Drivers.'' The FHWA did not mandate driver training at that time. It believed the cost of developing a comprehensive driver-training program was too high in terms of agency resources. This was especially so, FHWA believed, in light of its reasonable expectation that the level of safety of entry level drivers would soon be elevated because (1) the deadline for States to adopt the new mandatory CDL-licensing standards for driver knowledge and skills was still in the future, and (2) many truck driving schools had updated their curricula in light of the new model curriculum (''Truck Safety: Information on Driver Training,'' Report of the U.S. General Accounting Office, GAO/RCED–89–163, August 1989, pages 4 and 5).

In 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, December 18, 1991) directed the FHWA to ''commence a rulemaking proceeding on the need to require training of all entry-level drivers of commercial motor vehicles (CMVs)'' (Section 4007(a)(2)). On June 21, 1993, the FHWA issued an advance notice of proposed rulemaking entitled, ''Commercial Motor Vehicles: Training for All Entry Level Drivers'' (58 FR 33874). The Agency also began a study of the effectiveness of the driver training currently being received by entry-level CMV drivers. The results of the study were published in 1997 under the title ''Adequacy of Commercial Motor Vehicle Driver Training.'' The study is available under FMCSA Docket 1997–2199 at the *Federal eRulemaking Portal* (*www.regulations.gov*) described above. The study found that three segments of the trucking industry were not receiving adequate entry-level training: heavy truck, motor coach, and school bus.

On August 15, 2003, FMCSA published a notice of proposed rulemaking (NPRM) entitled, ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' (68 FR 48863). The Agency proposed mandatory training for operators of CMVs on four topics: driver qualifications, hours-of-service of drivers, driver wellness and whistle-blower protection. The Agency believed that knowledge of these areas would provide the greatest benefit to the safety of CMV operations. On May 21, 2004, FMCSA by final rule prohibited a motor carrier from allowing an entry-level driver to operate a CMV until it received a written certificate indicating that the driver had received training in the four subject areas (69 FR 29384). The rule became effective on July 20, 2004. Training providers were required to provide a certificate to each driver trainee receiving the requisite training.

The Agency is asking OMB to renew without change FMCSA's estimate of the paperwork burden imposed by its regulations. (The Agency is currently conducting a negotiated rulemaking to redesign training for entry-level CMV operators; if the rulemaking amends driver-training requirements, the Agency will submit an estimate of the ICR burden of the requirements for OMB approval).

Title: Training Certification for Entry-Level Commercial Motor Vehicle Operators

OMB Control Number: 2126–0028.

Type of Request: Extension of a currently approved ICR.

Respondents: Entry-level CDL drivers.

Estimated Number of Respondents: 397,500.

Estimated Time per Response: 10 minutes.

Expiration Date: January 31, 2016.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 66,250 hours. FMCSA estimates that an entry-level driver requires approximately 10 minutes to complete the tasks necessary to comply with the regulation. Those tasks are photocopying the training certificate, giving the photocopy to the motor carrier employer, and retaining the original of the certificate. Therefore, the annual burden for all entry-level drivers is 66,250 hours [397,500 drivers x 10/60 minutes to respond = 66,250 hours].

Definitions: (1) ''Federal Motor Carrier Safety Regulations'' (FMCSRs) are parts 350–399 of volume 49 of the Code of Federal Regulations. (2) ''Commercial motor vehicle'' (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—(a) has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds); or (b) has a GVWR of 11,794 or more kilograms (26,001 pounds or more); or (c) is designed to transport 16 or more passengers, including the driver; or (d) is of any size and is used in the transportation of hazardous materials as defined in 49 CFR 383.5 (49 CFR 383.5). The definition of CMV found at 49 CFR 390.5 of the FMCSRs is not applicable to this notice. (3) ''Commercial Driver's License (CDL) Driver'' means the operator of a CMV because such operators must possess a valid commercial driver's license (CDL)(Section 383.23(a)(2)). (4) ''Entry-level CDL Driver'' means a driver with less than one year of experience operating a CMV with a CDL (49 CFR 380.502(b)).

Public Comments Invited: You are asked to comment on any aspect of this

information collection, including: (1) Whether the proposed collection is necessary for the FMCSA's performance of functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: May 18, 2015.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2015–12855 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Emergency Order No. 31, Notice No. 1]

Emergency Order Under 49 U.S.C. 20104 Establishing Requirements for the National Railroad Passenger Corporation To Control Passenger Train Speeds at Certain Locations Along the Northeast Corridor

SUMMARY: FRA is issuing this emergency order (EO or Order) to require that the National Railroad Passenger Corporation (Amtrak) take actions to control passenger train speed at certain locations on main line track in the Northeast Corridor (as described by 49 U.S.C. 24905(c)(1)(A)). Amtrak must immediately implement code changes to its Automatic Train Control (ATC) System to enforce the passenger train speed limit ahead of the curve at Frankford Junction in Philadelphia, Pennsylvania, where a fatal accident occurred on May 12, 2015. Amtrak must also identify each main track curve on the Northeast Corridor where there is a significant reduction (more than 20 miles per hour (mph)) from the maximum authorized approach speed to those curves for passenger trains. Amtrak must then develop and comply with an FRA-approved action plan to modify its existing ATC System or other signal systems (or take alternative operational actions) to enable enforcement of passenger train speed limits at the identified curves. Amtrak must also install additional wayside passenger train speed limit signage at appropriate locations on its Northeast Corridor right-of-way.

FOR FURTHER INFORMATION CONTACT: Ron Hynes, Director, Office of Safety Assurance and Compliance, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6404; Joseph St. Peter, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–6047, *joseph.st.peter@dot.gov*; or Matthew Navarrete, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493–0138, *matthew.navarrete@dot.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

FRA has determined that public safety compels issuance of this EO. This determination is made in light of the Amtrak train derailment that occurred in Philadelphia, Pennsylvania on May 12, 2015, in which eight persons were killed and a significant number of others were seriously injured. While the cause of the accident has not yet been determined, preliminary investigation into this derailment indicates the train was traveling approximately 106 mph on a curve where the maximum authorized passenger train speed is 50 mph. This was a serious overspeed event and FRA has concluded that additional action is necessary in the form of this EO to eliminate an immediate hazard of death, personal injury, or significant harm to the environment.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Administrator of FRA. 49 CFR 1.89 and internal delegations. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice ''causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment.'' 49 U.S.C. 20104. These orders may immediately impose ''restrictions and prohibitions . . . that may be necessary to abate the situation.'' *Id.*

Amtrak Derailment

On Tuesday, May 12, 2015, Amtrak passenger train 188 (Train 188) was traveling timetable east (northbound) from Washington, DC, to New York City. Aboard the train were five crew members and approximately 238 passengers. Train 188 consisted of a conventional set-up with a locomotive in the lead and seven passenger cars trailing. Shortly after 9:20 p.m., the train derailed while traveling through a curve in the track at Frankford Junction in Philadelphia, Pennsylvania. As a result of the accident, eight people were killed, and a significant number of people were seriously injured.

The National Transportation Safety Board (NTSB) has taken the lead role conducting the investigation of this accident under its legal authority. 49 U.S.C. 1101 *et seq.;* 49 CFR 800.3(a) and 831.2(b). As is customary, FRA is participating in the NTSB's investigation and also investigating the accident under its own authority. While NTSB has not yet issued any formal findings, the information it has released makes it obvious that train speed was a likely factor in the derailment. As Train 188 approached the curve from the west, it traveled over a straightaway with a maximum authorized passenger train speed of 80 mph. The maximum authorized passenger train speed for the curve was 50 mph. NTSB determined that the train was traveling approximately 106 mph within the curve's 50-mph speed restriction, exceeding the maximum authorized speed on the straightaway by 26 mph, and 56 mph over railroad's maximum authorized speed for the curve.[1] NTSB also determined the locomotive engineer operating the train made an emergency application of Train 188's air brake system, and the train slowed to approximately 102 mph before derailing in the curve.

2013 Metro-North Derailment

Upon evaluating the Amtrak accident described above, FRA found similarities to an accident that occurred in December 2013, on the New York State Metropolitan Transportation Authority's Metro-North Commuter Railroad Company (Metro-North) track. The Metro-North accident was the subject of FRA's Emergency Order No. 29. 78 FR 75442, Dec. 11, 2013. That accident occurred when a Metro-North passenger train was traveling south toward Grand Central Terminal in New York City. The train traveled over a straightaway with a maximum authorized passenger train speed of 70 mph before reaching a sharp curve in the track with a maximum authorized speed of 30 mph. NTSB's investigation of the Metro-North accident determined the train was traveling approximately 82 mph as it entered the curve's 30-mph speed

[1] FRA regulations provide, in part, that it is unlawful to ''[o]perate a train or locomotive at a speed which exceeds the maximum authorized limit by at least 10 miles per hour.'' 49 CFR 240.305(a)(2).

restriction before derailing. That derailment resulted in four fatalities and at least 61 persons being injured.

Overspeed Protections

Amtrak's passenger trains are normally operated with only one crewmember in the cab of a passenger train's locomotive. Amtrak's controlling locomotives are typically equipped with an alerter to help ensure the attentiveness of the locomotive engineer operating the train. Amtrak's locomotive controls and its signal systems also incorporate an ATC System, which is a train speed control system where trains are automatically slowed or stopped if a locomotive engineer fails to comply with signal indication or is otherwise unable to take action to slow a train. The ATC system is used to enforce compliance with certain signal indications in a particular territory, but it is not typically used to enforce civil passenger train speed restrictions that are below the maximum authorized operating speed for the broader territory. However, Amtrak's ATC System is capable of being used in a manner to enforce civil speed restrictions that are below the maximum authorized operating speed in some situations. This is accomplished by installing a code change point at or near the location where the speed restriction is to be enforced. As mentioned above, Amtrak's existing ATC System is not currently coded to slow trains to comply with applicable speed limits in all circumstances, and such coding may not be operationally feasible in all instances.[2] As demonstrated by the May 12, 2015, accident, if a locomotive engineer fails to take action to slow a train when approaching such a speed restriction, currently, Amtrak's ATC System will not slow the train to comply with the required speed reduction.

In light of the May 12 derailment that is the subject of this Order, and in an effort to immediately prevent similar incidents from occurring that could result in an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, in this Order FRA is requiring Amtrak take certain immediate actions. First, FRA is ordering Amtrak to implement code changes to its ATC System near the Frankford Junction curve in Philadelphia where the May 12 accident occurred in the timetable east (northbound) direction. The changes implemented must provide enforcement of the relevant passenger train speed limit of 50 mph for passenger trains approaching that curve. Amtrak has already completed actions to implement such changes.

Next, Amtrak must identify all other main track curves on the Northeast Corridor where there is a significant reduction (more than 20 mph) in the authorized passenger train approach speed upon the approach to those curves. After identifying such curves, Amtrak must develop and submit to FRA for review and approval an action plan to make appropriate code modifications to its existing ATC System or other signal systems to enable warning and enforcement of relevant passenger train speed restrictions. This requirement does not apply to portions of the Northeast Corridor where Amtrak's operations are governed by a Positive Train Control (PTC) system that is in use. To the extent that other railroads operate passenger trains at the same maximum authorized speeds as Amtrak in the curves affected by this Order, the modifications Amtrak makes to its ATC System or signal systems must also enforce the relevant speed restrictions for those trains.

If such code changes at identified curves will interfere with the timely implementation of PTC or are otherwise not viable, Amtrak must identify other actions it will take to ensure compliance with speed reductions (*e.g.,* a procedure whereby a locomotive engineer and a second qualified employee communicate via radio ahead of relevant speed reductions, and where the second qualified employee may make an emergency brake application to slow the train if the locomotive engineer fails to do so). These alternative operational actions must be described in Amtrak's action plan submitted to FRA for approval. In addition, any alternative operational actions Amtrak adopts to ensure compliance with speed restrictions at identified curve locations on the Northeast Corridor also apply to passenger trains operated by other railroads at those curve locations.

FRA notes that other railroads have coded their ATC systems to prevent overspeed events from occurring at locations where there are civil or other speed restrictions. FRA's Emergency Order No. 29, issued after the December 2013 accident discussed above, required Metro-North to take similar actions in response to that accident. FRA is ordering Amtrak to take similar steps to prevent accidents similar to the May 12, 2015, accident from occurring in the future if a locomotive engineer fails (or is otherwise unable) to take action to appropriately slow or stop a passenger train.

In addition to the above requirements, Amtrak must also enhance speed restriction signage along its rights-of-way on the Northeast Corridor. Amtrak must identify in the action plan it submits to FRA the locations at which it intends to install such additional signage, and provide notice to FRA when such additional signage has been installed. Increasing the amount and frequency of signage provides a redundant means to remind engineers and conductors of the authorized speed, in addition to information they receive from the ATC System and operational documents such as timetable or bulletin.

FRA recognizes that Amtrak has been diligent in implementing PTC on the Northeast Corridor by December 31, 2015, as required by section 104 of the Rail Safety Improvement Act of 2008. (Pub. L. 110–432, Division A, 122 Stat. 4848, 4856 (49 U.S.C. 20157)). Amtrak has indicated that it intends to meet the RSIA's statutory deadline to install PTC on the Northeast Corridor. Once in use, the PTC system will enforce the speed restriction at the curve where the May 12, 2015, accident occurred, but the interim action of implementing the code change in the ATC System, as required by this EO, will provide overspeed derailment protection until the PTC system is in use. As discussed above, Amtrak has already taken action to enforce appropriate passenger train speed limits near the curve where the May 12, 2015, accident occurred prior to its resumption of passenger train service, and plans to take similar actions at certain other locations on the Northeast Corridor. Amtrak also has stated it intends to increase radar checks, locomotive event recorder downloads, and efficiency tests aimed at ensuring compliance with relevant speed restrictions. Finally, Amtrak intends to hold listening sessions with its employees to learn about, and address, any additional safety concerns.

Nonetheless, due to the significant safety concerns presented by the May 12, 2015, accident, FRA believes immediate enforceable action is necessary to address the emergency situation that contributed to that derailment. FRA will continue to review additional actions to address safety concerns on the Nation's passenger rail systems as its investigation into the May 12, 2015, derailment continues. FRA will revisit the necessity of the requirements in this Order upon reviewing Amtrak's actions taken to comply with the EO, or upon PTC systems governing Amtrak's operations

[2] FRA understands that on the date of the accident the ATC system enforced the curve's speed restriction for the timetable west (southbound) trains at this curve but not for the timetable east (northbound) trains.

on the Northeast Corridor becoming operative.

Finding and Order

FRA recognizes that passenger rail transportation is generally extremely safe. However, FRA finds that the recent May 12, 2015, accident on Amtrak, and the lack of overspeed protections in place at certain locations on Amtrak's system, create an emergency situation involving a hazard of death, personal injury, or significant harm to the environment. Accordingly, under the authority of 49 U.S.C. 20104, delegated to the Administrator of FRA by the Secretary of Transportation, 49 CFR 1.89 and internal delegations, it is hereby ordered that:

1. Amtrak must immediately implement code changes to its ATC System or other signal systems near the Frankford Junction curve in Philadelphia, Pennsylvania where the fatal May 12, 2015, accident occurred. The changes must enforce the passenger train speed limit of 50 mph for timetable east (northbound) trains approaching that curve.

2. Amtrak must survey its main line track system located on the Northeast Corridor (as described by 49 U.S.C. 24905(c)(1)(A)) and identify each main track curve where there is a reduction of more than 20 mph from the maximum authorized approach speed to that curve for passenger trains, and provide a list of each location to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer (Associate Administrator) within 5 days of the date of this Order. For purposes of compliance with this Order, the speed reductions of more than 20 mph that existed on the date of the issuance of this Order apply.

3. After identifying the curves above, Amtrak shall develop and submit to FRA for approval an action plan that accomplishes each of the following:

a. Identifies appropriate modifications to Amtrak's existing ATC System or other signal systems that Amtrak will make to enable warning and enforcement of applicable passenger train speeds at the identified curves. If such coding changes will interfere with the timely implementation of a PTC system or are not otherwise feasible, Amtrak's plan must describe why such changes are not feasible and may describe alternative operating procedures that it will adopt at the identified curves to ensure compliance with applicable speed reductions.

b. Contains milestones and target dates for implementing each identified modification to Amtrak's existing ATC System or other signal systems (or alternative operational changes) to enable warning and enforcement of passenger train speeds at the identified curves.

4. Amtrak must submit the action plan to the Associate Administrator within 20 days of the date of this Order. FRA will review and approve, approve with conditions, or disapprove Amtrak's action plan within 15 days of the plan's submission to FRA. Once FRA approves its action plan, Amtrak must make all identified modifications to the existing ATC System or other signal systems (or alternative operational changes) in the timeframes and manner that complies with all conditions FRA places on its approval of Amtrak's action plan.

5. As soon as possible, but not later than 30 days after the date of this Order, Amtrak must begin to install additional wayside signage alerting engineers and conductors of the maximum authorized passenger train speed throughout its Northeast Corridor system, with particular emphasis on additional signage at the curve locations where speed reductions implicated by this Order must occur. Amtrak must identify the locations where it intends to install the additional wayside speed limit signs in the action plan submitted under paragraphs 3 and 4 above, and must notify the Associate Administrator upon the completion of the installation of those signs.

Nothing in this Order precludes FRA from using any of the other enforcement tools available to the agency under its regulatory authority to address non-compliance with the Federal railroad safety laws, regulations, and orders by Amtrak. If necessary, FRA may issue additional emergency orders or compliance orders, impose civil penalties against Amtrak (including individuals who may be liable for civil penalties for willful violations of the Federal railroad safety laws and regulations), or disqualify individuals from performing safety-sensitive functions.

Relief

Amtrak, or any other passenger railroad affected by this Order, may petition for special approval to take actions not in accordance with this EO. Petitions must be submitted to the Associate Administrator, who is authorized to act on those requests without amending this EO. In reviewing any petition for special review, the Associate Administrator shall grant petitions only if the petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety equivalent to that provided by compliance with this EO.

Penalties

Any violation of this EO shall subject the person committing the violation to a civil penalty of up to $105,000. 49 U.S.C. 21301. Any individual who willfully violates a provision stated in this order is subject to civil penalties under 49 U.S.C. 21301. In addition, any individual whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111. If appropriate, FRA may pursue criminal penalties under 49 U.S.C. 522(a) and 49 U.S.C. 21311(a), as well as 18 U.S.C. 1001, for the knowing and willful falsification of a report required by this Order. FRA may, through the Attorney General, also seek injunctive relief to enforce this Order. 49 U.S.C. 20112.

Effective Date and Notice to Affected Persons

This EO is effective upon Amtrak's receipt of an electronic copy, and Amtrak shall immediately initiate steps to implement this Order to comply with the Order's deadlines.

Review

Opportunity for formal review of this EO will be provided under 49 U.S.C. 20104(b) and 5 U.S.C. 554. Administrative procedures governing such review are at 49 CFR part 211. *See* 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC, on May 21, 2015.

Sarah Feinberg,

Acting Administrator.

[FR Doc. 2015–12774 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0007–N–15]

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

ACTION: Notice.

SUMMARY: FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget

(OMB) for emergency processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below by May 26, 2015, for a period of 180 days.

FOR FURTHER INFORMATION CONTACT: A copy of this individual ICR, with applicable supporting documentation, may be obtained by telephoning FRA's Office of Safety Clearance Officer: Robert Brogan (tel. (202) 493–6292) or FRA's Office of Administration Clearance Officer: Kimberly Toone (tel. (202) 493–6132) (these numbers are not toll-free); or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov.*

Comments and questions about the ICR identified below should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

SUPPLEMENTARY INFORMATION: FRA is issuing Emergency Order No. 31 (EO or Order) to require that the National Railroad Passenger Corporation (Amtrak) take actions to control passenger train speed at certain locations on main line track in the Northeast Corridor (as defined by 49 U.S.C. 24905(c)(1)(A)). Amtrak must immediately implement code changes to its Automatic Train Control (ATC) System to enforce the passenger train speed limit ahead of the curve at Frankford Junction in Philadelphia, Pennsylvania, where a fatal accident occurred on May 12, 2015. Amtrak must also identify all other curves on the Northeast Corridor where there is a significant reduction (more than 20 miles per hour (mph)) from the maximum authorized approach speed to those curves for passenger trains. Amtrak must then develop and comply with an FRA-approved action plan to modify its existing ATC System or other signal systems (or take alternative operational actions) to enable enforcement of passenger train speeds at the identified curves. Amtrak must also install additional wayside passenger train speed limit signage at appropriate locations on its Northeast Corridor right-of-way.

Title: FRA Emergency Order No. 31, Notice No.1

Reporting Burden:

Emergency order No. 31–item:	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
(1) Amtrak survey of Northeast Corridor (NEC) main line track system to create list identifying each main track curve where there is a reduction of more than 20 mph from the maximum authorized speed to that curve.	1 Railroad	1 list	32 hours	32 hours
(2) Development and submission of Amtrak Action Plan to FRA.	1 Railroad	1 action plan	80 hours	80 hours
(3) Installation of Additional Wayside Signs throughout NEC, particularly along curve locations, to alert engineers and conductors of maximum authorized train speed.	1 Railroad	186 NEC wayside signs.	15.4839 minutes per sign.	48 hours
—Notice by Amtrak to FRA of Installation of Signs along NEC designated in its.	1 Railroad	6 notices	15 minutes	2 hours
(4) Relief Petition to FRA to take action not in Accordance with this Emergency Order.	1 Railroad	1 petition request	80 hours	80 hours

Form Number(s): N/A.

Respondent Universe: 1 Railroad.

Frequency of Submission: One-time; on occasion.

Total Estimated Responses: 195.

Total Estimated Annual Burden: 242 hours.

Status: Emergency Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2015–12776 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0067]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MARTHA R; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 29, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0067. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453,

Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MARTHA R is:

Intended Commercial Use of Vessel: ''Sailing instruction, adventures charters, and recreational fishing.''

Geographic Region: ''Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Washington DC, Maryland, Delaware, New Jersey, New York, Rhode Island, Maine, Ohio, Michigan, Minnesota, Illinois, and Puerto Rico.''

The complete application is given in DOT docket MARAD–2015–0067 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 19, 2015.

Thomas M. Hudson, Jr.,

Acting Secretary, Maritime Administration.

[FR Doc. 2015–12730 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No: PHMSA–2015–0009]

Pipeline Safety: Information Collection Activities, Renewal of Annual Report for Hazardous Liquid Pipeline Systems

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: On February 19, 2015, in accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice in the **Federal Register** (80 FR 8944) inviting comments on an information collection titled: ''Renewal of Annual Report for Hazardous Liquid Pipeline Systems'' identified by Office of Management and Budget (OMB) control number 2137–0614. This information collection is expiring on December 31, 2015. In conjunction with this collection, PHMSA is requesting a 3-year renewal of form PHMSA F 7000–1.1—Annual Report for Hazardous Liquid Pipeline Systems, which is currently collected under OMB Control number 2137–0614.

During the 60-day comment period, PHMSA received no comments in response to this collection. PHMSA is publishing this notice to provide the public with an additional 30 days to comment on the renewal of this information collection and announce that the information collection will be submitted to OMB for approval.

DATES: Interested persons are invited to submit comments on or before June 29, 2015 to be assured of consideration.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2015–0009 by any of the following methods:

- *Fax:* 1–202–395–5806.
- *Mail:* Office of Information and Regulatory Affairs, Records Management Center, Room 10102 NEOB, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer for the U.S. Department of Transportation/PHMSA.
- *Email:* Office of Information and Regulatory Affairs, Office of Management and Budget, at the following email address: *OIRA_Submission@omb.eop.gov.*

Requests for a copy of the Information Collection should be directed to Cameron Satterthwaite by telephone at 202–366–1319, by fax at 202–366–4566, by email at *cameron.satterthwaite@dot.gov,* or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The following information is provided for this information collection: (1) Abstract for the affected annual report form; (2) title of the information collection; (3) OMB control number; (4) affected annual report form; (5) description of affected public; (6) estimate of total annual reporting and recordkeeping burden; and (7) frequency of collection. PHMSA will request a 3-year term of approval for this information collection activity.

PHMSA requests comments on the following information collection:

Title: Reporting Requirements for Hazardous Liquid Pipeline Operators: Hazardous Liquid Annual Report.

OMB Control Number: 2137–0614.

Current Expiration Date: 12/31/2015.

Type of Request: Renewal without change.

Abstract: Each operator must annually complete and submit the Form PHMSA F 7000–1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year, as required by 49 CFR 195.49. This Annual Report for Hazardous Liquid Pipeline Systems is required to be filed by June 15 of each year for the preceding calendar year. On the Annual Report form, PHMSA collects data concerning the number of miles of pipeline each operator has and other characteristics of each pipeline system. PHMSA also collects information on the number of anomalies identified and repaired using various types of pipe inspection and assessment methods.

Affected Public: Hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 447.

Total Annual Burden Hours: 8,457.

Frequency of collection: Annually.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the

validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on May 22, 2015, under authority delegated at 49 CFR 1.97.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2015–12925 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 2:00 p.m. to 3:30 p.m. (EDT) on Tuesday, June 16, 2015 via conference call at the SLSDC's Policy Headquarters, 55 M Street SE., Suite 930, Washington, DC 20003. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Thursday, June 11, 2015, Carrie Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, NY 13662; 315–764–3231.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on May 21, 2015.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2015–12782 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

National Freight Advisory Committee

ACTION: Announcement of Charter Renewal for the National Freight Advisory Committee.

SUMMARY: This notice announces renewal of National Freight Advisory Committee's charter for a period of 1 year (NFAC), effective May 28, 2015. The NFAC will provide information, advice, and recommendations to the U.S. Secretary of Transportation on matters relating to U.S. freight transportation.

FOR FURTHER INFORMATION CONTACT: Maria Lefevre, Designated Federal Officer at (202) 366–1999 or *freight@dot.gov* or visit the NFAC Web site at *www.dot.gov/nfac.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), DOT is giving notice of the charter renewal for the NFAC. The NFAC is established under the authority of the U.S. Department of Transportation, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). The NFAC shall continue to undertake information-gathering activities, develop technical advice, and present recommendations to the Secretary to further inform this policy, including but not limited to implementation of the freight provisions of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, and other issues of freight transportation policy and programs, including legislative recommendations. The NFAC is composed of up to 50 members representing diverse modes of transportation; regional representation across the Nation; relevant policy areas such as safety, labor, environment; freight customers and providers; and government bodies. The diversity of the Committee ensures the requisite range of views and expertise necessary to fulfill its responsibilities.

Issued: May 21, 2015.

Anthony R. Foxx,

Secretary.

[FR Doc. 2015–12921 Filed 5–27–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2015–0001]

Proposed Information Collections; Comment Request (No. 53)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before July 27, 2015.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''Regulations.gov'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *http://www.regulations.gov:* Use the comment form for this document posted within Docket No. TTB–2015–0001 on ''Regulations.gov,'' the Federal e-rulemaking portal, to submit comments via the Internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2015–0001 at *http://www.regulations.gov.* A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it

and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on this notice to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following forms, recordkeeping requirements, or questionnaires:

Title: Taxable Articles Without Payment of Tax.

OMB Number: 1513–0027.

TTB Form Number: TTB F 5200.14.

Abstract: Manufacturers of tobacco products, cigarette papers, or cigarette tubes, cigar manufacturers operating in a customs bonded manufacturing warehouse, and export warehouse proprietors may remove such products without payment of the Federal tobacco excise tax for export or for consumption beyond the jurisdiction of the internal revenue laws of the United States, under 26 U.S.C. 5704(b). The manufacturer or export warehouse proprietor records these removals on TTB F 5200.14, which is also signed by the recipient or a customs officer, certifying the appropriate receipt of the products. The form, therefore, is used to show that these tax-free removals are in fact delivered in compliance with the law.

Current Actions: TTB is submitting this collection as a revision. The data collected on the form remains the same. However, TTB is changing the title of this information collection and the form to ''Removals of Tobacco Products, Cigarette Papers and Tubes Without Payment of Tax'' to more clearly reflect the purpose of the collection and form. As a convenience for industry members, TTB also is adding a continuation page for Item 10, Shipment Description, so that they may describe additional shipments on the form itself instead of having to provide their own continuation page(s) or use an additional form. TTB is also making other minor typographic corrections to the form. The number of respondents and burden hours for this collection remain the same.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 280.

Estimated Total Annual Burden Hours: 61,600.

Title: Excise Tax Return.

OMB Number: 1513–0083.

TTB Form Number: TTB F 5000.24.

Abstract: TTB is responsible for the collection of the Federal excise taxes imposed by 26 U.S.C. chapters 51 and 52 on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes. Under 26 U.S.C. 5061(a) and 5703(b), the tax is collected on the basis of a return, and, therefore, businesses, other than those in Puerto Rico, report their Federal excise tax liability on those products on TTB F 5000.24, Excise Tax Return. TTB uses the information requested on the return form to establish the taxpayer's identity, the amount and type of taxes due, and the amount of payments made.

Current Actions: TTB is submitting this collection as a revision. The form remains unchanged. We are updating the number of respondents to reflect an increase in the number of taxpayers filing excise tax returns. However, although the number of respondents has increased, we are updating the annual burden hours to show a decrease, because of a decrease in the number of taxpayers who file the form semi-monthly. Regulatory changes now allow more alcohol excise taxpayers to file quarterly rather than semi-monthly, which results in a decrease in the total number of responses. In addition, more taxpayers meet the criteria for filing annually rather than semi-monthly, which also contributes to the decrease in the number of responses.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 18,371.

Estimated Total Annual Burden Hours: 127,513.

Title: Tobacco Bond.

OMB Number: 1513–0103.

TTB Form Numbers: TTB F 5200.25, TTB F 5200.26, and TTB F 5200.29.

Abstract: TTB requires a collateral bond (TTB F 5200.25) or a corporate surety bond (TTB F 5200.26) to ensure payment of the Federal excise tax on tobacco products and cigarette papers and tubes removed from the factory or warehouse subject to tax. Tobacco industry members also may use TTB F 5200.29, which is a combination of TTB F 5200.25 and TTB F 5200.26, to satisfy the TTB bond requirements. Manufacturers of tobacco products or cigarette papers and tubes and proprietors of export warehouses, along with corporate sureties, are the respondents for this form.

Current Actions: TTB is submitting this collection as a revision. The forms remain unchanged. However, we are revising the burden estimate to reflect an increase in the number of respondents and the resulting burden hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 200.

Estimated Total Annual Burden Hours: 325.

Title: Formula and Process for Domestic and Imported Alcohol Beverages.

OMB Number: 1513–0122.

TTB Form Number: TTB F 5100.51.

Abstract: This form is used by industry members to obtain approval of formulas for alcohol beverage products where the TTB regulations require such

approval. TTB uses the information provided on TTB F 5100.51 to ensure appropriate classification of distilled spirits, wine, and malt beverages for labeling and taxation purposes. The form collects information regarding the person filing, the type of product made, the ingredients used, and the manufacturing process.

Current Actions: TTB is submitting this collection as a revision. The form remains unchanged. However, we are revising the burden estimate to reflect an increase in the number of respondents and the resulting increase in burden hours.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 2,700.

Estimated Total Annual Burden Hours: 7,254.

Dated: May 21, 2015.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2015–12873 Filed 5–27–15; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of five individuals and one entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the five individuals and one entity identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on May 21, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On May 21, 2015 the Director of OFAC designated the following five individuals and one entity whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. BEATTIE DE BRIONES, Myriam Susana (a.k.a. BEATTIE BRIONES, Myriam Susana; a.k.a. BEATTIE MARTINEZ, Myriam Susana), Calle Segunda y Canales No. 10, Zona Centro, Matamoros, Tamaulipas, Mexico; DOB 17 Oct 1978; POB Monterrey, Nuevo Leon, Mexico; R.F.C. BESM781017MY2 (Mexico); alt. R.F.C. BESM781017HV1 (Mexico); alt. R.F.C. BESM781017162 (Mexico); C.U.R.P. BEMM781017MNLTRY05 (Mexico); I.F.E. 0539041296164 (Mexico) (individual) [SDNTK].

2. BRIONES RUIZ, Claudia Aide, Calle Bustamante 19 y 20, No. 187, Zona Centro, Matamoros, Tamaulipas 87300, Mexico; DOB 01 Oct 1981; POB Matamoros, Tamaulipas, Mexico; R.F.C. BIRC811001A56 (Mexico); C.U.R.P. BIRC811001MTSRZL05 (Mexico); I.F.E. 0516041106955 (Mexico) (individual) [SDNTK].

3. BRIONES RUIZ, Abel, Calle Bustamante No. 187, Matamoros, Tamaulipas, Mexico; DOB 31 Oct 1973; POB Matamoros, Tamaulipas, Mexico; R.F.C. BIRA731031BU4 (Mexico); C.U.R.P. BIRA731031HTSRZB03 (Mexico); I.F.E. 05116040222575 (Mexico) (individual) [SDNTK].

4. NIETO GONZALEZ, Rogelio; DOB 13 Mar 1978; POB Matamoros, Tamaulipas, Mexico; R.F.C. NIGR780313JK2 (Mexico); C.U.R.P. NIGR780313HTSTNG02 (Mexico) (individual) [SDNTK].

5. RUIZ DE BRIONES, Magdalena (a.k.a. RUIZ CARRION, Magdalena); DOB 01 Jul 1950; POB Matamoros, Tamaulipas, Mexico; R.F.C. RUBM50070167A (Mexico); alt. R.F.C. RUCM500701513 (Mexico); C.U.R.P. RUCM500701MTSZRG01 (Mexico) (individual) [SDNTK].

Entity

1. COMBUSTIBLES BRIONES, S.A. DE C.V., Carr. a Reynosa Km 21, Tamaulipas, Mexico [SDNTK].

Dated: May 21, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015–12889 Filed 5–27–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8931

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning Form 8931, Agricultural Chemicals Security Credit.

DATES: Written comments should be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agricultural Chemicals Security Credit.

OMB Number: 1545–2122.

Form Number: 8931.

Abstract: Form 8931 is used to claim the tax credit for qualified agricultural chemicals security costs paid or incurred by eligible agricultural businesses. All the costs must be paid or incurred to protect specified agricultural chemicals at a facility.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 66,666.

Estimated Total Annual Burden Hours: 389,330.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2015.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–12951 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2015–XX

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2015–XX, Procedures for Requesting a Waiver of the Electronic Filing Requirements for Form 8955–SSA and Form 5500–EZ.

DATES: Written comments should be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Procedures for Requesting a Waiver of the Electronic Filing Requirements for Form 8955–SSA and Form 5500–EZ.

Notice Number: 2015–XX.

OMB Number: 1545–XXXX.

Abstract: This notice provides procedures for the plan administrators of retirement plans (or, in certain situations, employers maintaining retirement plans) who are required to electronically file Form 8955–SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits, or Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan, to request a waiver of that requirement due to economic hardship.

Current Actions: Request for new OMB Control Number.

Type of Review: Approval for new information collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Respondent: 8 hours.

Estimated Total Annual Reporting Burden Hours: 240.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 21, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–12952 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to amortization of intangible property.

DATES: Written comments should be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Kerry Dennis at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Amortization of Intangible Property.

OMB Number: 1545–1671.

Regulation Project Number: REG–209709–94 (TD 8865).

Abstract: These regulations apply to property acquired after January 25, 2000. Regulations to implement section 197(e)(4)(D) are applicable August 11, 1993, for property acquired after August 10, 1993 (or July 26, 1991, for property acquired after July 25, 1991, if a valid retroactive election has been made under § 1.197–1T).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 20, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–12949 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.

DATES: Written comments should be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie A. Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Martha.R.Brinson@irs.gov.*

Title: Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.

OMB Number: 1545–0817.

Regulation Project Number: TD 7845.

Abstract: Internal Revenue Code section 6104 requires applications for tax exempt status, annual reports of private foundations, and certain portions of returns to be open for public inspection. Some information may be withheld from disclosure. The Internal Revenue Service needs the required information to comply with requests for public inspection.

Current Actions: There is no change to this existing information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal government.

Estimated Number of Respondents: 42,370.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 8,538.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material

in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 18, 2015.

Christie A. Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–12947 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning qualified electing fund elections.

DATES: Written comments should be received on or before July 27, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Electing Fund Elections.

OMB Number: 1545–1514.

Regulation Project Number: REG–209040–88.

Abstract: This regulation permits certain shareholders to make a special election under Internal Revenue Code section 1295 with respect to certain preferred shares of a passive foreign investment company. This special election operates in lieu of the regular section 1295 election and requires less annual reporting. Electing preferred shareholders must account for dividend income under the special rules of the regulation, rather than under the general income inclusion rules of section 1293.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit organizations, and individuals.

Estimated Number of Respondents: 1,030.

Estimated Time per Respondent: .58 hours.

Estimated Total Annual Burden Hours: 600.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 20, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–12940 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2016 Grant Application Package; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice; correction

SUMMARY: The Internal Revenue Service published a document in the **Federal Register** of May 13, 2015, announcing the availability of the 2016 grant application package. The heading inadvertently referencing the ''2014'' Grant Application Package should have read ''2016''.

FOR FURTHER INFORMATION CONTACT: The LITC Program Office at (202) 317–4700 (not a toll-free number) or by email at *LITCProgramOffice@irs.gov.*

Correction

In the **Federal Register** of May 13, 2015, in FR Doc. 2015–11567, on page 27436, in the second column, the heading inadvertently referenced ''2014.'' The correct year is ''2016''. Please correct the heading to read as follows:

Low Income Taxpayer Clinic Grant Program; Availability of 2016 Grant Application Package

Nina E. Olson,

National Taxpayer Advocate, Internal Revenue Service.

[FR Doc. 2015–12953 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS); Tax Exempt and Government Entities Division, Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Wednesday, June 17, 2015.

FOR FURTHER INFORMATION CONTACT: Tanya Barbosa, TE/GE Communications and Liaison; 1111 Constitution Ave. NW.; SE:T:CL—NCA 534–18; Washington, DC 20224. Telephone: 202–317–8514 (not a toll-free number). Email address: *tege.advisory@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Wednesday, June 17, 2015, from 9:30 a.m. to 11:30 a.m., at the Internal Revenue Service; 1111 Constitution Ave. NW., Room 3313, Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities. Reports from five ACT subgroups cover the following topics:

- Employee Plans: Analysis and Recommendations Regarding 403(b) Plans
- Exempt Organizations: The Redesigned Form 990—Recommendations for Improving its Effectiveness as a Reporting Tool and Source of Data for the Exempt Organization Community
- Federal, State and Local Governments: FSLG Education and Outreach—Review and Recommendations
- Indian Tribal Governments: Recommendations for Outreach and Training—A Revision to the Indian Tax Desk Guide
- Tax-Exempt Bonds: Doing More With Less—Balancing Resources and Needs

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Brian Dowling to confirm their attendance. Mr. Dowling can be reached at (202) 317–8798, or email attendance request to *tege.advisory@irs.gov.* Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Photo identification must be presented. Please use the main entrance at 1111 Constitution Ave. NW. to enter the building. Should you wish the ACT to consider a written statement, please call (202) 317–8514, or write to: Internal Revenue Service; 1111 Constitution Ave. NW., SE:T:CL—NCA–534–18, Washington, DC 20224, or: *tege.advisory@irs.gov.*

Dated: May 21, 2015.

Tanya Barbosa,

Acting, Designated Federal Officer, Tax Exempt and Government Entities Division, Internal Revenue Service.

[FR Doc. 2015–12954 Filed 5–27–15; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 1, 4, 9, et al.

Federal Acquisition Regulations; Fair Pay and Safe Workplaces; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 4, 9, 17, 22, and 52

[FAR Case 2014–025; Docket No. 2014–0025; Sequence No. 1]

RIN 9000–AM81

Federal Acquisition Regulation; Fair Pay and Safe Workplaces

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the Executive Order ''Fair Pay and Safe Workplaces'', which is designed to improve contractor compliance with labor laws and increase efficiency and cost savings in Federal contracting. The Executive Order (E.O.) requires that prospective and existing contractors disclose certain labor violations and that contracting officers, in consultation with labor compliance advisors, consider the disclosures, including any mitigating circumstances, as part of their decision to award or extend a contract. The E.O. directs agencies to include clauses in their contracts that require similar disclosures by certain subcontractors so their prime contractors can also consider labor violations when determining the responsibility of subcontractors. The E.O. further requires that processes be established to assist contractors and subcontractors to come into compliance with labor laws. To achieve paycheck transparency for workers, the E.O. requires contractors and subcontractors to provide individuals with information each pay period regarding how they are paid and to provide notice to those workers whom they treat as independent contractors. The E.O. also addresses arbitration of employee claims. This proposed rule, and proposed Guidance being issued simultaneously by the Department of Labor (DOL), are intended to implement the E.O.'s requirements.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before July 27, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2014–025 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2014–025''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2014–025.'' Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2014–025'' on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–025, 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. Edward Loeb, Procurement Analyst, at 202–501–0650, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2014–025.

SUPPLEMENTARY INFORMATION:

I. Overview

This proposed rule implements E.O. 13673, Fair Pay and Safe Workplaces, dated July 31, 2014 (79 FR 45309, August 5, 2014). E.O. 13673 was amended by E.O. 13683, December 11, 2014 (79 FR 75041, December 16, 2014) to correct a statutory citation. The policy of the Government is to promote economy and efficiency in procurement by awarding contracts to contractors that comply with labor laws. Contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and increase the likelihood of timely, predictable and satisfactory delivery of goods and services to the Federal Government.

It is a longstanding tenet of Federal procurement that before a Federal contract is awarded, a contracting officer must determine that the contractor is a responsible source to do business with the Federal Government. The FAR makes clear that in order to be determined responsible, a prospective contractor must ''have a satisfactory record of integrity and business ethics.'' Underlying the FAR's responsibility requirements is the basic recognition that the Federal procurement process works more efficiently and economically when Federal contractors comply with applicable laws, including labor laws. As section 1 of the E.O. explains, contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and to deliver goods and services to the Federal Government in a timely, predictable, and satisfactory fashion.

In recent years, the Administration and Congress have taken a number of steps to strengthen the quality of responsibility determinations generally as well as the overall integrity of the Federal procurement system. These steps have included:

- Deployment of the Federal Awardee Performance and Integrity Information System (FAPIIS)—a one-stop online source for data to support contracting officers as they determine whether a company has the requisite integrity to do business with the Government;
- Promulgation of a new regulatory requirement that offerors state in certain situations whether they have had criminal, civil, or administrative violations within the past 5 years; and
- Direction to agencies to take steps to strengthen their capability to take suspension and debarment actions when necessary to protect the Government from harm.

These important steps have helped the Government make meaningful progress in its efforts to protect taxpayers from waste and abuse and reinforce public confidence in the Federal procurement system. However, agencies would benefit from additional information about labor violations in order to better determine if a potential contractor is a responsible source. For example, many labor violations, including ones that are serious, willful, repeated, or pervasive, may go unreported despite the contractor self-certification described above and found at FAR 52.209–7, because (i) the current penalty triggers for reporting labor violations in FAPIIS may be higher than the penalties associated with individual labor violations; (ii) a contractor is not required to report if it doesn't currently have at least $10 million in contract actions; and (iii) administrative proceedings required to be reported are limited to those in connection with performance of a Federal contract or grant. Even if information regarding labor violations is made available to the agency, contracting officers lack the expertise and tools to efficiently and effectively evaluate the severity of the violations brought to their attention and

therefore cannot easily determine if a contractor's actions show a lack of business ethics and integrity.

Gaps in current regulatory coverage on labor compliance have been discussed in several reports issued over the past several years looking at labor violations by Federal contractors. GAO issued a report (GAO–10–1033, ''FEDERAL CONTRACTING: Assessments and Citations of Federal Labor Law Violations by Selected Federal Contractors,'' dated September 2010, *http://www.gao.gov/new.items/d101033.pdf*) finding that almost two-thirds of the 50 largest wage-and-hour violations and almost 40 percent of the 50 largest workplace health-and-safety penalties issued between FY 2005 and FY 2009 were made against companies that went on to receive new Government contracts. A separate study conducted by the Center for American Progress (''At Our Expense: Federal Contractors that Harm Workers Also Shortchange Taxpayers,'' dated December 2013, *https://www.americanprogressaction.org/issues/labor/report/2013/12/11/80799/at-our-expense/*) found that one quarter of the 28 companies with the top workplace violations that received Federal contracts had significant performance problems—suggesting a strong relationship between contractors with a history of labor law violations and those with performance problems. While the violations discussed in these reports occurred prior to the implementation of the improvements described above, a report by the United States Senate Health, Education, Labor and Pensions Committee, (''Acting Responsibly? Federal Contractors Frequently Put Workers' Lives and Livelihoods at Risk,'' dated December, 2013, *http://www.help.senate.gov/imo/media/doc/Labor%20Law%20Violations%20by%20Contractors%20Report.pdf*), found continued awards to contractors with significant health and safety and wage-and-hour violations even after at least some of these improvements had gone into effect.

To improve contractor compliance with labor laws and the consideration of labor violations of Federal contractors and subcontractors, E.O. 13673 directs that the following steps be incorporated into existing procurement processes:

• *Disclosure of labor violations.* The E.O. directs agencies to require offerors to report, for contracts over $500,000 whether there has been an administrative merits determination, civil judgment, or arbitral award or decision rendered against them during the preceding three-year period for violations of any of 14 identified Federal labor laws and executive orders or equivalent State laws (labor laws) — including those addressing wage and hour, safety and health, collective bargaining, family and medical leave, and civil rights protections. These disclosures must be made prior to a finding of responsibility, and semi-annually during performance of any contract containing the requirement, so that contracting officers may consider them prior to exercising an option. Prime contractors must also obtain from subcontractors with whom they have contracts of more than $500,000 other than commercially available off-the-shelf items (COTS) the same labor compliance history that they must themselves disclose.

• *Assessment of disclosures.* Prior to a finding of responsibility, contracting officers must consider contractor disclosures of labor violations as part of their determination of whether a contractor has a satisfactory record of integrity and business ethics. They must seek and consider the analysis and recommendations made by agency labor compliance advisors (ALCAs), a new position created by the E.O. Prime contractors must consider the violations disclosed by their subcontractors at any tier in making responsibility determinations regarding their supply chain. Contracting officers and contractors must consider updates to disclosures and disclosures of any new violations to determine whether action needs to be taken during performance of any contract or subcontract containing the disclosure updates requirement.

• *Assistance to help contractors and subcontractors with labor law violations come into compliance with labor laws.* DOL will be available to consult with contractors and subcontractors that have labor law violations.

Consistent with the E.O., these changes are being implemented through proposed regulations by DoD, GSA and NASA that are informed by proposed Guidance issued by DOL entitled ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces' '' (Guidance). DOL's Guidance focuses on defining labor violations and how to determine whether a labor violation is reportable, what information about labor violations must be disclosed, how to analyze the severity of labor violations, and the role of ALCAs, and of DOL and other enforcement agencies, in addressing violations. The FAR rule incorporates DOL's Guidance and further delineates, through policy statements, solicitation provisions, and contract clauses how, when, and to whom disclosures are to be made and the responsibilities of contracting officers and contractors in addressing violations. The FAR rule, consistent with the DOL Guidance, describes the role of ALCAs, DOL and other enforcement agencies in supporting contracting officers and contractors in making responsibility determinations before award and addressing violations that occur during contract performance. In addition, the FAR rule addresses the ability of contractors and subcontractors to work with DOL and enforcement agencies to facilitate remediation measures, such as labor compliance agreements, and states that Suspending and Debarring Officials should be notified in accordance with agency procedures if a contracting officer concludes that a prospective contractor does not have a satisfactory record of integrity and business ethics.

Specifically:

• With respect to making disclosures, the DOL Guidance defines the terms ''administrative merits determination,'' ''civil judgment,'' and ''arbitral award or decision,'' for each of the fourteen enumerated labor laws and discusses what information related to these determinations must be reported by contractors and subcontractors. The FAR rule creates solicitation provisions and contract clauses that will include these disclosure triggers and explain when the required information described in the DOL Guidance is to be submitted, how it is to be submitted, and to whom it is to be submitted.

Offerors must represent for each solicitation whether they have covered labor violations. They complete the annual representations and certifications in the System for Award Management (SAM), and later in each solicitation identify if the SAM representations are still current. Offerors need not provide information on specific violations (such as the case number, the date rendered, or who made the determination or decision) until requested by the contracting officer, which will occur when a responsibility determination is being made. When asked for the additional required information, the prospective contractor will also be invited to provide to the contracting officer such additional information as the prospective contractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (including labor compliance agreements) and other steps taken to achieve compliance with labor laws. Disclosure of basic information about the labor violations will be made publicly available in FAPIIS.

• The DOL Guidance also explains when violations should be considered serious, willful, repeated, or pervasive,

as well as how to identify from among the disclosures that fall within these categories those violations that may warrant heighted attention by ALCAs and contracting officers because of the nature of the violations. The FAR rule provides direction to contracting officers in making responsibility determinations to take into account any disclosed labor violations and advice that ALCAs provide to contracting officers. The rule reminds contracting officers that when reviewing disclosures and ALCA advice, they must consider factors that may mitigate the existence of a labor law violation, such as the extent to which the contractor has remediated the violation and taken steps to prevent its recurrence.

• Regarding assistance, DOL's Guidance explains how contractors and subcontractors can get help from DOL, including the opportunity to receive early guidance from DOL and other enforcement agencies on whether violations are potentially problematic, as well as the opportunity to remedy any problems. The FAR clauses promulgated in this rule address the contractor's ability to communicate with DOL and the requirement for contracting officers to give appropriate consideration to remedial measures or mitigating factors, including any agreements by contractors or other corrective action taken to address violations.

By coordinating their actions, DoD, GSA, and NASA, and DOL seek to create a comprehensive process that is reasonable and manageable, and avoids uncertainty that drives up the cost of doing business with the Government. In addition, consistent with the E.O., this proposed rule seeks to minimize implementation burden for contractors and subcontractors in a number of ways.

• The rule, like the E.O., builds on the existing procurement system, and adopts existing processes that help to minimize burden, such as by allowing agencies to limit the required disclosure of the details of violations to offerors for whom a responsibility determination has been initiated.

• Disclosure requirements are limited to contracts over $500,000 and subcontracts over $500,000 other than COTS items, which excludes the vast majority of transactions (many of which are performed by small businesses), while still capturing the vast majority of contract dollars.

• As explained in DOL's Guidance, the focus of analysis is on those violations that are most concerning and have the greatest bearing on an assessment of a contractor's or subcontractor's integrity and business ethics. As a result, most disclosures, such as minor violations of workplace safety and wage-and–hour requirements, should not trigger specific actions beyond those that would otherwise be directed by DOL or the contracting agency to correct the violation. Where action is required, the focus will be on helping the contractor come into compliance, and taking mitigating steps which may include the development of a labor compliance agreement.

• As explained in DOL's Guidance, contractors and subcontractors will be able to engage with DOL and enforcement agencies early in the process when contractors or subcontractors know that they have violations that may require remediation, so that the results of those engagements can be used by contracting officers to help determine responsibility, and used by contractors to help determine responsibility of subcontractors, without having these steps unnecessarily disrupt the procurement process.

• ALCAs will be appointed by agencies to assist agency contracting officers and coordinate with DOL. As indicated in DOL's Guidance, DOL will create processes that facilitate coordination between ALCAs and DOL so that they may give appropriate consideration to determinations and agreements made by DOL and other enforcement agencies as well as analyses of disclosures that have previously been made by an ALCA. This coordination will help to reduce burden for both contractors and agencies by avoiding redundant, inconsistent, and time consuming evaluations. In accordance with the express terms of the E.O., disclosures are only required for subcontracts with an estimated value over $500,000 other than COTS items.

• DoD, GSA, and NASA, and DOL are proposing to implement the changes addressing subcontracting in phases and seek public input on a phased approach. See section IV. A. Phase-in of Subcontractor Requirements.

• Efforts are underway to develop a single Web site for Federal contractors to use for Federal contract reporting requirements related to labor laws, as well as other reporting requirements as practicable so that compliance is as easy and efficient for businesses as possible.

While the focus of the E.O. is on helping contractors come into compliance, there may be instances where a contractor's actions show a lack of business ethics and integrity that warrants notification to the agency's Suspending and Debarring Official. This could include situations where a disclosure shows a basic disregard for labor laws and an unwillingness to come into compliance, as may be demonstrated by a pattern of serious or willful violations, continuing violations, or numerous violations (which the proposed DOL Guidance collectively labels as ''pervasive violations''), with no effort to remediate. Such actions will be subject to careful review. If the Suspending and Debarring Official is notified, such actions shall be subject to review, and if suspension and debarment is necessary, the contractor will be given notice and reasonable opportunity to present facts or arguments in support of its position, in accordance with longstanding principles of fundamental fairness set forth in the FAR.

In addition to the new requirements to improve labor compliance, the rule addresses requirements in the E.O. to ensure workers are given the necessary information each pay period to verify the accuracy of what they are paid. The proposed rule recognizes that a contractor would be in compliance if it provides a worker with a wage statement that complies with a state law whose wage statement laws are substantially similar to the E.O's wage statement requirements (as specified in DOL's Guidance).

Finally, the proposed rule would implement the E.O.'s requirement that contractors and subcontractors who enter into contracts for non-commercial items over $1 million agree not to enter into any mandatory pre-dispute arbitration agreement with their employees or independent contractors on any matter arising under Title VII of the Civil Rights Act, as well as any tort related to or arising out of sexual assault or harassment.

Additional detail on the requirements of the E.O. and how the above steps are reflected in provisions and clauses in the proposed rule are discussed below in section II. ''Background and Implementation of the E.O.''

II. Background and Implementation of the E.O.

E.O. 13673 seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that they understand and comply with labor laws. A number of the E.O.'s requirements are addressed in this proposed rule, including the following:

Section 2 of the E.O. contains contractor disclosure requirements designed to provide contracting officers pertinent information to consider in making responsibility determinations, which will improve contracting officers' ability to award contracts to contractors that have a satisfactory record of

integrity and business ethics. Similar disclosure requirements are required at the subcontractor level.

Section 2(a)(i) of the E.O. establishes that offerors on a contract estimated to exceed $500,000 must represent whether there has been any administrative merits determination, arbitral award or decision, or civil judgment, (as defined in DOL Guidance entitled: ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces' ''), rendered against the offeror, within a three year period preceding the offer, for violations of any of the enumerated labor laws.

Section 2(a)(ii) of the E.O. provides that a contracting officer, as part of the contractor responsibility determination, will provide an opportunity for a prospective contractor to disclose any steps taken to correct the violations of or to improve compliance with the labor laws, including any agreements entered into with an enforcement agency.

Section 3 of the E.O. requires each agency to designate a senior agency official to be an agency labor compliance advisor (ALCA) to assist contracting officers, contractors, the DOL and other relevant enforcement agencies in reviewing and evaluating disclosed information. The ALCA, may also assist subcontractors by referring them to the appropriate DOL office. DOL, as stated in its ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces' '', plans to set up a structure within DOL to consult with ALCAs in carrying out their responsibilities and duties and to be available to consult with contractors and subcontractors.

Section 4 of the E.O. requires DoD, GSA, and NASA, in consultation with DOL, the Office of Management and Budget, and enforcement agencies to identify considerations for determining whether serious, repeated, willful, or pervasive violations of the enumerated labor laws demonstrate a lack of integrity or business ethics. DOL is responsible for developing guidance to assist agencies in determining whether administrative merits determinations, arbitral awards or decisions, or civil judgments were issued for serious, repeated, willful, or pervasive violations.

Section 5 of the E.O. addresses paycheck transparency in Federal contracts by requiring that contractors provide individuals performing work under the contract for whom they must maintain wage records under the Fair Labor Standards Act, 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), formerly known as the Davis-Bacon Act, 41 U.S.C. chapter 67, Service Contract Labor Standards, formerly known as the Service Contract Act, or equivalent state laws with a document with basic information about their hours and wages so that individuals will know if they are being paid properly for work performed. In addition, when contractors are treating an individual as an independent contractor, rather than an employee, the contractor must provide a document stating this to the individual.

Section 6 of the E.O. provides that for contracts estimated to exceed $1,000,000, employees and independent contractors of contractors may not be required to enter into pre-dispute arbitration agreements for disputes arising out of Title VII of the Civil Rights Act or from torts related to sexual assault or harassment.

Section 10 of the E.O. states that the E.O. became effective upon signature, and applies to solicitations for contracts as set forth in the FAR final rule.

A. FAR Implementation

The rule proposes to add FAR subpart 22.20, Fair Pay and Safe Workplaces. FAR 22.2002 adds definitions. FAR 22.2004 summarizes the E.O. section 2 disclosure requirements. FAR 22.2005 implements the E.O. section 5 paycheck transparency requirements. FAR 22.2006 implements the E.O. section 6 complaint and dispute transparency requirements.

DoD, GSA, and NASA, in formulating the proposed rule and in consultation with DOL, considered the Guidance DOL has proposed in accordance with Section 4 of the E.O. DoD, GSA, and NASA has identified and prescribed in the proposed rule specifically when, and in what manner, the DOL Guidance must be read and utilized to effectively implement the E.O.

1. Definitions

FAR 22.2002 adds definitions, which also appear at 52.222–BB Compliance with Labor Laws. Definitions of the terms ''administrative merits determination,'' ''agency labor compliance advisor,'' ''arbitral award or decision,'' ''civil judgment,'' ''DOL Guidance,'' ''enforcement agency,'' ''labor compliance agreement,'' ''labor laws,'' ''labor violation,'' ''pervasive violation,'' ''repeated violation,'' ''serious violation,'' and ''willful violation'' appear in FAR 22.2002 and in the clause at FAR 52.222–BB, Compliance with Labor Laws.

The definition of ''labor laws'' is derived from the E.O and includes the following statutes and E.O.s:

—The Fair Labor Standards Act, 29 U.S.C. chapter 8.
—The Occupational Safety and Health Act (OSHA) of 1970.
—The Migrant and Seasonal Agricultural Worker Protection Act.
—The National Labor Relations Act.
—40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.
—41 U.S.C. chapter 67, formerly known as the Service Contract Act.
—E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).
—Section 503 of the Rehabilitation Act of 1973.
—The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.
—The Family and Medical Leave Act.
—Title VII of the Civil Rights Act of 1964.
—The Americans with Disabilities Act of 1990.
—The Age Discrimination in Employment Act of 1967.
—E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors.
—Equivalent State laws as defined in Guidance issued by the Department of Labor. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans).

The proposed rule definitions of ''administrative merits determination,'' ''arbitral award or decision,'' ''civil judgment,'' ''pervasive violation,'' ''repeated violation,'' ''serious violation,'' and ''willful violation'' are based on DOL's Guidance. The definitions of these terms may vary based on the labor law to which they apply. Therefore, the definitions in the DOL Guidance must be read in their entirety in implementing the E.O.

In addition to defining terms, the DOL Guidance explains how to evaluate reported violations (considering whether the violations are serious, repeated, willful, or pervasive); review remediation of the violation(s) and any other mitigating factors; determine if the violations identified warrant remedial measures; and give appropriate consideration to determinations and agreements between contractors and DOL or other enforcement agencies, such as a labor compliance agreement. The DOL Guidance for E.O. 13673, ''Fair Pay and Safe Work Places'' must also be read in its entirety to successfully implement the E.O. and when finalized, will be available at *www*_____. The proposed DOL Guidance is being published simultaneously with this proposed rule.

2. Duties of the Agency Labor Compliance Advisor (ALCA)

Section 3 of the E.O. requires each contracting agency to designate a senior agency official to be an ALCA to provide consistent guidance on whether contractors' actions rise to the level of a lack of integrity or business ethics. ALCAs, in consultation with DOL and other agencies responsible for enforcing labor laws, will help contracting officers to do the following:

- Review information regarding violations reported by contractors;
- Assess whether reported violations are serious, repeated, willful, or pervasive;
- Review the contractor's remediation of the violation and any other mitigating factors; and,
- Determine if the violations identified warrant remedial measures, such as a labor compliance agreement—*i.e.,* an agreement entered into between an enforcement agency and a contractor or subcontractor to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with labor laws or other related matters.

Proposed FAR sections 22.2004–2 and 22.2004–3 implement section 3 of the E.O. by addressing the newly established role of the ALCA, and the relationship of the ALCA with the contracting officer. FAR 22.2004–2 and 22.2004–3 provide details concerning the ALCA obtaining violation information, and furnishing written recommendations to the contracting officer.

3. Compliance With Labor Laws: Pre-award Actions

i. *Contractors.*

The proposed FAR 22.2002, 22.2004, 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673) (and its commercial item equivalent at 52.212–3(q)), and 52.222–AB, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673), implement E.O. section 2(a). These requirements emphasize the need to specifically address labor law compliance when determining contractor and subcontractor responsibility.

The FAR provision at 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673), requires an offeror, for solicitations estimated to exceed $500,000, to represent whether it has any administrative merits determinations, arbitral awards or decisions, or civil judgments rendered against it, within the preceding three years for violations of the specified labor laws.

The commercial item equivalent of 52.222–AA will appear as new paragraph (q) of 52.212–3, Offeror Representations and Certifications—Commercial Items.

ii. *Contracting officer pre-award duties.*

The proposed FAR 22.2004–2 implements E.O. section 2(a)(ii), (iii) and (vi) by emphasizing the requirement that contracting officers must consider information concerning violations of the specified labor laws when evaluating contractor responsibility under FAR subpart 9.1. The proposed rule requires the contracting officer to confer with the ALCA and consider the ALCA's advice in evaluating any disclosed violations, but reaffirms that the contracting officer solely has the duty to make a responsibility determination of prospective contractors.

If a contracting officer has initiated a responsibility determination for a prospective contractor and the prospective contractor disclosed labor law violations in the representation at 52.222–AA (or its commercial item equivalent at 52.212–3(q)(2)), the contracting officer is instructed to—

- Request that the prospective contractor submit information into the System for Award Management (SAM) _____ (*insert name of reporting module*) *www.sam.gov,* (unless the information is already in the SAM) and is current and complete, or unless the prospective contractor meets an exception to SAM registration (see 4.1102(a)) in which case the following information must be furnished to the contracting officer:
  - ○ The labor law violated.
  - ○ The case number, inspection number, charge number, docket number, or other unique identification number.
  - ○ The date rendered.
  - ○ The name of the court, arbitrator(s), agency, board, or commission rendering the determination or decision;
- Ask the contractor for the administrative merits determination, arbitral award or decision, or civil judgment document, as necessary to make an evaluation and support recommendations, if the documents are not otherwise available, and the ALCA has been unable to obtain the documents;
- Request that the prospective contractor provide to the contracting officer such additional information as the prospective contractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws;
- Provide the additional information to the ALCA; and
- Request the ALCA provide, within three business days of the request or another time period required by the contracting officer, written advice and recommendation as to the contractor's efforts to comply with the specified labor laws. The ALCA is to make one of the following recommendations:
  - ○ The prospective contractor could be found to have a satisfactory record of integrity and business ethics.
  - ○ The prospective contractor could be found to have a satisfactory record of integrity and business ethics if the process to enter into or enhance a labor compliance agreement is initiated.
  - ○ The prospective contractor could be found to not have a satisfactory record of integrity and business ethics, and the agency suspending and debarring official should be notified, in accordance with agency procedures as contemplated by current FAR provisions.

The recommendation shall include the following, based on the DOL Guidance for E.O 13673, ''Fair Pay and Safe Workplaces:''

- ○ Whether any violations should be considered serious, repeated, willful, or pervasive.
- ○ The number of labor violations (depending on the nature of the violation, in most cases, a single violation may not necessarily give rise to a determination of lack of responsibility).
- ○ Whether the prospective contractor has initiated its own remedial measures.
- ○ The need for, existence of, or whether the prospective contractor is adequately adhering to labor compliance agreements or other appropriate remedial measures.
- ○ Whether the prospective contractor is negotiating in good faith a labor compliance agreement.
- ○ Such supporting information that the ALCA finds to be relevant.

The contracting officer is to make a judgment of contractor responsibility, reviewing the DOL Guidance and the ALCA's recommendation.

Finally, the proposed rule preserves and emphasizes the requirement at FAR 9.103(b), which states that if a contracting officer finds a prospective a small business contractor to be nonresponsible, the matter shall be referred to the Small Business Administration (SBA). If SBA concludes that the small business is responsible, SBA will issue a Certificate of Competency.

iii. *Duties of contractors before awarding a subcontract.*

Sections 2(a)(iv) and (v) of the E.O. require that for subcontracts estimated to exceed $500,000, other than COTS items, the contractor shall require its prospective subcontractors to make similar disclosures to those that the contractor must make; and before awarding a subcontract, the contractor is required to consider the information submitted in determining whether the subcontractor is a responsible source.

The contractor has discretion in how it manages this requirement. A contractor could decide to evaluate all of its prospective subcontractors at all tiers or may manage a process by which subcontractors evaluate lower tier subcontractors. The prime contractor is responsible for establishing the approach that works best for the contractor, based upon factors such as the nature and size of the contract requirement.

The proposed FAR revision sets forth steps that contractors must follow when determining the responsibility of subcontractors related to labor law compliance. The provision at 52.222–AB, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673), applies before contract award to subcontracts at any tier in excess of $500,000 except for COTS items, and requires the contractor to follow the procedures in paragraph (c) of the clause at 52.222–BB, Compliance with Labor Laws. When contractors are determining subcontractor responsibility after award of the prime contract, the clause at 52.222–BB, Compliance with Labor Laws applies. Paragraphs (c)(3) through (c)(7) of the clause require the following:

- The contractor shall require a prospective subcontractor to represent to the best of the subcontractor's knowledge and belief whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments, for violations of labor laws rendered against the subcontractor within the three-year period preceding the date of the subcontractor's offer.
- If the prospective subcontractor responds affirmatively, and the contractor initiates a responsibility determination and requests additional information, the prospective subcontractor shall provide to the contractor, the administrative merits determinations, arbitral awards or decisions, or civil judgments documents that were rendered against the subcontractor within the preceding three-year period prior to the subcontractor's offer, and any notice the subcontractor received from DOL advising that it has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing agreement.
- The contractor shall afford a subcontractor an opportunity to provide such additional information as the subcontractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), other steps taken to achieve compliance with labor laws, and explanations for delays in entering into a labor compliance agreement within a reasonable period or not meeting the terms of an existing agreement.
- The contractor shall evaluate information submitted by the subcontractor as part of determining subcontractor responsibility and complete the evaluation—
  - For subcontracts awarded or that become effective within five days of the prime contract execution, no later than 30 days after subcontract award; or
  - For all other subcontracts, prior to subcontract award. However, in urgent circumstances, the evaluation shall be completed within 30 days of subcontract award.
- The contractor shall consider the following in evaluating information—
  - The nature of the violations (whether serious, repeated, willful, or pervasive);
  - The number of violations (depending on the nature of the violation, in most cases, a single violation of law may not necessarily give rise to a determination of lack of responsibility;
  - Any mitigating circumstances;
  - Remedial measures taken to address violations, including existence of and compliance with any labor compliance agreements, including whether the subcontractor is still negotiating in good faith a labor compliance agreement; and
  - Any notices the subcontractor received from DOL advising that it has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing agreement.
  - Any advice or assistance provided by DOL,
  - Paragraph (e) states that contractors may consult with DOL regarding subcontractor labor law compliance.
- The contractor shall notify the contracting officer of the following information if the contractor determines that a subcontractor is a responsible source after having been informed that DOL has advised that the subcontractor has not entered into a compliance agreement within a reasonable period or is not meeting the terms of the agreement:
  - The name of the subcontractor; and
  - The basis for the decision.

As explained above, DOL will provide consultation and assistance, upon request, in evaluating contractor and subcontractor information relevant to disclosed labor violations. The DOL guidance explains that DOL will set up a structure within DOL to be available to consult with contractors and subcontractors. The proposed rule limits contracting officer and the ALCA's role, with respect to subcontractor labor violation information, to furnishing assistance such as access to the DOL Guidance and the appropriate contacts at DOL.

4. Compliance With Labor Laws: Actions Post-Award

i. *Contractor and subcontractors.* Proposed FAR 52.222–BB, Compliance with Labor Laws, implements the post-award responsibilities identified in EO sections 2(b)(i) and (iii). The procedures for a contractor considering subcontractor labor violation information when determining the responsibility of subcontractors at 52.222–BB apply to subcontracts awarded after the prime contract is executed.

The contractor and its subcontractors are required to continue to disclose, semi-annually, whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments rendered against them for violations of labor laws.

Semi-annually during subcontract performance, subcontractors must determine whether disclosed information is updated, current and complete. If the information is not updated, current and complete, subcontractors must provide updated information to the contractor. If the information is updated, current and complete, no action is required. A subcontractor shall also disclose, within 5 business days, any notification by DOL that it has not entered into a labor compliance agreement within a reasonable period, or is not meeting the terms of an existing labor compliance agreement.

The contractor shall afford subcontractors an opportunity to provide any additional information, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws. If the subcontractor informed the

contractor that it received DOL notices of delay in entering into or non-compliance with the terms of an existing Labor Compliance Agreement, or the contractor otherwise obtained this information, the contractor shall allow the subcontractor to provide explanations and supporting information for such delays and non-compliances. Contractors are responsible for considering information submitted by subcontractors after contract award, with respect to labor law violations and the need for new or enhanced labor compliance agreements. Contractors may consult with DOL in evaluating subcontractor labor law violations. The contractor shall notify the contracting officer of the name of the subcontractor and the basis for the decision if the contractor decides to continue the subcontract after having been informed that DOL has advised that the subcontractor has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of the agreement.

ii. *Contracting officers.* Proposed FAR 22.2004–3 and paragraph (b) of 52.222–BB implement E.O. section 2(b)(ii). Contracting officers, in consultation with the ALCA, are responsible for considering information submitted by contractors after contract award, regarding labor law violations. Among the actions available to the contracting officer are:

- No action required, continue the contract;
- Refer the matter to DOL for action, which may include a new or enhanced labor compliance agreement;
- Do not exercise an option (see FAR 17.207(c)(8));
- Terminate the contract in accordance with the procedures set forth in FAR Part 49 or 12.403; or
- Notify the agency Suspending and Debarring Official if there are such serious, repeated, willful or pervasive labor violation(s) that the violation(s) demonstrate a lack of integrity or business ethics of a contractor or subcontractor, in accordance with agency procedures.

B. Paycheck Transparency

FAR 22.2005 and 52.222–XX, Paycheck Transparency, implement section 5 of the E.O. The proposed rule requires contractors, for contracts valued in excess of $500,000, to provide in every pay period a document (wage statement, also known as a pay stub) to all individuals performing work under the contract subject to certain wage record statutes. The wage statement lists the individual's hours worked, overtime hours, pay, and additions made to or deductions made from pay. Overtime hours contained in the wage statement shall be broken down to correspond to the period (which will almost always be weekly) for which overtime is calculated and paid. If the contractor does not include the hours worked for individuals exempt from the overtime compensation requirements of the Fair Labor Standards Act, the contractor must inform the individual of the exempt status. In addition, if the contractor is treating an individual performing work under a contract as an independent contractor, and not as an employee, the contractor must provide a document to the individual, informing the individual of that status; the document shall be provided prior to commencement of work or at the time a contract with the individual is established. The wage statement and independent contractor notifications must also be provided in languages other than English if a significant portion of the workforce is not fluent in English. These requirements also apply to subcontracts over $500,000 for other than COTS items.

C. Arbitration of Contractor Employee Claims

Proposed FAR 22.2006 and the clause at 52.222–YY, Arbitration of Contractor Employee Claims, implement section 6 of the E.O. The proposed rule requires that contractors agree that the decision to arbitrate claims which arise under title VII of the Civil Rights Act of 1964, or under any tort related to or arising out of sexual assault or harassment, be made only with the voluntary consent of employees or independent contractors after such disputes arise. Exceptions are as follows:

—Contracts and subcontracts of $1,000,000 or less.
—Contracts and subcontracts for the acquisition of commercial items. The E.O. excepts the acquisition of COTS items; these are automatically included in the exception for commercial items; see the existing FAR definition of COTS at 2.101.
—Where employees are covered by a collective bargaining agreement negotiated between the contractor and a labor organization representing the contractor's employees.
—Certain pre-existing arbitration agreements described at 52.222–YY(b)(2).

III. Issues Highlighted for Public Comment

Consistent with section 4 of the E.O. the proposed DOL Guidance and proposed FAR rule have been developed to work together to create a compliance process that is manageable and reasonable. Given the integrated nature of the two documents, they are being published under separate notice on the same day so that respondents have the opportunity to consider the documents holistically in addition to offering comment on the specifics of each document. DoD, GSA, and NASA welcome public comment on any aspect of its rule and especially on the issues highlighted below. Responses to comments regarding subjects covered by DOL guidance will be coordinated with DOL.

A. Equivalent State Laws

DoD, GSA, and NASA and DOL recognize there will be challenges associated with the implementation of section 2 of the E.O. as regards the state laws that DOL determines to be equivalent to the Federal laws enumerated. Therefore, other than the Occupational Safety and Health Administration (OSHA)-approved state plans, the equivalent state law requirement will not be implemented through this rulemaking. DOL will publish additional guidance for comment, and DoD, GSA, and NASA will also publish a subsequent proposed rule to implement the E.O.'s requirements as to equivalent state laws. Public comment will be welcome upon publication of the subsequent proposed FAR rule.

B. Burden Reduction for Small Businesses

Section 4(e) of the E.O. requires DOL and DoD, GSA, and NASA to minimize, to the extent practicable, the burden of complying with the E.O. for Federal contractors and subcontractors and in particular small entities, including small businesses. A number of steps have been taken in this proposed rule to minimize burden, including the following: (1) limiting disclosure requirements to contracts over $500,000, and subcontracts over $500,000 excluding COTS items, which excludes the vast majority of transactions performed by small businesses; (2) limiting initial disclosure from offerors to a simple statement of whether the offeror has any covered labor violations and generally requiring more detailed disclosures only from the apparent awardee; (3) requiring post award updates semi-annually; (4) creating certainty for contractors by having ALCAs coordinate through DOL to promote consistent responses across Government agencies regarding disclosures of violations; (5) considering phasing in requirements for flowdown and disclosure of state labor law

violations so that contractors and subcontractors have an opportunity to become acclimated to new processes; and (6) setting up systems that centralize and avoid redundant reporting of violations. In addition, DOL intends to allow companies to work with DOL and other enforcement agencies to remedy potential problems independent of the procurement process so companies can give their full attention to the procurement process when a solicitation of interest is issued. Comment is sought on additional regulatory or other related steps that might specifically reduce burden for small businesses and other small entities.

C. Public Disclosure of Violation Information

The proposed rule requires prospective prime contractors to publicly disclose whether they have violations of covered laws within the last three years and, for prospective contractors being evaluated for responsibility, certain basic information about the violation (*e.g.,* the law violated, the docket number, the name of the body that made the decision). The rule would not compel public disclosure of additional documents the prospective contractor deems necessary to demonstrate its responsibility, such as mitigating circumstance, remedial measures and other steps taken to achieve compliance with labor laws. The rule is silent on the public disclosure of the administrative merits determinations, arbitral awards or decisions, or civil judgments; some of which are independently available as public records, *e.g.,* civil judgments, and on the public disclosure of labor compliance agreements. Comment is sought on the scope of documents that should be publicly disclosed, and what other changes, if any, should be made regarding disclosure to ensure the right balance has been reached between transparency and the creation of a reasonable environment for contractors to work with enforcement agencies on compliance agreements and other appropriate remediation measures.

D. Use of Technology

Section 4(d) of the E.O. requires the GSA Administrator to develop a single Web site for Federal contractors to use for all Federal contract reporting requirements related to this order. Interested parties may provide feedback through the National Dialogue with information available at *www.cao.gov* on how technology can be used to maximize the efficiency of compliance and reduce reporting burden. Interested parties are advised that such comments will not be considered public comments for the purposes of this proposed rule making.

E. Subcontractor Requirements

The labor compliance requirements of the E.O. apply both to prime contractors and to their subcontractors awarded subcontracts over $500,000 other than for COTS items. DoD, GSA, and NASA and DOL seek to minimize burden for contractors and subcontractors, including small businesses, in meeting new responsibilities related to flowdown of requirements to subcontractors, while also ensuring improved compliance with labor laws by subcontractors within the Federal supply chain.

Prime contractors are required to obtain from subcontractors with whom they have contracts of more than $500,000 the same labor compliance history that they must themselves disclose.

The rule provides that prime contractors may seek assistance from DOL in evaluating subcontractor labor violations and making determinations of responsibility or, for existing subcontracts, evaluating the need for other actions. DoD, GSA, and NASA are also considering alternative language addressing the handling of flowdown, described in section IV. Comments are welcome on the handling of flowdown, both in the proposed rule and in the alternatives described below.

F. Recordkeeping

The recordkeeping burden does not currently include hours for prospective contractors or prospective subcontractors to retain records of their own labor law violations. These labor law violations are significant enough that it is reasonable to assume that a prudent business would retain such determination or decision documents as a normal business practice. However, contractors and subcontractors may choose to set up internal databases to track violations subject to disclosure in a more readily retrievable manner—particularly firms that are larger and more geographically or organizationally dispersed—and may incur associated one-time setup costs. Public comment and information are sought on the need for and cost of setting up these systems, how such costs depend on contractors' size and organizational structure, and the extent to which setting up such systems would reduce recurring disclosure costs in the following years.

IV. Alternatives to the Proposed Rule Regulatory Text for Consideration and Comment

DoD, GSA, and NASA seek to create processes that are clear and manageable, for both prime contractors and their subcontractors, and achieve our intent of requiring that compliance with labor laws becomes a regular component of a contracting officer's assessment of a prime contractor's integrity and business ethics, as well as a prime contractor's assessment of a subcontractor's integrity and business ethics. Three alternatives are presented below: phase-in of subcontractor disclosure requirements, subcontractor disclosures and contractor assessments, and contractor and subcontractor remedies.

A. Phase-In of Subcontractor Disclosure Requirements

Changes proposed through this FAR rule and DOL's Guidance that address requirements associated with subcontracting would be applied to new contracts in phases so that contractors and subcontractors have time to acclimate themselves to their new responsibilities. DoD, GSA, NASA, and DOL welcome public input on phase-in approaches. For solicitations issued and resultant contracts awarded during the phase-in period for subcontractors, the rule would apply only to prime contractors.

B. Subcontractor Disclosures and Contractor Assessments

Under the proposed rule, contractors are required to obtain from subcontractors with whom they have contracts exceeding $500,000 other than COTS items the same labor compliance history that they must themselves disclose. The rule provides that prime contractors may seek assistance from DOL in evaluating subcontractor labor violations and making determinations of responsibility or, for existing subcontracts, evaluating the need for other actions.

As an alternative approach for contractors determining the responsibility of their subcontractors, DoD, GSA, and NASA are considering a process where the contractor directs the subcontractor to consult with DOL on its violations and remedial actions. Under this approach, subcontractors would disclose details regarding their violations to DOL instead of to the prime contractor. The subcontractor would then make a representation back to the prime contractor regarding DOL's response to its disclosure. The rule would provide guidance on the types of

subcontractor representations that would serve as a sufficient basis for the prime contractor to conclude that the prospective subcontractor is a responsible source for purposes of labor compliance, and the additional steps the subcontractor and prime contractor would need to take when DOL advises the subcontractor (or prime contractor) that subcontractor violations have not been adequately remediated.

To minimize impact on procurement lead time, the alternative would allow the prime contractor to make a determination of responsibility if DOL did not provide advice within 3 business days of the subcontractor's request and did not previously advise the subcontractor that the subcontractor needed to enter into a labor compliance agreement to address its violations. However, the subcontractor would be required to inform the contractor within 5 business days of any advice made by DOL concerning the violations at any time during the term of the subcontract (including a notification that the contractor did not enter into an agreement to remediate violations in a reasonable period or did not meet the terms of an existing agreement to mitigate violations) and the prime contractor would be required to consider the information in a timely manner and determine whether action is necessary. If the prime determines that that subcontractor is a responsible source or otherwise retains the subcontractor post-award after being informed of DOL concerns, the prime would be required to inform the contracting officer of its decision and the basis for the decision.

To implement the approach described above, the following language is a possible alternative to the language in paragraph (c) and (d) of FAR 52.222–BB, Compliance with Labor Laws. The public may also comment on whether the final rule should be structured to allow the prime contractor the discretion to select either approach. We invite comments on these approaches, and whether there are additional or alternative procedures that could better achieve the intent of the E.O.

Beginning of alternative paragraphs (c) and (d) of 52.222–BB:

(c) *Subcontractor responsibility.*

(1) The Contractor shall evaluate subcontractor labor violation information when determining subcontractor responsibility.

(2) This clause applies to subcontracts for other than commercially available off-the-shelf items with an estimated value that exceeds $500,000.

(3) The contractor shall require a prospective subcontractor to represent to the best of the subcontractor's knowledge and belief whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments, for violation of labor laws rendered against the subcontractor within the three-year period preceding the date of the subcontractor's offer.

(4) In evaluating subcontractor responsibility, the contractor shall require the subcontractor to disclose all covered labor violations to DOL and may conclude that the prospective subcontractor is a responsible source for purposes of labor compliance under the Executive Order if—

(i) The prospective subcontractor provides a negative response in its representation made pursuant to paragraph (3); or

(ii) The prospective subcontractor, in response to a request made by the Contractor in the context of performing a responsibility determination, responds affirmatively, represents to the best of the subcontractor's knowledge and belief that it has disclosed to DOL any administrative merits determinations, arbitral awards or decisions, or civil judgments documents that were rendered against the subcontractor within the preceding three-year period prior to the subcontractor's offer, and any information that the subcontractor, in its judgment, believes is relevant for DOL's consideration, including remedial actions taken, and—

(A) has been advised by DOL that—

(1) it has no serious, willful, repeated, or pervasive violations; or

(2) it has serious, willful, repeated, and/or pervasive violations and has taken sufficient action to remediate its violations;

(B) the subcontractor is a party to a labor compliance agreement(s) with DOL or other enforcement agency to address all disclosed violations that have been determined by DOL to be serious, willful, repeated and/or pervasive violations and states that it has not been notified by DOL that it is not meeting the terms of its agreement;

(C) the subcontractor has agreed to enter into a labor compliance agreement or is considering a labor compliance agreement(s) with DOL or other enforcement agency to address all disclosed violations that have been determined by DOL to be serious, willful, repeated, and/or pervasive violations and has not been notified by DOL that it has not entered into an agreement in a reasonable period; or

(D) the subcontractor has provided the contractor with information about all disclosed violations that have been determined by DOL to be serious, willful, repeated, and/or pervasive, a description of DOL's advice or proposed labor compliance agreement and an explanation for the subcontractor's disagreement with DOL where the subcontractor has been notified by DOL that it has not entered into an agreement in a reasonable period or is not meeting the terms of the agreement, or where the subcontractor otherwise disagrees with DOL's advice or proposed labor compliance agreement;

(5) If the contractor determines that the subcontractor is a responsible source based on the representation made pursuant to paragraph (4)(ii)(D), the contractor must notify the Contracting Officer of the decision and provide the following information:

(i) The name of the subcontractor; and

(ii) The basis for the decision.

(6) If DOL does not provide advice to the subcontractor within three business days of the subcontractor's disclosure of labor violation information pursuant to paragraph (c)(4) and DOL did not previously advise the subcontractor that it needed to enter into a labor compliance agreement to address labor violations, the contractor may proceed with making a responsibility determination using available information and business judgment.

(d) *Subcontractor updates.*

(1) The Contractor shall require subcontractors to determine, on a semi-annual basis during subcontract performance, whether labor law disclosures provided to DOL pursuant to paragraph (c)(4) are current and complete. If information is current and complete, no action is required. If the information is not current and complete, subcontractors must provide revised information to DOL and make a new representation to the Contractor pursuant to paragraph (c)(4) to reflect any advice provided by DOL or other actions taken by the subcontractor.

(2) The Contractor shall further require the subcontractor to disclose during the course of performance of the contract any notification by DOL, within 5 business days of such notification, that it has not entered into a labor compliance agreement in a reasonable period or is not meeting the terms of a labor compliance agreement to which it is a party, and shall allow the subcontractor to provide an explanation and supporting information for the delay or non-compliance.

(3) The Contractor shall consider, in a timely manner, information obtained from subcontractors pursuant to paragraphs (d)(1) and (2) of this clause, and determine whether action is necessary. Action may include, but is not limited to, requesting that the

subcontractor pursue a new or enhanced labor compliance agreement, requiring other appropriate remedial measures, compliance assistance, resolving issues to avoid further violations, or not continuing with the subcontract, if necessary.

(4) If the Contractor has been informed by the subcontractor or DOL of DOL's determination that the subcontractor has not entered into a labor compliance agreement in a reasonable period or is not meeting the terms of an existing agreement, and the contractor determines to continue the subcontract, the contractor must notify the Contracting Officer of the decision and provide the following information:

(i) The name of the subcontractor; and

(ii) The basis for the decision.

End of alternative paragraphs (c) and (d) of 52.222–BB.

DOD, GSA and NASA encourage respondents to comment on this alternative clause language in addition to the clause in the regulatory text of the proposed rule, including any comments on the relative benefits and drawbacks of each approach.

C. Contractor and Subcontractor Remedies

DOD, GSA, and NASA seek to create accountability for compliance in a manner that provides reasonable time and opportunities for prime contractors and subcontractors to take remedial actions but also results in the application of appropriate steps where remediation is not being accomplished in a timely fashion. A number of steps have been incorporated into the proposed rule, as well as into the alternative approach for evaluating subcontractor responsibility and post-award efforts described above, to achieve these dual goals.

For example, the contracting officer would be made aware of situations where DOL has determined that a prospective or existing contractor or subcontractor with serious, willful, repeated and/or pervasive violations has not entered into a labor compliance agreement in a reasonable period or is not meeting the terms of such agreement. This information would be provided to the contracting officer through the ALCA in the case of violations by the prime contractor and through the prime contractor in the case of violations by the subcontractor. In the latter case, subcontractors would be required to disclose DOL concerns related to entering into or meeting the terms of a compliance plan to the prime contractor, or DOL may inform the prime contractor directly. The prime contractor would then report this information to the contracting officer if the prime contractor selected the subcontractor or retained the subcontractor to continue performing the subcontract.

As an additional step, DOD, GSA, and NASA are considering the following alternative supplemental FAR language to address consideration of compliance with labor laws in the evaluation of contractor performance.

Beginning of alternative supplemental FAR language:

22.2004–5 Consideration of Compliance With Labor Laws in Evaluation of Contractor Performance.

The Contracting Officer, in consultation with the Agency Labor Compliance Advisor (ALCA), shall, as part of the Contractor's performance evaluation under FAR 42.1503(b), consider concerns raised by DOL that the Contractor, or one or more of its subcontractors, has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing compliance agreement to address serious, willful, repeated and/or pervasive violations of covered labor laws. The Contracting Officer's evaluation shall take into account—

(a) The contractor's explanation for any delays in entering into a compliance agreement with respect to its own labor violations and other remediation steps taken; and

(b) The contractor's explanation for finding a subcontractor responsible or retaining the subcontractor, as set forth in 52.222–BB(c)(7) and (d)(5), and any remediation steps taken.

End of alternative supplemental FAR language

The proposed rule (and alternative language) outline available remedies. For example, for subcontracts, remedies include requiring a new or enhanced labor compliance agreement, requiring other appropriate remedial measures, compliance assistance, and resolving issues to avoid further violations, or a decision not to continue with the subcontract, if necessary.

DoD, GSA, and NASA welcome comment on whether these remedies, including those in the supplemental language being considered for FAR 22.2004–5, achieve the appropriate balance between the dual goals of providing reasonable time for remedial action and accountability for unjustified inaction and what additional or alternative remedies should be considered.

Impact and Associated Burden of Alternatives

Collateral documents, which include the Regulatory Impact Analysis (RIA), the Paperwork Reduction Act (PRA) Supporting Statement, and Regulatory Flexibility Analysis (RFA), have been prepared reflecting the language of the regulatory text as promulgated in this proposed rule. Potential impacts and associated burdens of the alternative options presented in this section IV were not separately addressed. If, in the final rule promulgation, alternative options are selected, impacts and associated burdens will be reduced as the alternatives are less burdensome and will have a lesser impact.

V. Executive Orders 12866 and 13563

A. E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is a major rule under 5 U.S.C. 804.

B. A Regulatory Impact Analysis that includes a detailed discussion and explanation about the assumptions and methodology used to estimate the cost of this proposed rule *and a discussion of alternatives to this regulatory action* is available in the docket for review. For access to the docket to read background material or comments received, go to *http://www.regulations.gov/.* The E.O. contains specific requirements pertaining to labor law violation disclosures, paycheck transparency, and complaint and dispute transparency. The contractor and subcontractor population that may be impacted by this rule is 22,153 contractors and 3,622 subcontractors for a total of 25,775. Contractors and subcontractors subject to the E.O. will incur a cost to comply. A summary of the total quantifiable cost is listed below.

Summary Table of Quantifiable Costs—The table summarizes the following costs of the E.O.: Review of DOL Guidance and FAR rule, labor law violation disclosure and review, paycheck transparency, and total public and Government costs.

SUMMARY TABLE OF QUANTIFIABLE COSTS

	Year 1	Year 2 and after
Review of DOL Guidance and FAR rule	$12,990,600	$0
Initial Representation of Labor Law Violations	70,445,418	70,445,418
Labor Law Violation Updates	8,524,423	8,524,423
Recordkeeping	1,528,020	1,528,020
Subtotal Labor Law Disclosure and Review	80,497,861	80,497,861
Paycheck Transparency	13,082,561	11,009,461
Total Public Costs	106,571,022	91,507,322
Total Government Costs	7,599,811	7,599,811

Cost of Complaint and Dispute Transparency—DoD, GSA, and NASA and DOL are unable to quantify the overall cost of the complaint and dispute transparency provision contained in section 6 of the E.O. because the potential increase in the number of claimants that would elect to go to trial as a result is unknown. However, the impact is expected to be limited for two primary reasons. First, impact on the Federal contracting community is limited because these requirements are already applicable to Federal contracts awarded by DoD, which is responsible for the majority of Federal contracts. And second, the increase in the size of judgments awarded to employees or independent contractors stemming from a shift toward more cases being litigated in court is considered a transfer payment, not affecting the total resources of the economy.

Benefits, Transfer Impacts, and Accompanying Costs of Disclosing Labor Law Violations—Labor laws are designed to promote safe, healthy, fair, and efficient workplaces. The E.O.'s objective is to increase the Government's ability to contract with companies that are compliant with labor laws, thereby increasing the likelihood of timely, predictable, and satisfactory delivery of goods and services. By making contracting officers aware of previous violations by potential contractors, the E.O. will help the Government identify and work with responsible companies. By encouraging and facilitating responsible behavior by contractors and subcontractors, and by helping the Federal Government identify and contract with responsible firms, the E.O's disclosure requirements are expected to have the following benefits: (1) Improved contractor performance; (2) safer workplaces with fewer injuries, illnesses, and fatalities; (3) reduced employment discrimination; and (4) fairer wages, which can lead to less absenteeism, reduced turnover, higher productivity, and better quality workers who produce higher quality goods and services. For these reasons, it is expected that the rule would lead to improved economy and efficiency in Government procurement. These effects will be accompanied by a combination of cost increases associated with improving compliance with existing legal obligations contained in the covered Labor Laws (not assessed in other sections of this regulatory impact analysis) and cost savings for contractors and society.

Benefits, Transfer Impacts of the Paycheck Transparency Provision—The E.O.'s paycheck transparency provision will likely lead to transfers of value between members of society due to improved compliance with a variety of Federal, state, and local tax and employment laws. This analysis focuses primarily on estimating the transfers associated with reducing the misclassification of employees as independent contractors—one small subset of the likely transfer impacts of paycheck transparency—broken down in terms of (a) Federal tax revenues, and (b) minimum wage and overtime premium pay required under the FLSA.

As a result of improved transparency, individuals and the Federal Government alike will receive money that would otherwise not be earned or collected due to misclassification. In this analysis, the number of affected workers who are likely misclassified currently is 18,892 (33% × 57,249), and at least 20 percent of 18,892, or 3,778, misclassifications will be corrected. The annual impact of correcting 3,778 cases of misclassification is estimated to be at least $11.19 million ($2,963 × 3,778), an amount that will be transferred from employers (and potentially from taxpayers if increased employers' costs are passed through in the form of higher bids for Federal contracts) and will accrue in part to employees and in part to Federal revenues. The most critical factor that determines the size of the transfer estimate is the percentage of misclassifications that will be corrected by the E.O.'s paycheck transparency provision. As noted above, DoD, GSA, and NASA, and DOL estimated that 20 percent of misclassifications will be corrected. As explained, the actual percentage is likely to be much higher than 20 percent, meaning that the $11.19 million figure is likely to be an underestimate of the true annual impact of correcting misclassifications.

Benefits and Transfer Impacts of Complaint and Dispute Transparency Provision—The primary net economic benefit to the public that will derive from the E.O.'s mandatory-arbitration prohibition is reduced discrimination as a result of an increased incentive for employers to avoid it. Increased risk of public exposure, class-action suits and higher damages awards provides an incentive for employers to comply with anti-discrimination laws that arbitration cannot match. As described above, it is generally accepted that discrimination on the basis of race, gender and other prohibited bases results in economic inefficiencies, and reducing such discrimination provides a net economic benefit to the public. DoD, GSA, and NASA, and DOL have not found sufficient data to quantify the expected reduction in discrimination as a result of the E.O.'s mandatory-arbitration prohibition and request public comment on potential methods and sources of data for reaching such an estimate.

This rule will promote economy and efficiency in Federal Government procurement by ensuring that the Government contracts with responsible sources who comply with labor laws. Stability, dependability, accountability and transparency are important elements of economy and efficiency. Contractors and subcontractors performing under Federal contracts that are not compliant with labor laws weaken the contracting infrastructure leaving it susceptible to waste, fraud and abuse, and risk the health, safety,

and well-being of workers in workplaces. Requiring contractors to comply or come into compliance with labor laws will eliminate distractions and complications that arise when the Federal Government contracts with contractors that have a history of noncompliance.

VI. Regulatory Flexibility Act

The proposed revisions may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

1. Description of the reasons why action by the agency is being taken.

This proposed rule implements Executive Order (E.O.) 13673, Fair Pay and Safe Workplaces, dated July 31, 2014 and amended by E.O. 13683, December 11, 2014. The policy of the Government is to promote economy and efficiency in procurement by awarding contracts to contractors that comply with labor laws. Contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and increase the likelihood of timely, predictable and satisfactory delivery of goods and services to the Federal Government. The E.O. creates requirements for Federal contractors and subcontractors in three areas: (1) Disclosure of administrative merits determinations, arbitral awards or decisions, or civil judgments, of certain labor laws and Executive Orders (labor laws); (2) notice to individuals of certain pay-related information or their status as independent contractors; and (3) a prohibition on contractor use of pre-dispute arbitration agreements or claims arising under Title VII of the Civil Rights Act of 1964, or any tort related to or arising out of sexual assault or harassment. These actions are taken to reinforce protections for workers under Federal contracts and to ensure the Government contracts with companies that have a satisfactory record of business ethics and integrity relating to labor laws governing workplace health and safety, prevention of discrimination, or fair employment and wage practices.

For contracts over $500,000, each prospective offeror must represent whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments (referred to herein as a labor violation) rendered against the offeror, within a 3 year period preceding the offer, for violations of any of the enumerated labor laws. (The definitions of ''administrative merits determinations,'' ''arbitral awards or decisions,'' and ''civil judgments'' are established in the Department of Labor (DOL)'s Guidance for E.O. 13673, Fair Pay and Safe Work Places which will be published for public comment under separate notice.) Likewise, the contractor will require potential subcontractors to disclose whether there have been any labor violations.

Prior to making an award, as part of the responsibility determination, the contracting officer, will request prospective contractors who have had labor violations to identify which of the listed labor laws were violated and provide certain information about the specific violations. The information provided includes—

- The labor law violated;
- The case number, inspection number, charge number, docket number, or other unique identification number;
- The date rendered; and
- The name of the court, arbitrator(s), agency, board, or commission rendering the determination or decision.

Additionally, the contracting officer will provide prospective contractors who have had labor violations an opportunity to provide such additional information the contractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws. Likewise, contractors when determining the responsibility of prospective subcontractors who have disclosed labor violations must afford this same opportunity to provide additional information to the prospective subcontractors. To assist contracting officers in the review of the labor violations, the E.O. requires each Agency to designate a senior agency official to be an agency labor compliance advisor (ALCA) who will work in consultation with contracting officers and the Department of Labor (DOL) in reviewing and evaluating disclosed information. The purpose of this pre-award review is to provide contracting officers pertinent information to consider in making responsibility determinations, which will improve their ability to make contract awards to contractors who have a satisfactory record of integrity and business ethics in terms of complying with labor laws. It will also allow for screening of contractors who need assistance in complying with labor laws. DOL will be available to assist contractors with entering into labor compliance agreements prior to being considered for contracts. After contract award, the contractor will continue to update the firm's representation that there has been no administrative merits determination, arbitral award or decision, or civil judgment, rendered against it. Likewise, the contractor will require its subcontractors to disclose and update the subcontractor's representation. The DOL is working to provide contractors with the tools they need to operate in compliance with the variety of labor laws enforced by the Agency. By working with firms who report labor violations, the Government is providing assistance to educate employers on Federal labor requirements and practices they must follow to ensure compliance.

The E.O. improves on paycheck transparency in Federal contracts by requiring that contractors provide individuals with a wage statement, also called a pay stub with basic information about their hours and wages so that workers will know if they are being paid properly for work performed. In addition, when contractors are treating an individual as an independent contractor, rather than an employee, the contractor must provide a document stating this to the individual.

The E.O. provides that, for contracts estimated to exceed $1,000,000, contractor employees and independent contractors may not be required to enter into pre-dispute arbitration agreements for disputes arising out of Title VII of the Civil Rights Act or from torts related to sexual assault or harassment.

2. Succinct statement of the objectives of, and legal basis for, the rule.

The President issued Executive Order 13673, Fair Pay and Safe Workplaces, dated July 31, 2014 and amended by E.O. 13683, December 11, 2014. The Constitution and the laws of the United States of America authorize the President to issue Executive Orders pursuant to his authority under ''the Constitution and the laws of the United States,'' expressly including the Federal Property and Administrative Services Act (Procurement Act), 40 U.S.C. 101 *et seq.* The Procurement Act authorizes the President to ''prescribe policies and directives that the President considers necessary to carry out'' the statutory purposes of ensuring ''economical and efficient'' Government procurement and administration of Government property. 40 U.S.C. 101, 121(a). The E.O. establishes that the President considers the requirements included in the E.O. to be necessary to economy and efficiency in Federal contracting (noting that ''contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and increase the likelihood of timely, predictable, and satisfactory delivery of goods and services to the Federal Government'' and that ''helping executive departments and agencies (agencies) to identify and work with contractors with track records of compliance will reduce execution delays and avoid distractions and complications that arise from contracting with contractors with track records of noncompliance'').

The overall objective of the proposed rule is to increase the Government's ability to contract with companies that are compliant with labor laws, thereby increasing the likelihood of timely, predictable, and satisfactory delivery of goods and services.

Generally, the proposed rule applies to contracts estimated to exceed $500,000. The specific objectives of the proposed rule for consideration in this analysis are to—

a. Ensure that when the responsibility process is initiated, contracting officers know whether a prospective contractor has, within the three years preceding the offer, had any administrative merits, arbitral awards or decisions, or civil judgments rendered against the prospective contractor for any of the statutes or Executive Orders listed in the E.O. and in the definition of labor laws at FAR 22.2002 and if so, to list the labor violations. This is done to inform the contracting officer if the offerors consistently adhere to labor laws and is necessary to making a responsibility determination;

b. Assist contracting officers in the review of the labor violations by designating a senior agency official to be an Agency Labor Compliance Advisor (ALCA) who will work in consultation with contracting officers and DOL in reviewing and evaluating disclosed

information. The ALCA will advise the contracting officer whether the contractor's disclosed violations are ''serious,'' ''repeated,'' ''willful,'' and/or ''pervasive,'' (as defined in the DOL Guidance). For prospective contractors during responsibility determination and post-award for updated disclosures, the ALCA will also assist with reviewing remediation of the violation(s), any other mitigating factors, and determining whether a labor compliance agreement between contractors and enforcement agencies is in place or is otherwise needed to address appropriate remedial measures, compliance assistance, and steps to resolve issues and to avoid further violations. DOL only, not Contracting Officers or ALCA's, are available to consult with Contractors regarding subcontractor information. Any contracting officer determination that a prospective small business contractor lacks certain elements of responsibility will be referred to the Small Business Administration for a Certificate of Competency; if they are being paid properly for work performed;

c. Provide prospective contractors, as part of the responsibility determination, an opportunity to disclose any steps taken to correct the labor violations and include any agreements entered into with an enforcement agency. The contracting officer, in consultation with the ALCA, and relevant enforcement agencies will review this information to determine if agreements are in place or are otherwise needed to address appropriate remedial measures, compliance assistance, steps to resolve issues to avoid further violations, or other related matters. The objective of this step is to help firms improve their labor law compliance;

d. Ensure that, post-award, the contractor updates disclosed information about labor violations semi-annually for contracting officer's continued consideration of contract performance and decisions regarding exercise of options;

e. Ensure that contractors know whether a prospective subcontractor, for subcontracts estimated to exceed $500,000 for other than commercially available off-the-shelf (COTS) items, has within the three years preceding the offer, had any administrative merits, arbitral awards or decisions, or civil judgments rendered against the prospective subcontractor for any of the statutes or Executive Orders listed in Executive Order 13673 and in the definition of labor laws at FAR 22.2002 and if so, that the potential subcontractor is provided an opportunity to provide such additional information the subcontractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws.

f. Ensure that, for subcontracts estimated to exceed $500,000, for other than COTS items, subcontractors update information disclosed to their prime contractor about labor violations semi-annually and that contractors continue consideration of this information during subcontract performance;

g. Ensure that contractors and subcontractors, for subcontracts estimated to exceed $500,000 other than COTS items, provide individuals, in every pay period, a wage statement (also known as a pay stub) containing the basic information about their such as hours worked, overtime hours, pay, and any additions made to or deductions made from pay, as detailed in the wage statement requirements of DOL's ''Guidance for Executive Order 13673'', Fair Pay and Safe Workplaces;

h. Ensure that individuals who are treated as independent contractors, rather than as employees, are provided documentation of this status by the contractor or subcontractor, for subcontracts estimated to exceed $500,000;

i. Ensure, where a significant portion of the workforce is not fluent in English, the contractor provides the wage statement and the independent contractor notification in English and the language(s) with which the workforce is more familiar; and

j. Ensure that employees and independent contractors of contractors with contracts estimated to exceed $1,000,000 are not required to enter into predispute arbitration agreements for disputes arising out of Title VII of the Civil Rights Act or from torts related to sexual assault or harassment (except when the employee is subject to a collective bargaining agreement negotiated between the contractor and a labor union representing them, and when valid contracts already exist).

3. Description of and, where feasible, estimate of the number of small entities to which the rule will apply.

The E.O. requires that, in developing the guidance and proposing to amend the FAR, the Secretary of Labor and the FAR Council shall minimize, to the extent practicable, the burden of complying with the E.O. for Federal contractors and subcontractors and in particular small entities, including small businesses, as defined in section 3 of the Small Business Act (15 U.S.C. 632), and small nonprofit organizations. See § 4(e). The intent of the E.O. is to minimize additional compliance burdens and to increase economy and efficiency in Federal contracting by helping more contractors and subcontractors come into compliance with workplace protections, not by denying them contracts.

Compliance with Labor Laws. This rule will impact all small entities who propose as contractors or subcontractors under Federal contracts. An initial representation is required for offerors responding to solicitations estimated to exceed $500,000. Fiscal Year 2013 Federal Procurement Data System (FPDS) data shows that, for actions that would be subject to this requirement (including contracts and purchase orders, but excluding actions that would not be subject to responsibility determination, *e.g.,* task and delivery orders and calls) there were 12,382 awards greater than $500,000 to unique small businesses with an average of five offers per solicitation. The total estimate of small business offerors to which this representation will apply is 61,910 (12,382 × an average of 5 offers per solicitation = 61,910).

Disclosure. The requirement to provide information about labor violations applies to prospective contractors for whom the contracting officer has initiated a responsibility determination, where the prospective contractor represented that it has had labor violation(s). Using FY13 FPDS and the advice of subject matter experts, we estimate 24,477 small businesses will have responsibility determinations initiated and of those, we estimate that 4.05% of these have labor violations for a total estimate of 991 small businesses prospective contractors to which the disclosure requirement will apply. (The number of affirmative responses is estimated from DOL data, which provided an upper and lower bound percentage. The upper bound percentage of 4.05% was applied in order to arrive at a conservative estimate).

Semi-annual Reporting. The requirement for contractors to update their disclosures of (labor) violations semi-annually only applies to those offerors receiving a contract.

Subcontractor Flowdown Disclosure. The requirement for contractors to require potential subcontractors to disclosure whether they have labor violations applies to any subcontract in excess of $500,000 for other than COTS items. Using data reported in Federal Subaward Reporting System (FSRS) on subcontracts over $500,000 and applying the same methodology for calculating as was used for contractors above, we estimate that prospective contractors or contractors will start a responsibility determination on 9,831 offerors. We estimate that 4.05% or 398 small business subcontractors will be required to provide information about the violations they disclosed. Comments are solicited on whether a phased implementation of the rule with respect to application of the rule to subcontracts would be helpful to small businesses. This approach would allow contractors to benefit from the Government implementation and lessons learned. For example, there could be a later applicability date for the requirements for potential subcontractors to disclose labor violations, as well as reviewing and evaluating disclosed labor violations when determining the responsibility of potential subcontractors. Commenters favoring a phased implementation are requested to provide suggested reasonable timeframes with supporting rationale for the recommended timeframe.

State Law Application. Additionally, the FAR Council plans a phased implementation of application of the rule to the Executive Order equivalent state laws (See Sec. 2(a)(i)(O)). As cited in the DOL ''Guidance for Executive Order 13673,'' Fair Pay and Safe Workplaces, DOL plans to publish a second proposed guidance in the **Federal Register** addressing which State laws are equivalent to the 14 Federal labor laws and E.O.s identified in E.O. 13673 and what constitutes an administrative merits determination under each. Currently, per the DOL guidance, only State plans approved by DOL's Occupational Safety and Health Administration (OSHA-approved State plans) are equivalent State laws. A subsequent proposed FAR rule would be published for public comment to implement the second DOL guidance document.

Paycheck Transparency. The Fair Labor Standards Act (FLSA) requires contractors

keep accurate records of hours worked and wages paid to individuals, but the FLSA does not require a contractor to provide individuals a wage statement. However, most states have laws that require employers to provide workers with some form of wage statement. The type of information required varies by state, with some states requiring only a list of deductions and others requiring significantly more information. The document provided to individuals exempt from the overtime compensation requirements of the Fair Labor Standards Act need not include a record of hours worked if the contractor informs the employees of their overtime exempt status. The additional effort required under a contract is that information already required to be recorded at a corporate level must now be provided to individuals in a separate document for each pay period. The rule does not preclude the contractor from providing this information electronically.

Additionally, this rule requires a contractor treating an individual performing work under the contract as independent contractors, and not as an employee, to provide a document to these individual informing them of that status. This is a one-time documentation requirement which will be accomplished prior to commencement of work or at the time a contract with the individual is established. The rule does not preclude the contractor from providing this information electronically. It is estimated that 14,059 small businesses will be impacted by these paycheck transparency requirements.

Arbitration. The number of small businesses with contracts over $1,000,000 is estimated to be 9,822 for prime contractors; 1,964 for first tier subcontractors, 982 for 2nd tier subcontractors; and 491 for third tier subcontractors. However, it should be noted that this limitation on arbitration is already applicable to Department of Defense (DOD) contracts valued at over $1 million, except for commercial items, and that DOD awards the majority of Federal procurement contracts. At this time, there is no data available to estimate the number of small entities who may have arbitral agreements to which this rule will apply. DoD, GSA and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

4. Description of projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

Compliance with Labor Laws. Two provisions, 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673) and 52.222–AB, Subcontractor Responsibility Regarding Compliance with Labor Laws (Executive Order 13673), require small businesses responding to a solicitation (for 52.222–AA) or responding to a contractor for a subcontracting opportunity (for 52.222–AB) to disclose whether it has or has not had any administrative merits determinations, arbitral awards or decisions, or civil judgments, of the enumerated list of labor laws within the three-year period preceding the date of their offer. Additionally, under the provisions, if the contracting officer (for 52.222–AA) or the contractor (for 52.222–AB) is making a responsibility determination and the offeror disclosed it had a labor violation, then the offeror will be requested to provided additional information about the disclosed labor violation(s). For the provision at 52.222–AA paragraph (d) requires the contractor, upon request of the contracting officer, to identify which of the listed labor laws were violated and provide certain information about the specific violations. The information provided includes—

- The labor law violated;
- The case number, inspection number, charge number, docket number, or other unique identification number;
- The date rendered; and
- The name of the court, arbitrator(s), agency, board, or commission rendering the determination or decision.

This information allows the agency to obtain the labor violation document from DOL. If the agency is unable to obtain the violation document, the agency will ask the offeror for the document.

The provision affords an opportunity for offerors to provide all other such information that the offeror deems necessary to demonstrate its responsibility to the contracting officer. Such information may be related to mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps, taken to achieve compliance with labor laws.

For the provision at 52.222–AB, paragraph (b) requires that, for subcontracts where the estimated subcontract value exceeds $500,000 for other than COTS items, the contractor shall require all prospective subcontractors to represent whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments rendered against them for violations of labor laws within the three-year period preceding the date of their offer.

The 52.222–AB provision requires that clause 52.222–BB(c) procedures be followed if the contractor initiates a responsibility determination on the prospective subcontractor. During the responsibility process, if the subcontractor had responded affirmatively to the representation, the contractor shall require the prospective subcontractor to submit the administrative merits determinations, arbitral awards or decisions, and/or civil judgments and any notice the subcontractor received from DOL advising that it has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing agreement.

Additionally, contractors shall afford prospective subcontractors an opportunity to provide such information the prospective subcontractor deems necessary to demonstrate its responsibility to the contractor. Such information may be related to mitigating circumstances, remedial measures such as labor compliance agreements and other steps taken to achieve compliance with labor laws and explanations for delays in entering into a labor compliance agreement within a reasonable period or not meeting the terms of an existing agreement.

The contractor is required to notify the contracting officer of the name of the subcontractor and the basis for the decision if the contractor determines that a subcontractor is a responsible source after having been informed that DOL advised the subcontractor that it has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of such agreement.

Providing information about the labor violations and mitigating information will require businesses to search records for each labor violation, determine how the violation was addressed, and disclose the information. The provision requires contractors to consider the DOL Guidance in making a subcontractor responsibility determination. The provision provides that the contractor may consult with DOL.

The clause at 52.222–BB, Compliance with Labor Laws, requires contractors to, semi-annually update information pursuant to the provision at 52.222–AA. As in the 52.222–AA provision, the clause requires the contractor to furnish a copy of the violation if the contracting officer asks, and gives contractors the opportunity to furnish information on mitigating circumstances.

The clause requires contractors to require subcontractors to update information provided pursuant to provision 52.222–AB semi-annually and give subcontractors the opportunity to provide information on mitigating circumstances. In addition to the semi-annual updates, a subcontractor shall also disclose, within 5 business days, any notification by DOL that it has not entered into a labor compliance agreement within a reasonable period, or is not meeting the terms of an existing labor compliance agreement. The contractor shall notify the contracting officer of the name of the subcontractor and the basis for the decision if the contractor decides to continue the subcontract after having been informed that DOL advised the subcontractor it has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing labor compliance agreement.

The clause requires that contractors consider the information provided and the DOL Guidance in determining whether action is necessary. Such action may include requesting that the subcontractor pursue a new or enhanced labor compliance agreement, requiring other appropriate remedial measures, compliance assistance, resolving issues to avoid further violations, or not continuing with the subcontract, if necessary.

The clause requires contractors to flowdown the clause to subcontracts at all tiers with an estimated value exceeding $500,000 for other than COTS items.

Small business subcontractors may be negatively affected by this proposed rule. A prime contractor or higher tier subcontractor may have difficulty evaluating labor violations, and may find it problematic to find time to learn. This may lead to behaviors such as choosing not to subcontract with a small business which has labor violations, especially if the small business has not initiated the process to negotiate a labor compliance agreement.

Alternatively, a positive impact is that small businesses with a strong record of labor law compliance may receive a greater number of subcontracts, and develop strong relationships with contractors and DOL.

Paycheck Transparency. The clause at 52.222–XX, Paycheck Transparency, requires contractors to provide a document (wage statement) to individuals subject to certain wage record requirements in each pay period. The wage statement must which include hours worked, overtime hours, pay, and any additions made to or deductions made from pay. If the wage statement is not provided weekly and is instead provided bi-weekly or semi-monthly (because the pay period is bi-weekly or semi-monthly), the hours worked and overtime hours contained in the wage statement shall be broken down to correspond to the period (which will almost always be weekly) for which overtime is calculated and paid.

If contractors choose not to include a record of hours worked for individuals exempt from the overtime compensation requirements of the Fair Labor Standards Act, the contractor must inform the individual of their overtime exempt status. There is no requirement that the contractor inform the individual of the exempt status by means of an additional or separate document or notification.

The clause requires contractors to provide to individuals it is treating as independent contractors with a document so informing the individual.

The clause requires that if a significant portion of the workforce is not fluent in English, the contractor shall provide the wage statement and the independent contractor notification in English and the language(s) with which the workforce is more familiar.

The clause requires contractors to flowdown to all subcontracts exceeding $500,000, for other than COTS items, at any tier, the requirements of the clause.

Arbitration. The clause at 52.222–YY, Arbitration of Contractor Employee Claims, states contractors and subcontractors must agree that the decision to arbitrate claims arising under title VII of the Civil Rights Act of 1964, or any tort related to or arising out of sexual assault or harassment, shall only be made with the voluntary consent of employees or independent contractors after such disputes arise. This does not apply to:

(1) Employees covered by a collective bargaining agreement negotiated between the contractor and a labor organization representing the employees;

(2) Employees or independent contractors who entered into a valid contract to arbitrate prior to the contractor bidding on a contract containing the clause, implementing Executive Order 13673 the Government contract. This exception does not apply i) if the contractor is permitted to change the terms of the contract with the employee or independent contractor; or ii) when the contract with the employee or independent contractor is renegotiated or replaced.

We estimate that the average contractor will utilize a general manager equivalent to a mid-range GS–14 to review the firms' policies and procedures to ensure they comply with the requirements of the clause. It is estimated this would take approximately thirty minutes.

5. Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the rule.

DOL will issue guidance to assist Federal agencies in the implementation of the E.O. DOL is working to provide contractors with guidance and the tools they need to operate in compliance with the variety of labor laws enforced by DOL. By working with firms who report labor violations, the Government is providing assistance to educate employers on Federal labor requirements and practices they must follow to ensure compliance.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

The E.O. contains two distinct requirements for contractors and subcontractors seeking or performing covered contracts to provide information. First, contractors will disclose to contracting agencies (and subcontractors will disclose to contractors) certain violations of any of the 14 Federal labor laws identified in the E.O. or any equivalent State laws (the Labor Laws), as well as additional information regarding the disclosed violations. The proposed rule does not implement the equivalent state laws component of the E.O., except for OSHA-approved State Plans. DOL will publish in the **Federal Register** at a later date a second proposed guidance addressing which State laws are equivalent to the 14 Federal labor laws and executive orders identified in the E.O. for which contractors and subcontractors must report violations, and DOD, GSA and NASA will issue a second proposed rule implementing the E.O's requirements with respect to those State laws. Second, they will disclose certain information to their workers performing work under covered contracts to provide the workers greater transparency regarding compensation and employment status. Each requirement will cause contractors and subcontractors to incur a cost of compliance. The E.O. also contains a provision that prohibits contractors and subcontractors with Federal contracts exceeding $1,000,000 from requiring employees and independent contractors to arbitrate certain discrimination and harassment claims. With regard to prospective contractors' disclosure of labor violations, the following alternatives are discussed:

Disclosure of Violations. One alternative to the E.O as implemented by the proposed rule would be to require contracting officers to consider prospective contractors' labor compliance records without the assistance of ALCAs, and without disclosure by contractors of their labor violations. This alternative would avoid any burden on contractors associated with disclosure. It would also eliminate the hiring of ALCAs by contracting agencies. However, the E.O and the proposed rule provide for contractor disclosure and for ALCAs to assist contracting officers because these tools are deemed necessary in order for contracting officers to effectively consider firms' labor compliance records. Without timely information regarding firms' labor violations, and without the support and expert advice of ALCAs, it would not be feasible to expect contracting officers to consider labor violations in an expeditious way, nor would it be possible to achieve consistency across the Government in their consideration of contractors' labor compliance records. A related alternative would be to remove the requirement that prospective contractors disclose their labor violations while leaving the rest of the E.O. and proposed rule intact. In some senses, this is an attractive alternative. In an ideal scenario, a contracting agency's ALCA would be connected to a database that would provide instant access to all of a prospective contractor's labor violations. However, such a system is not feasible in the near future in light of budget and other constraints. Moreover, even if such a system had efficient access to all information housed within any agency of the Government and all publicly available information, it would still not have access to privately conducted arbitration decisions, actions arising from state laws deemed equivalent to Federal statutes enumerated in the E.O., or all civil judgments. The system of disclosure created under the E.O. is the most efficient, least burdensome method of making information about labor violations available currently. OMB, GSA and other Federal agencies are working on systems that will improve the availability of relevant data in the longer term.

Having determined that disclosure of information by contractors and subcontractors is necessary, however, the disclosure provisions contained in the E.O. and the proposed rule are designed to minimize the burden on them. For example, one alternative to the approach taken in the proposed rule would be to require all contractors for which a responsibility determination is undertaken to provide the following nine categories of information regarding their labor violations:

- The date that the violation was rendered;
- The name of the court, arbitrator(s), agency, board, or commission that rendered it;
- The Labor Law that was violated;
- The name of the case, arbitration, or proceeding, if applicable;
- The street address of the worksite where the violation took place (or if the violation took place in multiple worksites, then the address of each worksite);
- The case number, inspection number, charge number, docket number, or other unique identification number;
- Whether the proceeding was ongoing or closed;
- Whether there was a settlement, compliance, or remediation agreement related to the violation; and
- The amount(s) of any penalties or fines assessed and any back wages due as a result of the violation.

This approach would have made the process of considering labor violations more efficient from the perspective of contracting agencies. However, this list was narrowed to the following four categories of information

in order to reduce the burden on contractors while still providing the minimally necessary information:

- The Labor Law that was violated;
- The case number, inspection number, charge number, docket number, or other unique identification number;
- The date that the determination, judgment, award, or decision was rendered; and
- The name of the court, arbitrator(s), agency, board, or commission that rendered it.

Another alternative would be to have all prospective contractors bidding on contracts—not just those for which a contracting officer undertakes a responsibility determination—disclose the information provided above. This would make the procurement process simpler and more expeditious from the perspective of contracting agencies. However, this alternative would increase the burden on contractors relative to the requirement contained in the proposed rule, and it was determined that the proposed rule's more narrowly tailored requirement would retain its effectiveness while minimizing the burden on contractors.

Disclosure Timing for Prime Contractors. With regard to the E.O. and proposed rule provisions, for contracts over $500,000, each prospective offeror must represent whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments (referred to herein as a labor violation) rendered against the offeror, within a 3 year period preceding the offer, for violations of any of the enumerated labor laws. Likewise, the contractor will require potential subcontractors to disclose whether there have been any labor violations. Prior to making an award, as part of the responsibility determination, the contracting officer, will request prospective contractors who have had labor violations to identify which of the listed labor laws were violated and provide certain information about the specific violations. Alternatives to this requirement would be to have contractors and subcontractors disclose at the time of registration (*e.g.* details of violations and mitigating factors). This alternative would capture information on many contractors upfront but causes all contractors to comply whether or not they are a prospective contractor and will be unnecessarily burdensome to company that are not potential candidates for award. Another alternative is to require disclosure only of prospective contractor and subcontractor. This narrows the burden but does not meet the requirements of the EO.

Subcontractor Flow-down/Reporting. With regard to the E.O.'s and proposed rule's provisions regarding subcontractors, one alternative would be to simply exempt subcontractors from any obligations under the E.O. and focus only on prime contractors' records of labor compliance. This alternative would eliminate any burden on subcontractors. It would also reduce the burden on contractors associated with evaluating their prospective subcontractors' labor compliance histories. However, contractors are already required to evaluate their prospective subcontractors' integrity and business ethics, and disregarding subcontractors' labor compliance records in the course of making that determination would undermine the core goals of the E.O. A significant portion of the work performed on Federal contracts is performed by subcontractors, and ensuring their integrity and business ethics is a crucial part of ensuring that taxpayer's money is spent on firms that will do reliable work for the Federal Government and not on rewarding corporations that break the law.

Similarly, the E.O.'s requirements could be limited to first-tier subcontractors. However, for the same reasons as the previous alternative, this alternative would also undermine the core goals of the E.O., given that a significant portion of the work on Federal contracts is performed by subcontractors below the first tier.

Another alternative would be to have the subcontractor report the information to DOL and inform the prime. However, the prime has to make a subcontractor responsibility determination and without this information may not be able to complete their analysis for the determination.

Other alternatives around the implementation date for subcontractor disclosure may minimize the reporting burden upfront to provide contractors an opportunity to familiarize themselves with the process and establish a process to comply with the E.O. For example, instead of requiring subcontractors to immediately comply with the E.O. requirements, these requirements could be phased in (*e.g.,* 1 year phase-in, 3 to 6 month phase-in, or some other realistic timeframe).

Section IV, Alternatives to the proposed rule regulatory text, provides discussion of additional alternatives for consideration and public comment.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2014–025), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat has submitted a request for approval of a new information collection requirement concerning FAR case 2014–025, Fair Pay and Safe Workplaces, to the Office of Management and Budget.

A. Annual public reporting burden for this collection of information is estimated at 6.26 hours per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, reviewing, and submitting the information.

ESTIMATED SUMMARY OF ANNUAL TOTAL COST TO THE PUBLIC OF INFORMATION COLLECTION REPORTING BURDEN

Number of respondents	25,775
Responses per respondent	9.9
Total annual responses	254,668
Hours per response	6.26
Total hours	1,594,171
Rate per hour (average)	$55
Total annual cost to public	$87,389,423

B. Annual public recordkeeping burden for this proposed rule is estimated at 52 hours per recordkeeping action to retain submitted subcontractor information.

ESTIMATED SUMMARY OF ANNUAL TOTAL COST TO THE PUBLIC FOR THE RECORDKEEPING BURDEN

Number of recordkeeping actions	653
Hours per action	52
Total hours	33,956
Hourly rate	$45
Total annual cost	$1,528,020

C. Total estimated summary of the annual cost to the public for information collection reporting and recordkeeping burdens.

ESTIMATED SUMMARY OF ANNUAL TOTAL COST TO THE PUBLIC FOR INFORMATION COLLECTION REPORTING AND RECORDKEEPING BURDENS

Total hours	1,628,127
Total annual cost to public	$88,917,443

D. In order to successfully comply with the requirements of the rule, contractors and subcontractors will initially need to review and become familiar with the FAR rule and the DOL Guidance. We estimate that for this initial requirements review the average contractor will utilize a general manager equivalent to a mid-range GS–14 ($63 hourly rate) and spend approximately eight hours. Therefore, the total cost to contractors and subcontractors for this

effort is estimated to be 25,775 × 8 × $63 = $12,990,600.

E. Request for Comments Regarding Paperwork Burden. Submit comments, including suggestions for reducing this burden, not later than July 27, 2015 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1800 F Street NW., 2nd floor, Washington, DC 20405. Please cite OMB Control Number 9000–00XX, Title, in all correspondence.

List of Subjects in 48 CFR Parts 1, 4, 9, 17, 22, and 52

Government procurement.

Dated: May 19, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 4, 9, 17, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 9, 17, 22, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by adding in numerical sequence, FAR segments ''52.222–AA'', ''52.222–AB'', ''52.222–BB'', and ''52.222–XX'' and their corresponding OMB Control Number ''9000–XXXX''.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by redesignating paragraphs (a)(19) through (a)(29) as paragraphs (a)(20) through (a)(30), respectively; and adding a new paragraph (a)(19) to reads as follows:

4.1202 Solicitation provision and contract clause.

(a) * * *

(19) 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673).

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

■ 4. Amend section 9.104–4 by redesignating paragraph (b) as paragraph (c); and adding a new paragraph (b) to reads as follows:

9.104–4 Subcontractor responsibility.

* * * * *

(b) For Executive Order (E.O.) 13673, Fair Pay and Safe Workplaces, requirements pertaining to labor violations, see subpart 22.20.

* * * * *

■ 5. Amend section 9.104–5 by—

■ a. Revising the section heading;

■ b. Removing from paragraphs (a)(1) and (a)(2) ''see 9.405); and'' and ''exceeds $3,000.'' and adding ''see 9.405);'' and ''exceeds $3,000; and'', respectively;

■ c. Adding paragraph (a)(3); and

■ d. Revising paragraph (b).

The revised and added text reads as follows:

9.104–5 Representation and certification regarding responsibility matters.

(a) * * *

(3) Provide an offeror who does not furnish the certification or such information as may be requested by the contracting officer an opportunity to remedy the deficiency. Failure to furnish the certification or such information may render the offeror nonresponsible.

(b) When an offeror provides an affirmative response to the provision at 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673), or its commercial item equivalent at 52.212–3(q), the contracting officer shall follow the procedures in subpart 22.20.

* * * * *

■ 6. Amend section 9.105–1 by adding paragraph (b)(4) to read as follows:

9.105–1 Obtaining information.

* * * * *

(b) * * *

(4) Information provided pursuant to 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673), or its commercial item equivalent at 52.212–3(q), shall be considered in accordance with the procedures described at subpart 22.20.

9.105–3 [Amended]

■ 7. Amend section 9.105–3 by removing from paragraph (a) ''provided in Subpart 24.2'' and adding ''provided in 9.105–2(b)(2)(iii) and subpart 24.2'' in its place.

PART 17—SPECIAL CONTRACTING METHODS

■ 8. Amend section 17.207 by—

■ a. Removing from paragraphs (c)(6) and (c)(7) ''considered; and'' and ''satisfactory ratings.'' and adding ''considered;'' and ''satisfactory ratings; and'' in their places, respectively; and

■ b. Adding paragraph (c)(8).

The added text reads as follows:

17.207 Exercise of options.

* * * * *

(c) * * *

(8) If the contract contains the clause 52.222–BB, Compliance with Labor Laws, and labor law violations were disclosed pursuant to the clause, the contractor's labor law violations and remedial actions and the agency labor compliance advisor recommendations have been considered.

* * * * *

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.000 [Amended]

■ 9. Amend section 22.000 by removing from paragraphs (b) and (c) ''labor laws'' and ''labor law'' and adding ''labor laws and Executive orders'' and ''labor law and Executive orders'' in their places, respectively.

■ 10. Amend section 22.102–2 by—

■ a. Revising the section heading and paragraphs (c)(1)(i) through (c)(1)(v); and

■ b. Adding paragraph (c)(3).

The revised and added text reads as follows:

22.102–2 Administration and enforcement.

* * * * *

(c)(1) * * *

(i) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction)(see subpart 22.4);

(ii) 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards (see subpart 22.3);

(iii) The Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145) (see 22.403–2);

(iv) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and

Equipment Exceeding $15,000 (see subpart 22.6); and

(v) 41 U.S.C. chapter 67, Service Contract Labor Standards (see subpart 22.10).

(2) * * *

(3) Department of Labor's (DOL) administration and enforcement authorities under the aforementioned statutes and under Executive orders implemented in this part do not limit the authority of contracting agencies to otherwise administer and enforce the terms and conditions of agency contracts.

* * * * *

■ 11. Add section 22.104 to read as follows:

22.104 Agency Labor Advisors.

(a) *Appointment of agency labor advisors.* Agencies may designate or appoint labor advisors, according to agency procedures.

(b) *Duties.* Agency labor advisors are generally responsible for the following:

(1) Interface with DOL, agency labor compliance advisors, outside agencies, and other parties in matters concerning interpretation, guidance and enforcement of labor statutes applicable to Federal contracts.

(2) Provide advice and guidance to the contracting agency, contractors, and labor community regarding application of labor statutes, Executive Orders, and implementing regulations in Federal contracts.

(3) Serve as labor subject matter experts on all issues specific to part 22 and its prescribed contract clauses and provisions.

(c) Agency labor advisors are listed at *www.wdol.gov*.

■ 12. Add subpart 22.20 to read as follows:

Subpart 22.20—Fair Pay and Safe Workplaces

Sec.
22.2000 Scope of subpart.
22.2001 Reserved.
22.2002 Definitions.
22.2003 Policy.
22.2004 Compliance with labor laws.
22.2004–1 Contract requirements.
22.2004–2 Pre-award evaluation of an offeror's labor violations.
22.2004–3 Post-award evaluation of a prime contractor's labor violations.
22.2004–4 Contractor pre-award and post-award evaluation of a subcontractor's labor violations.
22.2005 Paycheck transparency.
22.2006 Arbitration of contractor employee claims.
22.2007 Solicitation provisions and contract clauses.

Subpart 22.20—Fair Pay and Safe Workplaces

22.2000 Scope of subpart.

This subpart prescribes policies and procedures to implement Executive Order (E.O.) 13673, Fair Pay and Safe Workplaces, dated July 31, 2014.

22.2001 Reserved.

22.2002 Definitions.

As used in this subpart—

Administrative merits determination means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. The notices or findings may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

Agency labor compliance advisor (ALCA) means the senior official designated in accordance with Executive Order 13673. ALCAs are listed at *www.*_____.

Arbitral award or decision means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes one that is not final or is subject to being confirmed, modified, or vacated by a court, and includes one resulting from private or confidential proceedings. To determine whether a particular arbitral award or decision is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

Civil judgment means any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular civil judgment is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

DOL guidance means the Department of Labor (DOL) guidance entitled: ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces','' which can be obtained from *www.*_____.

Enforcement agency means any agency granted authority to enforce Federal labor laws. It includes DOL, the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It includes a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, undertake an investigation of potential labor violations.

Labor compliance agreement means an agreement entered into with a Federal enforcement agency, or a State agency designated to administer an OSHA-approved State Plan, to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

Labor laws means the following labor laws and Executive Orders—

(1) The Fair Labor Standards Act, 29 U.S.C. chapter 8.

(2) The Occupational Safety and Health Act (OSHA) of 1970.

(3) The Migrant and Seasonal Agricultural Worker Protection Act.

(4) The National Labor Relations Act.

(5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.

(6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.

(7) Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity).

(8) Section 503 of the Rehabilitation Act of 1973.

(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

(10) The Family and Medical Leave Act.

(11) Title VII of the Civil Rights Act of 1964.

(12) The Americans with Disabilities Act of 1990.

(13) The Age Discrimination in Employment Act of 1967.

(14) Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

(15) Equivalent State laws as defined in guidance issued by the Department of Labor. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans).

Labor violation means a violation of a labor law that resulted in an administrative merits determination, arbitral award or decision, or civil judgment.

Pervasive violation means a standard for a labor violation(s), *e.g.,* the number of violations of a requirement or the aggregate number of violations in relation to the size of the prospective contractor. To determine whether a particular violation(s) is pervasive it is necessary to read section III. D. in the DOL guidance.

Repeated violation means a standard for a labor violation(s), *e.g.,* one or more additional labor violations of

substantially similar requirements. To determine whether a particular violation(s) is repeated it is necessary to read section III. C. in the DOL guidance.

Serious violation means a standard for a labor violation(s), *e.g.,* the number of employees affected, the degree of risk imposed, or actual harm done by the violation. To determine whether a particular violation(s) is serious it is necessary to read section III. A. in the DOL guidance.

Willful violation means a standard for a labor violation(s), *e.g.,* whether there was knowledge of, reckless disregard for, or plain indifference to the labor violation. To determine whether a particular violation(s) is willful it is necessary to read section III. B. in the DOL guidance.

22.2003 Policy.

It is the policy of the Federal Government to promote economy and efficiency in procurement by awarding contracts to contractors who promote safe, healthy, fair, and effective workplaces through compliance with labor laws. Contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and increase the likelihood of timely, predictable, and satisfactory delivery of goods and services. This policy is promoted by E.O. 13673, Fair Pay and Safe Workplaces.

22.2004 Compliance with labor laws.

22.2004–1 Contract requirements.

(a) *Contracts.* An offeror on a solicitation estimated to exceed $500,000 must represent whether, in the past three years, it was found to have violated labor laws. If an offeror represents it has a violation(s), and if the contracting officer has initiated a responsibility determination, the contracting officer will require the offeror to submit information on the violation(s) and afford the offeror an opportunity to provide information on mitigating circumstances and remedial measures such as labor compliance agreements. The contractor must update the information semi-annually. For further information see the provision and clause prescribed at 22.2007(a) and (c).

(b) *Subcontracts.* Similar requirements apply to contractors as they make responsibility determinations on their prospective subcontractors for subcontracts at any tier estimated to exceed $500,000, except for subcontracts for commercially available off-the-shelf items. For further information see the provision and clause prescribed at 22.2007(b) and (c).

22.2004–2 Pre-award evaluation of an offeror's labor violations.

(a) *General.* (1) Before awarding a contract in excess of $500,000, the contracting officer shall consider information concerning labor violations when determining whether a prospective contractor is a responsible source that has a satisfactory record of integrity and business ethics. The contracting officer duty to consider labor violations under this paragraph is in addition to the contracting officer duties under 9.104–5 and 9.104–6.

(2) The ALCA provides assistance to the contracting officer by obtaining labor violation documents, by using DOL guidance to evaluate the violations and contractor actions taken to address the violations, and by providing a supported recommendation, *e.g.,* whether to pursue a labor compliance agreement.

(b) *Labor law violation evaluation.* When the contracting officer initiates a responsibility determination and a prospective contractor had provided an affirmative response to the representation at paragraph (c) of the provision at 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673), or its equivalent for commercial items at 52.212–3(q)(2)—

(1) The contracting officer shall request that the prospective contractor, for each labor violation—

(i) Enter the following information in SAM _____ (insert name of reporting module) *www.sam.gov,* unless the information is already current and complete in SAM:

(A) The labor law violated.

(B) The case number, inspection number, charge number, docket number, or other unique identification number.

(C) The date rendered.

(D) The name of the court, arbitrator(s), agency, board, or commission rendering the determination or decision;

(ii) Provide the information in paragraph (b)(1)(i) of this section to the contracting officer if the prospective contractor meets an exception to SAM registration (see 4.1102(a)); or

(iii) Provide to the contracting officer such additional information as the prospective contractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws.

(2) The contracting officer shall—

(i) Request that the ALCA provide written advice and recommendations within three business days of the request, or another time period required by the contracting officer;

(ii) Furnish to the ALCA all relevant information provided to the contracting officer by the prospective contractor;

(iii) Request the ALCA obtain the administrative merits determination(s), arbitral award(s) or decision(s), or civil judgment(s), as necessary to support recommendations, and for each recommendation of an unsatisfactory record of integrity and business ethics. (The ALCA shall notify the contracting officer if the ALCA is unable to obtain any of the necessary document(s). The contracting officer shall request the prospective contractor provide the document(s) to the contracting officer.)

(3)(i) The ALCA shall make one of the following recommendations—

(A) The prospective contractor could be found to have a satisfactory record of integrity and business ethics;

(B) The prospective contractor could be found to have a satisfactory record of integrity and business ethics if the process to enter into or enhance a labor compliance agreement is initiated; or

(C) The prospective contractor could be found to not have a satisfactory record of integrity and business ethics, and the agency Suspending and Debarring Official should be notified in accordance with agency procedures.

(ii) The recommendation shall include the following, using the DOL guidance:

(A) Whether any violations should be considered serious, repeated, willful, or pervasive.

(B) The number of labor violations (depending on the nature of the violation, in most cases, a single violation may not necessarily give rise to a determination of lack of responsibility).

(C) Whether the prospective contractor has initiated its own remedial measures.

(D) The need for, existence of, and whether the prospective contractor is adequately adhering to labor compliance agreements or other appropriate remedial measures.

(E) Whether the prospective contractor is still negotiating in good faith a labor compliance agreement that was recommended as necessary.

(F) Such additional supporting information that the ALCA finds to be relevant.

(4) The contracting officer shall—

(i) Ensure, using DOL guidance and the ALCA's advice and recommendations, that the following have been considered in evaluating prospective contractors:

(A) The nature of the labor violations (whether serious, repeated, willful, or pervasive).

(B) The number of labor violations (depending on the nature of the violation, in most cases, a single violation may not necessarily give rise to a determination of lack of responsibility).

(C) Any mitigating circumstances.

(D) Remedial measures taken to address labor violations, including existence of and compliance with any labor compliance agreements, or whether the prospective contractor is still in good faith negotiating such an agreement;

(ii) Proceed with making a responsibility determination using available information and business judgment if a timely written recommendation is not received from an ALCA; and

(iii) Comply with 9.103(b) when making a determination that a prospective small business contractor is nonresponsible and refer to Small Business Administration for a Certificate of Competency.

22.2004–3 Post-award evaluation of a prime contractor's labor violations.

(a) *Contract requirements.* The contractor is required to continue to disclose in SAM _____ (insert name of reporting module) *www.sam.gov,* semi-annually during performance of the contract, whether there have been labor violations or updates to previously disclosed labor violations, pursuant to the clause at 52.209–BB, Compliance with Labor Laws. The contractor must provide the specified information about each labor violation.

(b) *Labor law violation information.*

(1) The ALCA shall monitor the SAM _____ (insert name of reporting module) for updated information pursuant to paragraph (a) of this section; if the ALCA is unable to obtain any needed relevant documents, the ALCA may request the contracting officer to obtain the documents from the contractor. If the contractor had previously agreed to enter into a labor compliance agreement, the ALCA shall verify, consulting with DOL as needed, whether the contractor is making progress toward, or has entered into the labor compliance agreement. If a labor compliance agreement has been entered into, the ALCA shall verify, consulting with DOL as needed, whether the contractor is meeting the terms of the agreement. If the information indicates that further consideration or action may be warranted, the ALCA shall notify the contracting officer in accordance with agency procedures;

(2) If the contracting officer was notified pursuant to paragraph (1) of this section, the contracting officer shall afford the contractor an opportunity to provide any additional information the contractor may wish to provide for the contracting officer's consideration, *e.g.,* remedial measures and mitigating factors or explanations for delays in entering into or for not meeting the terms of an existing labor compliance agreement. Upon receipt of information under paragraph (1) or this paragraph (2), the contracting officer shall provide the information to the ALCA.

(3) The ALCA shall evaluate the information and provide advice and recommendation regarding appropriate actions for the contracting officer's consideration. The recommendation shall include the following using the DOL guidance:

(i) Whether any violations should be considered serious, repeated, willful, or pervasive.

(ii) The number of labor violations (depending on the nature of the violation, in most cases, a single violation may not necessarily give rise to a determination of lack of responsibility).

(iii) Whether the contractor has initiated its own remedial measures.

(iv) The need for, existence of, and whether the contractor is adequately adhering to labor compliance agreements or other appropriate remedial measures.

(v) Whether the contractor is still negotiating in good faith a labor compliance agreement that was recommended.

(vi) Such other supporting information that the ALCA finds to be relevant.

(4) The contracting officer shall consider such information, including advice and recommendations of the ALCA to determine whether action may be warranted. Appropriate actions may include—

(i) No action required, continue the contract;

(ii) Refer the matter to DOL for action, which may include a new or enhanced labor compliance agreement;

(iii) Do not exercise an option (see 17.207(c)(8));

(iv) Terminate the contract in accordance with the procedures set forth in Part 49 or 12.403; or

(v) Notify the agency Suspending and Debarring Official if there are such serious, repeated, willful or pervasive labor violation(s) that the violation(s) demonstrate a lack of integrity or business ethics of a contractor or subcontractor, in accordance with agency procedures.

22.2004–4 Contractor pre-award and post-award evaluation of a subcontractor's labor violations.

The provision at 52.222–AB, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13763), and the clause at 52.222–BB, Compliance with Labor Laws, have requirements for pre-award subcontractor labor violation disclosures and semi-annual post-award updates during subcontract performance, and evaluations thereof. This applies to subcontracts at any tier estimated to exceed $500,000, other than for commercially available off-the-shelf items.

22.2005 Paycheck transparency.

Executive Order 13673 requires contractors to provide, on contracts that exceed $500,000—

(a) A document (wage statement, also known as a pay stub) in every pay period to all individuals performing work under the contract, for which contractors are required to maintain wage records under the Fair Labor Standards Act (FLSA), Wage Rate Requirements (Construction), Service Contract Labor Standards, and equivalent state laws (see DOL guidance section IV paragraph A for the list of equivalent state laws); and

(b) A document to individuals treated as independent contractors informing them of that status.

22.2006 Arbitration of contractor employee claims.

Executive Order 13673 requires contractors, on contracts exceeding $1,000,000, to agree that the decision to arbitrate claims arising under title VII of the Civil Rights Act of 1964 or any tort related to or arising out of sexual assault or harassment, be made only with the voluntary consent of employees or independent contractors after such disputes arise, subject to certain exceptions.

22.2007 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the provision at 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673), in solicitations that contain the clause at 52.222–BB.

(b) The contracting officer shall insert the provision at 52.222–AB, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673), in solicitations that contain the clause at 52.222–BB.

(c) The contracting officer shall insert the clause at 52.222–BB, Compliance with Labor Laws, in solicitations and

contracts that are estimated to exceed $500,000.

(d) The contracting officer shall insert the clause at 52.222–XX, Paycheck Transparency, in solicitations and contracts if the estimated value exceeds $500,000.

(e) The contracting office shall insert the clause at 52.222–YY, Arbitration of Contractor Employee Claims, in solicitations and contracts if the estimated value exceeds $1,000,000, other than those for commercial items.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.204–8 by—

■ a. Revising the date of the provision;

■ b. Redesignating paragraphs (c)(1)(xiv) through (c)(1)(xxi) as paragraphs (c)(1)(xv) through (c)(1)(xxii), respectively; and

■ c. Adding a new paragraph (c)(1)(xiv).

The revised and added text reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Date)

* * * * *

(c)(1) * * *

(i) * * *

(xiv) 52.222–AA, Representation Regarding Compliance with Labor Laws (Executive Order 13673). This provision applies to solicitations expected to exceed $500,000.

* * * * *

■ 13. Amend section 52.212–3 by—

■ a. Revising the date of the provision;

■ b. Removing from the introductory text ''(c) through (p)'' and adding ''(c) through (q)'' in its place;

■ c. Adding to paragraph (a), in alphabetical order, definitions ''Administrative merits determination'', ''Arbitral award or decision'', ''Civil judgment'', ''DOL guidance'', ''Enforcement agency'', ''Labor compliance agreement'', ''Labor laws'' and ''Labor violation'';

■ d. Removing from paragraph (b)(2) *''(c) through (p)''* and adding *''(c) through (q)''* in its place; and

■ e. Adding a new paragraph (q).

The revised and added text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Date)

* * * * *

(a) * * *

Administrative merits determination means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. The notices or findings may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to read Section II. B. in the DOL guidance.

Arbitral award or decision means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes one that is not final or is subject to being confirmed, modified, or vacated by a court, and includes one resulting from private or confidential proceedings. To determine whether a particular arbitral award or decision is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

Civil judgment means—

(1) In paragraph (h): A judgment or finding of a civil offense by any court of competent jurisdiction.

(2) In paragraph (q): Any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular civil judgment is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

DOL guidance means the Department of Labor (DOL) guidance entitled: ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces','' which can be obtained from *www.*_____.

* * * * *

Enforcement agency means any agency granted authority to enforce Federal labor laws. It includes DOL, the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It includes a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, undertake an investigation of potential labor violations.

* * * * *

Labor compliance agreement means an agreement entered into with a Federal enforcement agency, or a State agency designated to administer an OSHA-approved State Plan, to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

Labor laws means the following labor laws and Executive Orders—

(1) The Fair Labor Standards Act, 29 U.S.C. chapter 8.

(2) The Occupational Safety and Health Act (OSHA) of 1970.

(3) The Migrant and Seasonal Agricultural Worker Protection Act.

(4) The National Labor Relations Act.

(5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.

(6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.

(7) Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity).

(8) Section 503 of the Rehabilitation Act of 1973.

(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

(10) The Family and Medical Leave Act.

(11) Title VII of the Civil Rights Act of 1964.

(12) The Americans with Disabilities Act of 1990.

(13) The Age Discrimination in Employment Act of 1967.

(14) Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

(15) Equivalent State laws as defined in guidance issued by the Department of Labor. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans).

Labor violation means a violation of a labor law that resulted in an administrative merits determination, arbitral award or decision, or civil judgment.

* * * * *

(q)(1) The Offeror [] does [] does not anticipate submitting an offer for a solicitation with an estimated contract value of greater than $500,000.

(2) If the Offeror checked ''does'' in paragraph (q)(1) of this provision, the Offeror represents to the best of the Offeror's knowledge and belief [*Offeror to check appropriate block*]:

[ ](i) There has been no administrative merits determination, arbitral award or decision, or civil judgment, rendered against the offeror within the three-year period preceding the date of the offer for violations of labor laws (see definitions in paragraph (a)); or

[ ](ii) There has been an administrative merits determination, arbitral award or decision, or civil judgment, rendered against the Offeror within the three-year period preceding the date of the offer for violations of labor laws.

(3) Responsibility determination. (i) If the box at paragraph (q)(2)(ii) of this clause is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide the following—

(A) In the SAM _____ (insert name of reporting module) *www.sam.gov,* the following specific information, unless the information is already in the SAM _____ (insert name of reporting module) and is current and complete:

(1) The labor law violated.

(2) The case number, inspection number, charge number, docket number, or other unique identification number.

(3) The date rendered.

(4) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision.

(B) The information in paragraph (A) to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR 4.1102(a)).

(C) The administrative merits determination, arbitral award or decision, or civil judgment document, to the Contracting Officer, if the Contracting Officer requires it.

(D) To the Contracting Officer such additional information as the Offeror deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws.

(ii)(A) The Contracting Officer will consider all information provided under (q)(3)(i) as part of making a responsibility determination.

(B) A representation that any violations of labor laws exist will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(C) The representation in paragraph (q)(2) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in FAR 12.403.

(iii) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation was erroneous when submitted or by reason of changed circumstances.

■ 14. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (b)(35) through (b)(54) as paragraphs (b)(38) through (b)(57);

■ c. Adding new paragraphs (b)(35), (b)(36) and (b)(37);

■ d. Redesignating paragraphs (e)(1)(xvi) through (e)(1)(xviii) as paragraphs (e)1)(xviii) through (e)(1)(xx);

■ e. Adding new paragraphs (e)(1)(xvi) and (e)(1)(xvii); and

■ f. Amending alternate II by—

■ 1. Revising the date of the Alternate;

■ 2. Redesignating paragraphs (e)(1)(ii)(O) and (e)(1)(ii)(P) as paragraphs (e)(1)(ii)(Q) and (e)(1)(ii)(R); and

■ 3. Adding new paragraphs (e)(1)(ii)(O) and (e)(1)(ii)(P).

The revised and added text reads as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DATE)

* * * * *

(b) * * *

__(1) * * *

__(35) 52.222–BB, Compliance with Labor Laws (DATE) (Executive Order 13673).

__(36) 52.222–XX, Paycheck Transparency (DATE) (Executive Order 13673).

__(37) 52.222–YY, Arbitration of Contractor Employee Claims (DATE). (Executive Order 13673).

* * * * *

(e)(1) * * *

(xvi) 52.222–BB, Compliance with Labor Laws (DATE) (Executive Order 13673).

(xvii) 52.222–XX, Paycheck Transparency (DATE) (E.O. 13673).

* * * * *

Alternate II (DATE). * * *

(e)(1) * * *

(ii) * * *

(O) 52.222–BB, Compliance with Labor Laws (DATE) (Executive Order 13673)

(P) 52.222–XX, Paycheck Transparency (DATE) (E.O. 13673)

* * * * *

■ 15. Amend section 52.213–4 by revising the date of the clause; and paragraph (a)(2)(viii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions–Simplified Acquisitions (Other Than Commercial Items)(DATE)

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (DATE).

* * * * *

■ 16. Add section 52.222–AA to read as follows:

52.222–AA Representation Regarding Compliance with Labor Laws (Executive Order 13673).

As prescribed in 22.2007(a), insert the following provision:

Representation Regarding Compliance With Labor Laws (Executive Order 13673) (DATE)

(a) *Definitions.*

Administrative merits determination, arbitral award or *decision, civil judgment, DOL guidance, enforcement agency, labor compliance agreement, labor laws,* and *labor violation* as used in this provision have the meaning given in the clause in this contract entitled 52.222–BB, Compliance with Labor Laws.

(b) The Offeror [ ] does [ ] does not anticipate submitting an offer for a solicitation with an estimated contract value of greater than $500,000.

(c) If the Offeror checked ''does'' in paragraph (b) of this provision, the Offeror represents to the best of the Offeror's knowledge and belief [*Offeror to check appropriate block*]:

[ ](1) There has been no administrative merits determination, arbitral award or decision, or civil judgment, rendered against the offeror within the three-year period preceding the date of the offer for violations of labor laws; or

[ ](2) There has been an administrative merits determination, arbitral award or decision, or civil judgment, rendered against the Offeror within the three-year period preceding the date of the offer for violations of labor laws.

(d) Responsibility determination. (1) If the box at paragraph (c)(2) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide the following—

(i) In the SAM _____ (insert name of reporting module) *www.sam.gov,* the following specific information, unless the information is already in the SAM_____ (insert name of reporting module) and is current and complete:

(A) The labor law violated.

(B) The case number, inspection number, charge number, docket number, or other unique identification number.

(C) The date rendered.

(D) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision.

(ii) The information in paragraph (i) to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR 4.1102(a)).

(iii) The administrative merits determination, arbitral award or decision, or civil judgment document to the Contracting Officer, if the contracting agency is unable to obtain the document.

(iv) To the Contracting Officer such additional information as the Offeror deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with labor laws.

(2)(i) The Contracting Officer will consider all information provided under (d)(1) as part of making a responsibility determination.

(ii) A representation that any violations of labor laws exist will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(iii) The representation in paragraph (c) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in Part 49.

(3) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation was erroneous when submitted or by reason of changed circumstances.

(End of provision)

■ 17. Add section 52.222–AB to read as follows:

52.222–AB Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673).

As prescribed in 22.2007(b), insert the following provision:

Subcontractor Responsibility Matters Regarding Compliance With Labor Laws (Executive Order 13673) (DATE)

(a) *Definitions.*

Administrative merits determination, arbitral award or decision, civil judgment, DOL guidance, enforcement agency, labor compliance agreement, labor laws, and *labor violation* as used in this provision have the meaning given in the clause in this contract FAR 52.222–BB, Compliance with Labor Laws.

(b) *Subcontractor representation.* The requirements of this provision apply to all prospective subcontractors at any tier submitting an offer for subcontracts where the estimated subcontract value exceeds $500,000 for other than commercially available off-the-shelf items. The Offeror shall require these prospective subcontractors to represent to the best of the subcontractor's knowledge and belief whether there have been any administrative merits determinations, arbitral awards or decisions, or civil judgments, rendered against the prospective subcontractor within the three-year period preceding the date of the offer for a labor violation(s).

(c) *Subcontractor responsibility determination.* If the subcontractor responded affirmatively to paragraph (b) of this provision and the Offeror initiates a responsibility determination, the Offeror shall follow the procedures in paragraph (c) of 52.222–BB, Compliance with Labor Laws.

(End of provision)

■ 18. Add section 52.222–BB to read as follows:

52.222–BB Compliance with Labor Laws.

As prescribed in 22.2007(c), insert the following clause:

Compliance With Labor Laws (Date)

(a) *Definitions.* As used in this clause—

Administrative merits determination means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. The notices or findings may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

Agency labor compliance advisor (ALCA) means the senior official designated in accordance with Executive Order 13673. ALCAs are listed at *www.*_____.

Arbitral award or decision means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes one that is not final or is subject to being confirmed, modified, or vacated by a court, and includes one resulting from private or confidential proceedings. To determine whether a particular arbitral award or decision is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

Civil judgment means any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular civil judgment is covered by this definition, it is necessary to read section II. B. in the DOL guidance.

DOL guidance means the Department of Labor (DOL) guidance entitled: ''Guidance for Executive Order 13673, 'Fair Pay and Safe Workplaces','' which can be obtained from *www.*_____.

Enforcement agency means any agency granted authority to enforce Federal labor laws. It includes DOL, the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It includes a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, undertake an investigation of potential labor violations.

Labor compliance agreement means an agreement entered into with a Federal enforcement agency, or a State agency designated to administer an OSHA-approved State Plan, to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

Labor laws means the following labor laws and Executive Orders—

(1) The Fair Labor Standards Act, 29 U.S.C. chapter 8.

(2) The Occupational Safety and Health Act (OSHA) of 1970.

(3) The Migrant and Seasonal Agricultural Worker Protection Act.

(4) The National Labor Relations Act.

(5) 40 U.S.C. chapter 31, subchapter IV, formerly known as the Davis-Bacon Act.

(6) 41 U.S.C. chapter 67, formerly known as the Service Contract Act.

(7) Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity).

(8) Section 503 of the Rehabilitation Act of 1973.

(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

(10) The Family and Medical Leave Act.

(11) Title VII of the Civil Rights Act of 1964.

(12) The Americans with Disabilities Act of 1990.

(13) The Age Discrimination in Employment Act of 1967.

(14) Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

(15) Equivalent State laws as defined in guidance issued by the Department of Labor. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans).

Labor violation means a violation of a labor law that resulted in an administrative merits determination, arbitral award or decision, or civil judgment.

Pervasive violation means a standard for a labor violation(s), *e.g.,* the number of violations of a requirement or the aggregate number of violations in relation to the size of the prospective contractor. To determine whether a particular violation(s) is pervasive it is necessary to read section III. D. in the DOL guidance.

Repeated violation means a standard for a labor violation(s), *e.g.,* one or more additional labor violations of substantially similar requirements. To determine whether a particular violation(s) is repeated it is necessary to read section III. C. in the DOL guidance.

Serious violation means a standard for a labor violation(s), *e.g.,* the number of employees affected, the degree of risk imposed, or actual harm done by the violation. To determine whether a particular violation(s) is serious it is necessary to read section III. A. in the DOL guidance.

Willful violation means a standard for a labor violation(s), *e.g.,* whether there was knowledge of, reckless disregard for, or plain indifference to the labor violation. To determine whether a particular violation(s) is willful it is necessary to read section III. B. in the DOL guidance.

(b) *Prime contractor updates.* (1) The Contractor shall update, on a semi-annual basis throughout the life of the contract, the information regarding administrative merits determinations, arbitral awards or decisions, or civil judgments rendered against the contractor for a labor violation(s)—

(i) In the System for Award Management (SAM), _____ (insert name of reporting module) *www.sam.gov,* or

(ii) Directly to the Contracting Officer, if the Contractor meets an exception to SAM registration at 4.1102(a).

(2) The Contracting Officer may require the Contractor provide the administrative merits determination, arbitral award or decision, or civil judgment document, if the contracting agency is unable to obtain the document.

(3) The Contracting Officer will afford the Contractor an opportunity to provide any additional information, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), other steps taken to achieve compliance with labor laws, and explanations for delays in entering into or for not meeting the terms of an existing labor compliance agreement before the Contracting Officer decides on any needed action.

(4) The Contracting Officer will consider whether action is necessary. Such action may include a new or enhanced labor compliance agreement, requiring other appropriate remedial measures, compliance assistance, and resolving issues to avoid further violations, as well as remedies such as decisions not to exercise an option, contract termination, or notification to the agency Suspending and Debarring Official.

(c) *Subcontractor responsibility.*

(1) The Contractor shall evaluate subcontractor labor violation information when determining subcontractor responsibility.

(2) This applies to subcontracts for other than commercially available off-the-shelf items with an estimated value that exceeds $500,000.

(3) The Contractor shall require a prospective subcontractor to represent to the best of the subcontractor's knowledge and belief whether there have been any

administrative merits determinations, arbitral awards or decisions, or civil judgments, for violation of labor laws rendered against the subcontractor within the three-year period preceding the date of the subcontractor's offer.

(4) If the prospective subcontractor responds affirmatively, and the Contractor initiates a responsibility determination and requests additional information, the prospective subcontractor shall provide to the Contractor the following information:

(i) Administrative merits determinations, arbitral awards or decisions, or civil judgments documents that were rendered against the subcontractor within the preceding three-year period prior to the subcontractor's offer; and

(ii) Any notice from DOL advising that the subcontractor has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of an existing agreement.

(5) The Contractor shall afford a subcontractor an opportunity to provide such additional information as the subcontractor deems necessary to demonstrate its responsibility, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), other steps taken to achieve compliance with labor laws, and explanations for delays in entering into or for not meeting the terms of an existing labor compliance agreement.

(6) The Contractor shall evaluate subcontractor information using the DOL guidance as part of a responsibility determination.

(i) The Contractor shall complete the evaluation—

(A) For subcontracts awarded or that become effective within five days of the prime contract execution, no later than 30 days after subcontract award; or

(B) For all other subcontracts, prior to subcontract award. However, in urgent circumstances, the evaluation shall be completed within 30 days of subcontract award.

(ii) The Contractor shall consider the following in evaluating information:

(A) The nature of the violations (whether serious, repeated, willful, or pervasive).

(B) The number of violations (depending on the nature of the violation, in most cases, a single violation may not necessarily give rise to a determination of lack of responsibility).

(C) Any mitigating circumstances.

(D) Remedial measures taken to address labor violations, including existence of and compliance with any labor compliance agreements, or whether the prospective subcontractor is still in good faith negotiating such an agreement.

(E) Any advice or assistance provided by DOL.

(7) The Contractor shall notify the Contracting Officer of the following information if the contractor determines that a subcontractor is a responsible source after having been informed that DOL has advised that the subcontractor has not entered into a compliance agreement within a reasonable period or is not meeting the terms of the agreement:

(i) The name of the subcontractor; and

(ii) The basis for the decision.

(d) *Subcontractor updates.*

(1)(i) The Contractor shall require subcontractors to determine, on a semi-annual basis during subcontract performance, whether labor law disclosures provided pursuant to paragraph (c) of this clause and pursuant to 52.222–AB, Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673), are updated, current and complete. If the information is not updated, current and complete, subcontractors must provide revised information to the Contractor. If it is updated, current and complete, no action is required.

(ii) The Contractor shall further require the subcontractor to disclose during the course of performance of the contract any notification by DOL, within 5 business days of such notification, that it has not entered into a labor compliance agreement within a reasonable period, or is not meeting the terms of an existing labor compliance agreement, and allow the subcontractor to provide an explanation and supporting information for the delay or non-compliance.

(2) The contractor shall afford subcontractors an opportunity to provide to the contractor any additional information, *e.g.,* mitigating circumstances, remedial measures (to include labor compliance agreements), other steps taken to achieve compliance with labor laws.

(3) The Contractor shall, in a timely manner, consider information obtained from subcontractors pursuant to paragraphs (d)(1) and (2) of this clause, and determine whether action is necessary, *e.g.,* requesting that the subcontractor pursue a new or enhanced labor compliance agreement, requiring other appropriate remedial measures, compliance assistance, resolving issues to avoid further violations, or not continuing with the subcontract, if necessary. The Contractor is encouraged to consult with DOL as necessary to determine an appropriate timeframe for action.

(4) Using DOL guidance, the Contractor shall evaluate subcontractor information to determine if action is necessary. Contractors shall consider the following:

(i) The nature of the violations (whether serious, repeated, willful, or pervasive).

(ii) The number of violations.

(iii) Any mitigating circumstances.

(iv) Remedial measures taken to address labor violations, including existence of and compliance with any labor compliance agreements with DOL or other enforcement agency, or whether the subcontractor is still in good faith negotiating such an agreement.

(v) Any advice or assistance provided by DOL.

(5) The Contractor shall notify the Contracting Officer of the following information if the Contractor decides to continue the subcontract after having been informed that DOL has advised that the subcontractor has not entered into a labor compliance agreement within a reasonable period or is not meeting the terms of the agreement:

(i) The name of the subcontractor; and

(ii) The basis for the decision.

(e) *Consultation with DOL.*

(1) The Contractor may consult with DOL representatives for advice and assistance regarding evaluation of subcontractor labor law violation(s), including the need for new or enhanced labor compliance agreements. (Only DOL representatives are available to consult with Contractors regarding subcontractor information. Contracting Officers or Agency Labor Compliance Advisors may assist with identifying the appropriate DOL representatives.).

(2) Absent advice or assistance from DOL, Contractors may proceed with determining responsibility, or during subcontract performance, if action is necessary using available information and business judgment.

(f) *Subcontractor flowdown.* The Contractor shall include the substance of paragraphs (a), (c), (d), (e), and (f) of this clause, in subcontracts with an estimated value exceeding $500,000, for other than commercially available off-the-shelf items.

(End of clause)

■ 19. Add section 52.222–XX to read as follows:

52.222–XX Paycheck Transparency.

As prescribed in 22.2007(d), insert the following clause:

Paycheck Transparency (Date)

(a) In each pay period, the Contractor shall provide a document (wage statement also known as pay stub) to all individuals performing work under the contract subject to the wage records requirements under the following statutes:

(1) The Fair Labor Standards Act, 29 U.S.C chapter 8.

(2) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) (formerly known as the Davis Bacon Act).

(3) 41 U.S.C. chapter 67, Service Contract Labor Standards (formerly known as the Service Contract Act of 1965).

(4) Equivalent state laws identified in DOL Guidance for E.O. 13673, which can be found at www._____.

(b) The wage statement shall list hours worked, overtime hours, pay, and any additions made to or deductions made from pay. The wage statement provided to individuals exempt from the overtime compensation requirements of the Fair Labor Standards Act need not include a record of hours worked if the Contractor informs the individuals of their overtime exempt status. The wage statement shall be issued every pay period and contain the total number of hours worked in the pay period and the number of those hours that were overtime hours. If the wage statement is not provided weekly and is instead provided bi-weekly or semi-monthly (because the pay period is bi-weekly or semi-monthly), the hours worked and overtime hours contained in the wage statement shall be broken down to correspond to the period (which will almost always be weekly) for which overtime is calculated and paid.

(c) These paycheck transparency requirements shall be deemed to be fulfilled if the Contractor is complying with State or local requirements that the United States

Secretary of Labor has determined are substantially similar to those required by this clause. These determinations of substantially similar wage payment states may be found at www._____.

(d) If the Contractor is treating an individual performing work under a contract as an independent contractor, and not as an employee, the Contractor shall provide a document to the individual. The document will inform the individual of this status. The contractor shall provide the document to the individual prior to commencement of work or at the time a contract is established with the individual.

(e) Where a significant portion of the workforce is not fluent in English, the Contractor shall provide the wage statement required in paragraph (b) of this clause and the independent contractor notification required in paragraph (d) of this clause in English and the language(s) with which the workforce is more familiar.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts that exceed $500,000, for other than commercially available off-the-shelf items.

(End of clause)

■ 20. Add section 52.222–YY to read as follows:

52.222–YY Arbitration of Contractor Employee Claims.

As prescribed in 22.2007(e), insert the following clause:

Arbitration of Contractor Employee Claims (DATE)

(a) The Contractor hereby agrees that the decision to arbitrate claims arising under title VII of the Civil Rights Act of 1964, or any tort related to or arising out of sexual assault or harassment, shall only be made with the voluntary consent of employees or independent contractors after such disputes arise.

(b) This does not apply to—

(1) Employees covered by a collective bargaining agreement negotiated between the Contractor and a labor organization representing the employees; or

(2) Employees or independent contractors who entered into a valid contract to arbitrate prior to the Contractor bidding on a contract containing this clause, implementing Executive Order 13673. This exception does not apply:

(i) If the contractor is permitted to change the terms of the contract with the employee or independent contractor; or

(ii) When the contract with the employee or independent contractor is renegotiated or replaced.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts that exceed $1,000,000. This paragraph does not apply to subcontracts for the acquisition of commercial items.

(End of clause)

■ 21. Amend section 52.244–6 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (c)(1)(xii) through (c)(1)(xiv) as paragraphs (c)(1)(xiv) through (c)(1)(xvi), respectively; and

■ c. Adding new paragraphs (c)(1)(xii) and (c)(1)(xiii).

The revised and added text reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (DATE)

* * * * *

(c)(1) * * *

(xii) 52.222–BB, Compliance with Labor Laws (DATE) (E.O. 13673), if the estimated subcontract value exceeds $500,000, and is for other than commercially available off-the-shelf items.

(xiii) 52.222–XX, Paycheck Transparency (DATE) (E.O. 13673), if the estimated subcontract value exceeds $500,000, and is for other than commercially available off-the-shelf items.

* * * * *

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Part III

Department of Labor

Office of the Secretary

Guidance for Executive Order 13673, ''Fair Pay and Safe Workplaces''

DEPARTMENT OF LABOR

Office of the Secretary

ZRIN 1290–ZA02

Guidance for Executive Order 13673, ''Fair Pay and Safe Workplaces''

AGENCY: Department of Labor.

ACTION: Proposed guidance.

SUMMARY: The Department of Labor is proposing guidance to assist federal agencies in the implementation of Executive Order 13673, Fair Pay and Safe Workplaces (the Order). The Order was signed by President Barack Obama on July 31, 2014, and it contains several new requirements designed to improve the federal contracting process. The Order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that the parties are responsible and comply with labor laws. The Order requires federal contractors to report whether there has been any administrative merits determination, civil judgment, or arbitral award or decision rendered against them during the preceding three-year period for violations of any of 14 identified federal labor laws and executive orders or equivalent State laws.[1] Contracting officers and Labor Compliance Advisors will assess these types of reported violations (considering whether the violations are serious, repeated, willful, or pervasive) as part of the determination of whether a contractor has a satisfactory record of integrity and business ethics. Labor Compliance Advisors will be available to consult with contractors that report these types of violations and will coordinate assistance with the relevant enforcement agencies. Contractors will require their subcontractors to report these types of violations of the identified labor laws and will similarly assess reported violations.[2] And to achieve further paycheck transparency for workers, contractors and subcontractors will be required to provide their workers on federal contracts with information each pay period regarding how their pay is calculated (a wage statement) and provide notice to those workers whom they treat as independent contractors.

The Order directs the Department of Labor to develop guidance to assist federal agencies in implementing the Order's requirements. Consistent with that direction, this proposed guidance, when final, will: define ''administrative merits determination,'' ''civil judgment,'' and ''arbitral award or decision,'' and provide guidance on what information related to these determinations must be reported by contractors and subcontractors; define ''serious,'' ''repeated,'' ''willful,'' and ''pervasive'' violations and provide guidance to contracting officers (or contractors with respect to their subcontractors) and Labor Compliance Advisors for assessing reported violations, including mitigating factors to consider; and provide guidance on the Order's paycheck transparency provisions, including identifying those States whose wage statement laws are substantially similar to the Order's wage statement requirement such that providing a worker with a wage statement that complies with any of those State laws satisfies the Order's requirement.

The Order builds on the existing procurement system, and changes required by the Order fit into established contracting practices that are familiar to both procurement officials and the contracting community. In addition, the Department of Labor will provide support directly to contractors and subcontractors so that they understand their obligations under the Order and can come into compliance with federal labor laws without holding up their contract bids. Finally, the Department will work with Labor Compliance Advisors across agencies to minimize the amount of information that contractors have to provide and to help ensure efficient, accurate, and consistent decisions across the government.

The objective of the Order is to help contractors come into compliance with federal labor laws, not to deny them contracts. To this end, this proposed guidance, when final, will provide a roadmap to contracting officers, Labor Compliance Advisors, and the contracting community for assessing contractors' history of labor law compliance with regard to their business integrity and ethics and considering mitigating factors, most notably efforts to remediate any reported labor law violations, including agreements entered into by contractors with enforcement agencies.

[1] The Department will publish in the **Federal Register** at a future date a second proposed guidance addressing which State laws are equivalent to the 14 Federal labor laws and executive orders identified in the Order.

[2] The Department recognizes that the Federal Acquisition Regulatory Council is considering allowing contractors to direct their subcontractors to report violations to the Department, which would then assess the violations.

DATES: Comments must be received on or before July 27, 2015.

ADDRESSES: You may submit comments, identified by ZRIN 1290–ZA02, by either of the following methods:

Electronic comments: Comments may be sent via *http://www.regulations.gov,* a Federal E-Government Web site that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type in ''guidance on fair pay and safe workplaces'' (in quotes) in the Comment or Submission search box, click Go, and follow the instructions for submitting comments.

Mail: Address written submissions to Tiffany Jones, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: Please submit only one copy of your comments by only one method. All submissions must include the agency name and ZRIN, identified above, for this document. Please be advised that comments received will become a matter of public record and will be posted without change to *http://www.regulations.gov,* including any personal information provided. Comments that are mailed must be received by the date indicated for consideration. For additional information on submitting comments and the guidance process, see the ''Invitation to Comment'' section of the **SUPPLEMENTARY INFORMATION** provided later in this document.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov.* Docket name: Fair Pay and Safe Workplaces. Docket ID: DOL–2015–0002.

FOR FURTHER INFORMATION CONTACT: Contact Kathleen E. Franks, Director, Office of Regulatory and Programmatic Policy, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5959 (this is not a toll-free number). Copies of this proposed guidance may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free [1–877–889–5627] to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

Background

Although most federal contractors comply with applicable laws and provide quality goods and services to the government and taxpayers, a small

number of federal contractors have been responsible for a significant number of labor law violations in the last decade. In 2010, the Government Accountability Office issued a report that found that almost two-thirds of the 50 largest wage-and-hour violations and almost 40 percent of the 50 largest workplace health-and-safety penalties issued between FY 2005 and FY 2009 occurred at companies that later received government contracts.[3] In 2013, Senate Health, Education, Labor, and Pensions Committee Chairman Tom Harkin issued a report which revealed that dozens of contractors with significant health-and-safety and wage-and-hour violations continued to receive federal contracts.[4] Between 2007 and 2012, 49 federal contractors were cited for 1,776 separate federal labor law violations and paid $196 million in damages and penalties.[5] In FY 2012, these same companies were awarded $81 billion in federal contracts.[6]

Beyond their human cost, these violations create risks to the timely, predictable, and satisfactory delivery of goods and services to the Federal Government, and federal agencies risk poor performance by awarding contracts to companies with histories of labor law violations. Poor workplace conditions lead to lower productivity and creativity, increased workplace disruptions, and increased workforce turnover. For contracting agencies, this means receipt of lower quality products and services, and increased risk of project delays and cost overruns.

Contracting agencies can reduce execution delays and avoid other complications by contracting with contractors with track records of labor law compliance—and by helping to bring contractors with past violations into compliance. Contractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and to deliver goods and services to the Federal Government in a timely, predictable, and satisfactory fashion.

Moreover, by ensuring that its contractors are in compliance, the Federal Government can level the playing field for contractors who comply with the law. Those contractors who invest in their workers' safety and maintain a fair and equitable workplace should not have to compete with contractors who offer slightly lower bids—based on savings from skirting labor laws—and then ultimately deliver poor performance to taxpayers. By contracting with employers who are in compliance with labor laws, the Federal Government can ensure that taxpayers' money supports jobs in which workers have safe workplaces, receive the family leave they are entitled to, get paid the wages they have earned, and do not face unlawful workplace discrimination.

Overview of Guidance

The Order instructs federal agencies to work together to implement new contracting requirements and processes. The Order creates detailed implementation roles for the Federal Acquisition Regulatory Council (FAR Council), the Department of Labor (Department), the Office of Management and Budget (OMB), and the General Services Administration (GSA). These agencies will implement the Order in stages, on a prioritized basis.

The Order gives the Department several specific implementation and coordination duties. The Order directs the Secretary of Labor (the Secretary) to develop guidance that defines the ''administrative merits determinations,'' ''civil judgments,'' and ''arbitral awards or decisions'' that contractors and subcontractors must report, *see* § 2(a)(i); identifies the State laws that are ''equivalent'' to the 14 federal labor laws and executive orders for which violations must be reported, *see* § 2(a)(i)(O); assists contracting agencies (and contractors with respect to their subcontractors) in determining if reported violations are ''serious,'' ''repeated,'' ''willful,'' or ''pervasive,'' *see* § 4(b)(i); and specifies which State wage statement requirements are substantially similar to the Order's requirement such that providing a worker with a wage statement in compliance with one of those State's requirements satisfies the Order's wage statement requirement, *see* § 5(a). The Order also directs the Secretary to develop processes for coordination between newly designated Labor Compliance Advisors in each contracting agency and the Department and processes by which contracting officers and Labor Compliance Advisors may give appropriate consideration to determinations and agreements made by the Department and other enforcement agencies. *See* § 4(b)(ii).[7]

This proposed guidance satisfies most of the Department's responsibilities for issuing guidance, and the Department will publish at a later date a second guidance that satisfies its remaining responsibilities. Section I below discusses the reasons for the Order and summarizes its requirements. Section II defines the terms ''administrative merits determination,'' ''civil judgment,'' and ''arbitral award or decision,'' and provides guidance regarding the types of information that contractors and subcontractors should report under the Order. Section III defines the terms ''serious,'' ''repeated,'' ''willful,'' and ''pervasive.'' It also provides guidance on how reported violations should be assessed and what mitigating factors should be considered. Section IV provides guidance on the Order's paycheck transparency provisions. It identifies and solicits comment on two options for determining those States whose wage statement laws are substantially similar to the Order's wage statement requirement. Section V is an invitation to comment, and Section VI describes next steps.

This proposed guidance also provides guidelines for how contracting officers and Labor Compliance Advisors may give appropriate consideration to determinations and agreements made between contractors and enforcement agencies. In addition, the Department will publish in the **Federal Register** at a future date a second proposed guidance addressing which State laws are equivalent to the 14 federal labor laws and executive orders identified in the Order for which contractors and subcontractors must report violations. For purposes of this initial proposed guidance, however, State plans approved by the Department's Occupational Safety and Health Administration (OSHA-approved State Plans) are equivalent State laws (see discussion below).

As part of the development of this proposed guidance, the Department has engaged with a range of interested parties (including contractors,

[3] U.S. Government Accountability Office, GAO–10–1033, *Federal Contracting: Assessments and Citations of Federal Labor Law Violations by Selected Federal Contractors,* Report to Congressional Requesters (2010), available at *http://www.gao.gov/new.items/d101033.pdf.*

[4] Majority Staff of Senate Committee on Health, Education, Labor, and Pensions, *Acting Responsibly? Federal Contractors Frequently Put Workers' Lives and Livelihoods at Risk,* 1 (2013), available at *http://www.help.senate.gov/imo/media/doc/Labor%20Law%20Violations%20by%20Contractors%20Report.pdf.*

[5] *Id.*

[6] *Id.*

[7] The Department will set up a structure within the Department to consult with Labor Compliance Advisors in carrying out their responsibilities and duties and to help ensure efficient, accurate, and consistent decisions across the government. In addition, the Department will be available to consult with contractors and subcontractors to assist them in fulfilling their obligations under the Order. Contractors and subcontractors, before bidding, will also be offered the opportunity to receive early guidance from the Department and other enforcement agencies on whether any of their violations of the labor laws are potentially problematic, as well as the opportunity to remedy any problems.

contracting agencies, and unions) to solicit their views on the Order. The White House hosted four listening sessions to hear their views, ideas, and concerns regarding the provisions of the Order. The Department found these listening sessions helpful and considered relevant information raised during those sessions in developing this proposed guidance.

Consistent with its efforts to engage with interested parties regarding the Order, the Department, in its discretion, is soliciting public comment on this proposed guidance in the manner and before the date specified above. Agencies are not required to provide notice and an opportunity for public comment on guidance documents before they are adopted, as is generally required for formal legislative rulemaking and other regulatory action.

I. Purpose and Summary of the Order

The Order states that the Federal Government will promote economy and efficiency in procurement by contracting with responsible sources that comply with labor laws. *See* § 1. The Order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by ensuring that they understand and comply with labor laws. *Id.*

A. Existing Requirements for Contracting With Responsible Sources

By statute, contracting agencies are required to award contracts to responsible sources. *See* 10 U.S.C. 2405(b); 41 U.S.C. 3703. A ''responsible source'' means a prospective contractor that, among other things, ''has a satisfactory record of integrity and business ethics.'' 41 U.S.C. 113.

Part 9 of the Federal Acquisition Regulation (FAR) implements this statutory ''responsibility'' requirement. The FAR states that ''[p]urchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only.'' 48 CFR 9.103(a). In accordance with the statutory definition of ''responsible source,'' the FAR states that ''[t]o be determined responsible, a prospective contractor must . . . [h]ave a satisfactory record of integrity and business ethics. . . .'' 48 CFR 9.104–1. In addition, the FAR requires contractors on certain contracts to disclose to contracting officers any ''credible evidence'' that the agents of the contractor or any of its subcontractors have committed violations of federal criminal laws involving fraud, conflict of interest, bribery, or gratuities or of the civil False Claims Act in connection with the contract. 48 CFR 52.203–13; *see also* 48 CFR 52.209–5 and 52.209–7 (requiring disclosures). The FAR also provides that, generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. *See* 48 CFR 9.104–4.

B. Legal Authority

The President issued the Order, as stated therein, pursuant to his authority under ''the Constitution and the laws of the United States,'' expressly including the Federal Property and Administrative Services Act (Procurement Act), 40 U.S.C. 101 *et seq.* The Procurement Act authorizes the President to ''prescribe policies and directives that the President considers necessary to carry out'' the statutory purposes of ensuring ''economical and efficient'' government procurement and administration of government property. 40 U.S.C. 101, 121(a). The Order establishes that the President considers the requirements included in the Order to be necessary to economy and efficiency in federal contracting (noting that ''[c]ontractors that consistently adhere to labor laws are more likely to have workplace practices that enhance productivity and increase the likelihood of timely, predictable, and satisfactory delivery of goods and services to the Federal Government'' and that ''[h]elping executive departments and agencies (agencies) to identify and work with contractors with track records of compliance will reduce execution delays and avoid distractions and complications that arise from contracting with contractors with track records of noncompliance''). *See* § 1. The Order directs the Secretary to define certain terms used in the Order and to develop guidance ''to assist agencies'' in implementing the Order's requirements. *See* §§ 2(a)(i), 4(b).

C. Summary of the Order's Requirements and Interaction With Existing Requirements

The Order builds on the existing procurement system by instructing contracting officers to consider a contractor's history of labor laws violations, if any, as a factor in determining if the contractor has a satisfactory record of integrity and business ethics and may therefore be found to be a responsible source eligible for contract award. *See* §§ 2(a)(ii)–(iii). To facilitate this determination, the Order provides that, for procurement contracts for goods and services, including construction, where the estimated value of the supplies acquired and services required exceeds $500,000, each agency shall ensure that provisions in solicitations require that the contractor represent, to the best of its knowledge and belief, whether there has been any administrative merits determination, civil judgment, or arbitral award or decision rendered against it within the preceding three-year period for violations of any of 14 identified federal labor laws or executive orders or any equivalent State laws (the Labor Laws). *See* § 2(a)(i). The 14 federal labor laws or executive orders identified in the Order are:

- The Fair Labor Standards Act (the FLSA);
- the Occupational Safety and Health Act of 1970 (the OSH Act);
- the Migrant and Seasonal Agricultural Worker Protection Act (MSPA);
- the National Labor Relations Act (the NLRA);
- 40 U.S.C. chapter 31, subchapter IV, also known as the Davis-Bacon Act (the DBA);
- 41 U.S.C. chapter 67, also known as the Service Contract Act (the SCA);
- Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity);
- section 503 of the Rehabilitation Act of 1973;
- the Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974; [8]
- the Family and Medical Leave Act (the FMLA);
- title VII of the Civil Rights Act of 1964 (Title VII);
- the Americans with Disabilities Act of 1990 (the ADA);
- the Age Discrimination in Employment Act of 1967 (the ADEA); and
- Executive Order 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

Prior to making an award, contracting officers shall, as part of the responsibility determination, provide contractors with an opportunity to disclose any steps taken to correct any reported violations or improve compliance with the Labor Laws, including any agreements entered into with an enforcement agency. *See* § 2(a)(ii). Contracting officers, in consultation with the relevant Labor Compliance Advisor (LCA), shall then consider the information in determining if a contractor is a responsible source with a satisfactory record of integrity and business ethics. *See* § 2(a)(iii).

[8] Identifying these two statutes in their entirety reflects the Order as amended by section 3 of Executive Order 13683, Amendments to Executive Orders 11030, 13653, and 13673 (Dec. 11, 2014).

Similar requirements apply to subcontractors where the estimated value of the supplies acquired and services required in the subcontract exceeds $500,000 and the subcontract is not for commercially available off-the-shelf items. Under the Order, contracting officers must require that, at the time of execution of the contract, contractors represent that they will require subcontractors performing covered subcontracts to disclose any administrative merits determination, civil judgment, or arbitral award or decision rendered against the subcontractor within the preceding three-year period for violations of any of the Labor Laws. *See* § 2(a)(iv). The contractor will (in most cases, before awarding the subcontract) consider the information submitted by the subcontractor in determining whether the subcontractor is a responsible source that has a satisfactory record of integrity and business ethics. *Id.* And the contractor will incorporate into covered subcontracts the requirement that the subcontractor disclose to the contractor any administrative merits determinations, civil judgments, or arbitral awards or decisions rendered against the subcontractor within the preceding three-year period for violations of any of the Labor Laws. *Id.*[9]

The Order's reporting requirement continues after an award is made. Semi-annually during the performance of the contract, contracting agencies shall require contractors to update the information provided about their own Labor Laws violations and to obtain the required information for covered subcontracts. *See* § 2(b)(i). If a contractor reports information regarding Labor Laws violations during contract performance, or similar information is obtained through other sources, a contracting officer, in consultation with the LCA, shall consider whether action is necessary. *See* § 2(b)(ii). Such action may include entering into agreements requiring appropriate remedial measures and measures to avoid further violations, as well as declining to exercise an option on a contract, contract termination in accordance with relevant FAR provisions, or referral to the agency suspending and debarring official. *Id.* If information regarding Labor Laws violations by a contractor's subcontractor is brought to the attention of the contractor, then the contractor shall similarly consider whether action is necessary. *See* § 2(b)(iii).

The Order requires each contracting agency to designate a senior agency official to be an LCA to provide consistent guidance on whether contractors' actions rise to the level of a lack of integrity or business ethics. *See* § 3. As a general matter, LCAs will coordinate assistance for contractors that seek help in addressing and preventing Labor Laws violations. *See* §§ 3(b)–(c). And in consultation with the Department and other agencies responsible for enforcing the Labor Laws, LCAs will help contracting officers to: Review information regarding violations reported by contractors; assess whether reported violations are serious, repeated, willful, or pervasive; review the contractor's remediation of the violation and any other mitigating factors; and determine if the violations identified warrant remedial measures, such as a labor compliance agreement. *See* § 3(d). For purposes of this proposed guidance, a ''labor compliance agreement'' is an agreement entered into between an enforcement agency (defined below) and a contractor or subcontractor to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with labor laws, or other related matters. *See* § 2(a)(ii).

The Order directs the FAR Council to propose such rules and regulations and issue such orders as are deemed necessary and appropriate to carry out the Order. *See* § 7. Specifically, the FAR Council will promulgate regulations for contracting agencies and contractors (with respect to their subcontractors) to apply when determining whether certain types of Labor Laws violations demonstrate a lack of integrity or business ethics. *See* § 4(a). The regulations will: Provide that, subject to the determination of the contracting agency, ''in most cases a single violation of [a Labor Law] may not necessarily give rise to a determination of lack of responsibility, depending on the nature of the violation;'' ensure appropriate consideration is given to any remedial measures or mitigating factors, including any agreements by contractors or other corrective action taken to address violations; and ensure that contracting officers and LCAs send information, as appropriate, to the agency suspending and debarring official, in accordance with agency procedures. *Id.* And as discussed above, the Order directs the Secretary to define certain terms used in the Order and to develop guidance to assist contracting agencies in implementing the Order's requirements.

The Order also contains two paycheck transparency requirements. First, the Order requires contracting agencies to ensure that, for contracts subject to the Order, provisions in solicitations and clauses in contracts shall provide that, in each pay period, contractors provide all individuals performing work under the contract for whom they are required to maintain wage records under the FLSA, DBA, SCA, or equivalent State laws, with a document with information concerning that individual's hours worked, overtime hours, pay, and any additions made to or deductions made from pay (*i.e.,* a wage statement). *See* § 5(a). Contracting agencies shall also require that contractors incorporate this same requirement into covered subcontracts. *Id.* However, the Order instructs that the wage statement provided to individuals exempt from the overtime compensation requirements of the FLSA need not include a record of hours worked if the contractor or subcontractor informs the individuals of their exempt status. *Id.* The Order's wage statement requirement will be deemed satisfied for workers to whom the contractor or subcontractor provides a wage statement that complies with an applicable State or local wage statement requirement that the Secretary has determined is substantially similar to the Order's wage statement requirement. *Id.* Second, the Order provides that if a contractor or subcontractor is treating an individual performing work under a covered contract as an independent contractor, and not an employee, it must provide a document informing the individual of this status. *See* § 5(b).[10]

Finally, the Order requires that, in developing the guidance and proposing to amend the FAR, the Secretary and the FAR Council shall minimize, to the extent practicable, the burden of complying with the Order for federal contractors and subcontractors and in particular small entities, including small businesses, as defined in section

[9] The Department recognizes that the FAR Council is considering allowing contractors to direct their subcontractors to report violations to the Department, which would then assess the violations.

[10] The Order further requires contracting agencies to ensure that for all contracts where the estimated value of the supplies acquired and services required exceeds $1 million, provisions in solicitations and clauses in contracts shall provide that contractors agree that the decision to arbitrate claims arising under Title VII or any tort related to or arising out of sexual assault or harassment may only be made with the voluntary consent of employees or independent contractors after such disputes arise, subject to certain exceptions. *See* § 6. Contracting agencies must require contractors to incorporate this same requirement into subcontracts where the estimated value of the supplies acquired and services required exceeds $1 million, subject to certain exceptions. *Id.* The Order does not direct the Secretary to address this requirement.

3 of the Small Business Act (15 U.S.C. 632), and small nonprofit organizations. *See* § 4(e). The intent of the Order is to minimize additional compliance burdens and to increase economy and efficiency in federal contracting by helping more contractors and subcontractors come into compliance with workplace protections, not by denying them contracts. Toward that end, the Order provides that a single Web site will serve as the portal for all reporting requirements related to the Order and that LCAs and the Department will be available for consultation with contractors regarding the Order's requirements. *See* §§ 2(a)(vi), 3(c), 4(d). As part of the responsibility determination in FAR 9.1, Responsible Prospective Contractor, contracting officers (and contractors for their subcontractors) will take into account any remedial actions and other mitigating factors, including adherence to any agreements with enforcement agencies. The Order's goals are to provide contractors and subcontractors with additional incentives to come into compliance with Labor Laws and to help ensure that contracts are awarded to responsible entities. This will help prevent delays and waste of taxpayer money.

II. Disclosure Requirements

For all covered procurement contracts (defined below), the Order requires contracting agencies to include provisions in their solicitations requiring that the contractor represent, to the best of its knowledge and belief, whether there have been any administrative merits determinations, civil judgments, or arbitral awards or decisions rendered against it within the preceding three years for violations of the Labor Laws. Contracting agencies shall further require contractors, at or before execution of the covered procurement contract, to represent that they will require each subcontractor performing a covered subcontract (also defined below) to report whether there have been any administrative merits determinations, civil judgments, or arbitral awards or decisions rendered against the subcontractor within the preceding three years for violations of the Labor Laws. During the performance of the covered contract, the Order requires contractors to update their disclosures semi-annually and obtain similarly updated information from their subcontractors.

The Order requires the Department to define in guidance the meaning of ''administrative merits determination,'' ''civil judgment,'' and ''arbitral award or decision.'' This section of the proposed guidance defines those terms and provides guidance on who must report Labor Laws violations under the Order, what triggers the reporting obligations, and what particular categories of information must be reported under the Order.

A. Who Must Make Disclosures Under the Order

The FAR Council's proposed regulations would require any contractor that responds to a solicitation for a covered procurement contract to represent whether it has any Labor Laws violations reportable under the Order. The FAR Council's proposed regulations would further require prospective contractors for whom a contracting officer has initiated the responsibility determination process, and who have represented that they have Labor Laws violation(s), to disclose additional information about the violation(s). For purposes of this proposed guidance and coextensive with section 2(a)(i) of the Order, a ''covered procurement contract'' is a procurement contract for goods and services, including construction, where the estimated value of the supplies acquired and services required exceeds $500,000.[11] Additionally, the Order requires contractors to require their subcontractors performing covered subcontracts to disclose Labor Laws violations reportable under the Order. *See* § 2(a)(iv). For purposes of this proposed guidance and coextensive with section 2(a)(iv) of the Order, ''covered subcontract'' means any contract awarded to a subcontractor that would be a covered procurement contract except for contracts for commercially available off-the-shelf items.[12] This proposed guidance uses ''covered contracts'' to include both covered procurement contracts and covered subcontracts.

The Order applies to contracting activities by executive agencies. *See* § 1. The term ''executive agency'' is defined under the FAR as ''an executive department, a military department, or any independent establishment within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, and any wholly owned Government corporation within the meaning of 31 U.S.C. 9101.'' 48 CFR 2.101. This proposed guidance generally uses the term ''contracting agencies'' to refer to executive agencies, as defined in the FAR, that are engaged in contracting.

As used in this proposed guidance, the term ''contract'' has the same meaning as it has under the FAR, 48 CFR 2.101.[13] Thus, the term ''contract'' means a procurement contract and does not include grants and cooperative agreements (which are not subject to the Order's requirements).

In this proposed guidance, references to ''contractors'' and ''subcontractors'' include entities that hold covered contracts as well as ''offerors,'' meaning any entity that bids for a covered contract. The term ''entity'' is properly understood to include both organizations and individuals that apply for and receive covered contracts.

B. What Triggers the Disclosure Obligations

The Order creates disclosure requirements for contractors and subcontractors performing or bidding on covered contracts. Under the Order, contractors and subcontractors must report administrative merits determinations, civil judgments, and arbitral awards or decisions that have been rendered against them within the previous three years for a violation of the Labor Laws.

The relevant three-year period is the three-year period preceding the date of the offer (*i.e.,* the contract bid or proposal). Therefore, administrative merits determinations, civil judgments, and arbitral awards or decisions rendered during that three-year period must be reported even if the underlying conduct that violated the Labor Laws occurred more than three years prior to the date of the report. *See* §§ 2(a)(i), 2(a)(iv)(A).

The Order's reporting requirements apply to administrative merits determinations, civil judgments, and arbitral awards or decisions ''rendered against the [offeror or subcontractor] within the preceding 3-year period.'' *See* §§ 2(a)(i), 2(a)(iv)(A). Therefore, it requires contractors and subcontractors to report administrative merits determinations, civil judgments, and arbitral awards or decisions that were

[11] *See* 48 CFR 1.108(c) (dollar thresholds under the FAR).

[12] The FAR, 48 CFR 2.101, defines ''commercially available off-the-shelf item.''

[13] 48 CFR 2.101 states: ''Contract means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.*''

issued during the relevant three-year period even if they were not performing or bidding on a covered contract at the time. For example, if the Department's Wage and Hour Division renders an administrative merits determination finding that an employer failed to pay overtime due under the FLSA and the employer later (within three years of the determination) bids for the first time on a covered procurement contract, the employer must report the FLSA determination even though it was not a contractor or bidding on a covered contract at the time when it received the determination.

Administrative merits determinations, civil judgments, and arbitral awards or decisions that must be reported under the Order include those issued for violations of State laws equivalent to the fourteen federal Labor Laws listed in the Order. *See* § 2(a)(i)(O). Although the Department will identify—in a second guidance to be published in the **Federal Register** at a later date—those equivalent State laws that are Labor Laws, OSHA-approved State Plans are equivalent State laws (and thus Labor Laws) for purposes of this proposed guidance. This is because the OSH Act permits certain States to administer OSHA-approved State occupational safety and health plans in lieu of federal enforcement of the OSH Act.[14] Administrative merits determinations or civil judgments finding violations under an OSHA-approved State Plan are therefore subject to the Order's reporting requirements as soon as those requirements become effective, even if the Secretary has not published final guidance identifying other State laws that are equivalent to the federal Labor Laws.

1. Defining ''Administrative Merits Determination''

Enforcement agencies issue notices, findings, and other documents when they determine that any of the Labor Laws have been violated. For purposes of this proposed guidance, ''enforcement agency'' means any agency that administers the federal Labor Laws, such as the Department and its agencies, the Occupational Safety and Health Review Commission,[15] the Equal Employment Opportunity Commission, and the National Labor Relations Board. Enforcement agencies do not include other federal agencies who, in their capacity as contracting agencies, undertake an investigation of a violation of the federal Labor Laws.[16] For purposes of this proposed guidance, ''enforcement agency'' also means those State agencies designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. And once the Department's second guidance (to be published at a later date) identifying the State laws that are equivalent to the federal Labor Laws is finalized, ''enforcement agency'' will also include those State agencies that enforce those identified equivalent State laws.

For purposes of the Order, the term ''administrative merits determination'' means any of the following notices or findings—whether final or subject to appeal or further review—issued by an enforcement agency following an investigation that indicates that the contractor or subcontractor violated any provision of the Labor Laws:

(a) From the Department's Wage and Hour Division:

- A WH–56 ''Summary of Unpaid Wages'' form;
- a letter indicating that an investigation disclosed a violation of sections six or seven of the FLSA or a violation of the FMLA, SCA, DBA, or Executive Order 13658;
- a WH–103 ''Employment of Minors Contrary to The Fair Labor Standards Act'' notice;
- a letter, notice, or other document assessing civil monetary penalties;
- a letter that recites violations concerning the payment of special minimum wages to workers with disabilities under section 14(c) of the FLSA or revokes a certificate that authorized the payment of special minimum wages;
- a WH–561 ''Citation and Notification of Penalty'' for violations under the OSH Act's field sanitation or temporary labor camp standards;
- an order of reference filed with an administrative law judge.

(b) from the Department's Occupational Safety and Health Administration (OSHA) or any State agency designated to administer an OSHA-approved State Plan:

- A citation;
- an imminent danger notice;
- a notice of failure to abate; or
- any State equivalent;

(c) from the Department's Office of Federal Contract Compliance Programs:

- A show cause notice for failure to comply with the requirements of Executive Order 11246, Section 503 of the Rehabilitation Act, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, or the Vietnam Era Veterans' Readjustment Assistance Act of 1974;

(d) from the Equal Employment Opportunity Commission (the EEOC):

- A letter of determination that reasonable cause exists to believe that an unlawful employment practice has occurred or is occurring; or
- a civil action filed on behalf of the EEOC;

(e) from the National Labor Relations Board:

- A complaint issued by any Regional Director;

(f) a complaint filed by or on behalf of an enforcement agency with a federal or State court, an administrative judge, or an administrative law judge alleging that the contractor or subcontractor violated any provision of the Labor Laws; or

(g) any order or finding from any administrative judge, administrative law judge, the Department's Administrative Review Board, the Occupational Safety and Health Review Commission or State equivalent, or the National Labor Relations Board that the contractor or subcontractor violated any provision of the Labor Laws.

The above definition provides seven categories of documents, notices, and findings from enforcement agencies that constitute the administrative merits determinations that must be reported under the Order. The list is an exhaustive one, meaning that if a document does not fall within one of categories (a) through (g) above, the Department does not consider it to be an ''administrative merits determination'' for purposes of the Order.

In addition, the Department will publish at a later date a second proposed guidance that identifies an eighth category of administrative merits determinations: The documents, notices, and findings issued by State enforcement agencies when they find violations of the State laws equivalent to the federal Labor Laws.

Categories (a) through (e) in the definition list types of administrative merits determinations that are issued by specific enforcement agencies. Categories (f) and (g) describe types of administrative merits determinations that are common to multiple enforcement agencies. Category (f) is necessary because it is possible that an enforcement agency will not have issued a notice or finding following its investigation that falls within categories (a) through (e) prior to filing a complaint in court.

The administrative merits determinations listed in the definition are issued following an investigation by the relevant enforcement agency. Administrative merits determinations are not limited to notices and findings

[14] Section 18 of the OSH Act encourages States to develop and operate their own job safety and health programs, and OSHA approves and monitors State Plans and provides up to 50 percent of an approved plan's operating costs. OSHA-approved State Plans are described and listed in 29 CFR part 1952, and further information about such plans can be found at *https://www.osha.gov/dcsp/osp/index.html.*

[15] The Occupational Safety and Health Review Commission is an independent federal agency that provides administrative trial and appellate review in contests of OSH Act citations or penalties.

[16] For example, contracting agencies may investigate violations of the DBA relating to contracts that they administer, but that does not make them enforcement agencies for purposes of the Order.

issued following adversarial or adjudicative proceedings such as a hearing, nor are they limited to notices and findings that are final and unappealable. Thus, administrative merits determinations that must be reported under the Order include an administrative merits determination that the contractor or subcontractor is challenging, can still challenge, or is otherwise subject to further review. However, the Department understands that contractors and subcontractors may raise good-faith disputes regarding administrative merits determinations that have been issued to them. As set forth below, when contractors and subcontractors report administrative merits determinations, they may also submit any additional information that they believe may be helpful in assessing the violations at issue (including the fact that the determination has been challenged). Additionally, contractors and subcontractors will have opportunities to provide information regarding any mitigating factors.

Certain ''complaints'' issued by enforcement agencies are included in the definition of ''administrative merits determination.'' The complaints issued by enforcement agencies included in the definition are not akin to complaints filed by private parties to initiate lawsuits in Federal or state courts. Each complaint included in the definition represents a finding by an enforcement agency following a full investigation that a Labor Law was violated; in contrast, a complaint filed by a private party in a Federal or state court represents allegations made by that plaintiff and not any enforcement agency. Moreover, employee complaints made to enforcement agencies (such as a complaint for failure to pay overtime wages filed with the Department's Wage and Hour Division or a charge of discrimination filed with the EEOC) are not administrative merits determinations.

2. Defining ''Civil Judgment''

For purposes of the Order, the term ''civil judgment'' means any judgment or order entered by any federal or State court in which the court determined that the contractor or subcontractor violated any provision of the Labor Laws, or enjoined or restrained the contractor or subcontractor from violating any provision of the Labor Laws. Civil judgment includes a judgment or order that is not final or is subject to appeal.

A civil judgment could be the result of an action filed in court by or on behalf of an enforcement agency or, for those Labor Laws that establish a private right of action, by a private party or parties. The judgment or order in which the court determined that a violation occurred may be the result of a jury trial, a bench trial, or a motion for judgment as a matter of law, such as a summary judgment motion. Even a decision granting partial summary judgment may be a civil judgment if, for example, the decision finds a violation of the Labor Laws but leaves resolution of the amount of damages for later in the proceedings. Likewise, a preliminary injunction can be a civil judgment if the order enjoins or restrains a violation of the Labor Laws. Civil judgments include consent judgments and default judgments to the extent that there is a determination in the judgment that any of the Labor Laws have been violated, or the judgment enjoins or restrains the contractor or subcontractor from violating any provision of the Labor Laws. A private settlement where the lawsuit is dismissed by the court without any judgment being entered is not a civil judgment.

Civil judgments do not include judgments or orders issued by an administrative law judge or other administrative tribunals, such as those identified in the definition of administrative merits determination. Such judgments and orders may be administrative merits determinations. If, however, a federal or State court issues a judgment or order affirming an administrative merits determination, then the court's decision is a civil judgment.

Civil judgments include a judgment or order finding that a contractor or subcontractor violated any of the Labor Laws even if the order or decision is subject to further review in the same proceeding, is not final, can be appealed, or has been appealed. As set forth below, when contractors and subcontractors report civil judgments, they may also submit any additional information that they believe may be helpful in assessing the violations at issue (including the fact that the civil judgment has been appealed). Additionally, contractors and subcontractors will have opportunities to provide information regarding any mitigating factors.

3. Defining ''Arbitral Award or Decision''

For purposes of the Order, the term ''arbitral award or decision'' means any award or order by an arbitrator or arbitral panel in which the arbitrator or arbitral panel determined that the contractor or subcontractor violated any provision of the Labor Laws, or enjoined or restrained the contractor or subcontractor from violating any provision of the Labor Laws. Arbitral award or decision includes an award or order that is not final or is subject to being confirmed, modified, or vacated by a court.

Arbitral award or decision includes an arbitral award or decision regardless of whether it is issued by one arbitrator or a panel of arbitrators and even if the arbitral proceedings were private or confidential.

Arbitral award or decision also includes an arbitral award or decision finding that a contractor or subcontractor violated any of the Labor Laws even if the award or decision is subject to further review in the same proceeding, is not final, or is subject to being confirmed, modified, or vacated by a court. As set forth below, when contractors and subcontractors report arbitral awards or decisions, they may also submit any additional information that they believe may be helpful in assessing the violations at issue (including the fact that they have sought to have the award or decision vacated or modified). Additionally, contractors and subcontractors will have opportunities to provide information regarding any mitigating factors.

4. Successive Administrative Merits Determinations, Civil Judgments, and Arbitral Awards or Decisions Arising From the Same Underlying Violation

If a contractor or subcontractor appeals or challenges an administrative merits determination, civil judgment, and/or arbitral award or decision, there may be successive administrative merits determinations, civil judgments, and/or arbitral awards or decisions that arise from the same underlying violation. For example, if a contractor or subcontractor receives an OSHA citation and appeals that citation, it may receive an order from an administrative law judge (ALJ) concerning that citation. Similarly, if a contractor or subcontractor receives an adverse decision from the Department's Administrative Review Board (ARB) and challenges the decision in federal court, it may receive a court judgment concerning that decision.

If a contractor or subcontractor receives, during the preceding three-year period, successive administrative merits determinations, civil judgments, and/or arbitral awards or decisions arising from the same underlying violation, it need not report the violation if, at the time of reporting, the determination that there was a violation of a Labor Law has been reversed or vacated in its entirety. If the determination that there was a violation of a Labor Law is later reinstated on

appeal or in further proceedings, then the subsequent administrative merits determination, civil judgment, or arbitral award or decision reinstating the finding of a violation is an administrative merits determination, civil judgment, or arbitral award or decision within the meaning of this guidance and the Order and therefore must be reported. Thus, in the above examples, if the ALJ reverses the OSHA citation, or if the federal court vacates the ARB's adverse decision, the contractor or subcontractor need not report the violation. If the OSHA violation is later reinstated by the full Occupational Health and Safety Review Commission (OSHRC), or if the federal court's decision vacating the ARB's adverse decision is reversed by a court of appeals, these subsequent decisions must be reported.

If a subsequent decision concerning the same underlying violation upholds or does not completely reverse or vacate the finding of violation, the contractor or subcontractor should report only the administrative merits determination, civil judgment, or arbitral award or decision that is the most recent at the time of reporting. Thus, in the first example above, if the ALJ affirms the OSHA citation in whole or in part, the contractor or subcontractor must report the more recent ALJ order but need not report the original citation. In the second example above, if the federal court affirms the ARB's decision, or modifies it but does not vacate it in its entirety, the contractor or subcontractor should report the more recent court order and need not report the original ARB decision.

If, however, the contractor or subcontractor appeals or challenges only part of an administrative merits determination, civil judgment, or arbitral award or decision, it must continue to report the original administrative merits determination, civil judgment, or arbitral award or decision even if a successive administrative merits determination, civil judgment, or arbitral award or decision has been issued. For example, if, within the preceding three-year period, a district court finds a contractor or subcontractor liable for Title VII and FLSA violations, and the contractor or subcontractor appeals only the Title VII judgment to the court of appeals, it must continue to report the district court decision (containing the finding of an FLSA violation) even if a subsequent court of appeals decision is rendered concerning the Title VII violation.

If the contractor or subcontractor reported an administrative merits determination, civil judgment, or arbitral award or decision before being awarded a covered contract, and a successive administrative merits determination, civil judgment, or arbitral award or decision arising from the same underlying violation is rendered during the performance of the contract and affirms that the contractor or subcontractor committed the violation, the successive administrative merits determination, civil judgment, or arbitral award or decision is an administrative merits determination, civil judgment, or arbitral award or decision within the meaning of this guidance and the Order. Therefore, the contractor or subcontractor must report the most recent determination, judgment, award or decision when it updates its disclosures at semi-annual intervals during performance of the covered contract.

C. What Information Must Be Disclosed

The following sections provide guidance on what information must be reported at different stages of the contracting process. When finalized, the FAR Council regulation will set forth the specific requirements for what must be reported at each stage, and how such information is to be reported.

1. Initial Representation

When a contractor bids on a solicitation for a covered procurement contract, the Order requires it to report to the contracting agency issuing the solicitation whether any administrative merits determinations, civil judgments, or arbitral awards or decisions have been rendered against it within the preceding three-year period. *See* § 2(a). At this stage, the contractor will represent to the best of its knowledge and belief whether it has or has not had such violations, without providing further information.

2. Pre-Award Reporting

If a contractor reaches the stage in the process at which a responsibility determination is made, and that contractor responded affirmatively at the initial representation stage, the contracting officer will require additional information about that contractor's Labor Laws violation(s). For each administrative merits determination, civil judgment, or arbitral award or decision that must be reported, the contractor will provide:

- The Labor Law that was violated;
- the case number, inspection number, charge number, docket number, or other unique identification number; [17]
- the date that the determination, judgment, award, or decision was rendered; and
- the name of the court, arbitrator(s), agency, board, or commission that rendered it.[18]

The contractor may also provide such additional information as the contractor deems necessary to demonstrate its responsibility, such as mitigating circumstances, remedial measures (to include labor compliance agreements), and other steps taken to achieve compliance with the Labor Laws. Mitigating factors are discussed below.

3. Post-Award Reporting

The Order requires contractors to update the information reported to contracting agencies semi-annually during performance of the covered procurement contract. *See* § 2(b). These periodic updates should include any new administrative merits determinations, civil judgments, and arbitral awards or decisions rendered since the last report and updates to previously reported or provided information. As noted above in section II.B.4, contractors must report new administrative merits determinations, civil judgments, and arbitral awards or decisions even if they arise from a violation of the Labor Laws that was already reported. For example, if a contractor initially reported a federal district court judgment finding that it violated the FLSA, it must still report as part of the periodic updates any federal court of appeals decision affirming that judgment. Through the ongoing post-award reporting, contractors may also submit updated information reflecting the fact that a given administrative merits determination, civil judgment, or arbitral award or decision has been vacated, reversed, or otherwise modified. And contractors may also report mitigating factors and any other information that they believe may be helpful in assessing the violations at issue.

[17] Specifically, the contractor should provide the inspection number for OSH Act citations, the case number for National Labor Relations Board proceedings, the charge number for EEOC proceedings, the investigation or case number if known for Wage and Hour Division investigations, the case number for investigations by the Office of Federal Contract Compliance Programs, the case number for determinations by administrative tribunals, and the case number for court proceedings.

[18] Pursuant to FAR 9.105–1(a), contracting officers have a duty to obtain such additional information as may be necessary to be satisfied that a prospective contractor has a satisfactory record of integrity and business ethics.

4. Reporting by Subcontractors

The Order provides that contractors will require their subcontractors performing covered subcontracts to report administrative merits determinations, civil judgments, or arbitral awards or decisions rendered against them within the preceding three-year period for violations of any of the Labor Laws. *See* §§ 2(a)(iv)–(v). The Order further provides that contractors must require their subcontractors to make such reports to the contractor prior to being awarded a covered subcontract and semi-annually during performance of a covered subcontract. *Id.* The Order requires contractors to make the same assessments regarding subcontractors and their violations of the Labor Laws as contracting agencies must make of contractors. *Id.* This builds on contractors' existing obligation to determine the responsibility of their subcontractors.

To facilitate these assessments, given that contractors may have more difficulty than contracting officers and LCAs in obtaining copies of administrative merits determinations, civil judgments, and arbitral awards or decisions, the FAR Council's proposed regulations would require contractors to include provisions in subcontracts requiring that subcontractors who report violations of Labor Laws—and for which a responsibility determination has been initiated—provide a copy of the relevant administrative merits determination(s), civil judgment(s), and arbitral award(s) or decision(s), as well as any notice from the Department advising that the subcontractor either has not entered into a labor compliance agreement within a reasonable period of time or is not meeting the terms of an existing agreement. The preamble to the FAR Council's proposed regulations indicates that the subcontractor reporting requirement may be phased in through a delayed implementation to allow the contracting community to become familiar with the Order's requirements and procedures. To this end, contractors are encouraged to contact the Department for assistance in obtaining information necessary to assess any Labor Laws violations reported by their subcontractors. The Department will set up a structure within the Department to be available to consult with contractors in carrying out these responsibilities, as well as provide guidance as needed to contractors and subcontractors in compliance with the requirements of the Order. The Department will also be available to assist subcontractors directly in carrying out their responsibilities under the Order.

The above paragraphs describe the duties of contractors and subcontractors as set forth in the text of the proposed FAR rule. However, the Department recognizes that the FAR Council is considering allowing contractors to direct their subcontractors to report violations to the Department, which would then assess the violations.

III. Weighing Violations of the Labor Laws

The Order directs the Department to develop guidance ''to assist agencies in determining whether administrative merits determinations, arbitral awards or decisions, or civil judgments were issued for serious, repeated, willful, or pervasive violations'' of the Labor Laws for purposes of implementing the final rule issued by the FAR Council. *See* § 4(b)(i). The Order specifies that the Department's guidance should ''incorporate existing statutory standards for assessing whether a violation is serious, repeated, or willful'' where they are available. *Id.* The Order also provides some guidelines for developing standards where none are provided by statute. *Id.*

This section of the proposed guidance defines the terms ''serious,'' ''repeated,'' ''willful,'' and ''pervasive'' and provides guidance on their meanings and how violations of the Labor Laws should be weighed. While contracting officers and LCAs can seek additional information from the Department to provide context, in utilizing this guidance to determine whether violations are serious, repeated, willful, or pervasive, contracting officers should rely on the information contained in the administrative merits determinations, arbitral awards or decisions, and civil judgments.

All violations of federal labor laws are serious, but in this context the Department has, pursuant to the Order, identified certain violations as ''serious,'' ''willful,'' ''repeated,'' and ''pervasive.'' This subset of all labor violations represents the violations that are most concerning and bear on an assessment of a contractor's or subcontractor's integrity and business ethics. The Department has purposely excluded from consideration violations that could be characterized as inadvertent or minimally impactful. In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility. In contrast, as explained more fully below, pervasive violations and violations of particular gravity, among others, will in most cases result in the need for a labor compliance agreement. *See* section III.E below.

Each contractor's disclosed violations of Labor Laws will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. The extent to which a contractor has remediated violations of Labor Laws, including agreements entered into by contractors with enforcement agencies, will be given particular weight in this regard. In fact, the vast majority of administrative merits determinations (in some enforcement agencies, as much as 90 percent) result in settlement agreements between employers and enforcement agencies.

The Department will work with LCAs across contracting agencies to help ensure efficient, accurate, and consistent decisions across the government.

A. Serious Violations

Of the federal Labor Laws, only the OSH Act provides a statutory standard for what constitutes a ''serious'' violation, and this standard also applies to OSHA-approved State Plans. The other federal Labor Laws do not have statutory standards for what constitutes a serious violation. According to the Order, where no statutory standards exist, the Department's guidance for ''serious'' violations must take into account ''the number of employees affected, the degree of risk posed or actual harm done by the violation to the health, safety, or well-being of a worker, the amount of damages incurred or fines or penalties assessed with regard to the violation, and other considerations as the Secretary finds appropriate.'' *See* § 4(b)(i)(B)(1).

Accordingly, a violation is ''serious'' for purposes of the Order if it involves at least one of the following:

- An OSH Act or OSHA-approved State Plan citation was designated as serious, there was a notice of failure to abate an OSH Act violation, or an imminent danger notice was issued under the OSH Act or an OSHA-approved State Plan;
- The affected workers comprised 25% or more of the workforce at the worksite;
- Fines and penalties of at least $5,000 were assessed or back wages of at least $10,000 were due or injunctive relief was imposed by an enforcement agency or a court;
- The contractor's or subcontractor's conduct violated MSPA or the child labor provisions of the FLSA and caused or contributed to the death or serious injury of one or more workers;

- Employment of a minor who was too young to be legally employed or in violation of a Hazardous Occupations Order;
- The contractor or subcontractor engaged in an adverse employment action (including discharge, refusal to hire, suspension, demotion, or threat) or is responsible for unlawful harassment against one or more workers for exercising any right protected by any of the Labor Laws;
- The findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor engaged in a pattern or practice of discrimination or systemic discrimination;
- The findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor interfered with the enforcement agency's investigation; or
- The contractor or subcontractor breached the material terms of any agreement or settlement entered into with an enforcement agency, or violated any court order, any administrative order by an enforcement agency, or any arbitral award.

The definition provides an exhaustive list of the categories of Labor Laws violations that may be serious under the Order.

1. OSH Act

Section 17(k) of the OSH Act, 29 U.S.C. 666(k), defines a violation as serious, in relevant part, ''if there is a substantial probability that [the hazard created by the violation could result in] death or serious physical harm . . . unless the employer did not, and could not with the exercise of reasonable diligence know'' of the existence of the violation. In other words, a ''violation may be determined to be serious where, although the accident itself is merely possible * * *, there is a substantial probability of serious injury if it does occur.'' *East Texas Motor Freight, Inc.* v. *Occupational Safety and Health Review Comm'n,* 671 F.2d 845, 849 (5th Cir. 1982) (internal quotes and citations omitted).

In light of this clear statutory definition, a violation of the OSH Act is serious if the contractor or subcontractor received a citation for a violation designated as ''serious'' under the OSH Act or an OSHA-approved State Plan, or an imminent danger notice under the OSH Act or an OSHA-approved State Plan. Imminent danger notices are issued only when ''a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by [the OSH Act].'' 29 U.S.C. 662(a). Because such notices are issued only for violations that imminently threaten to cause death or serious physical harm, imminent danger notices are by definition issued only for serious violations of the OSH Act, and thus constitute serious violations under the Order.

The OSH Act separately prohibits retaliation against workers for exercising any right under the Act. 29 U.S.C. 660(c). As with retaliation under other Labor Laws, an OSH Act whistleblower violation will be a serious violation where the contractor or subcontractor engaged in an adverse employment action (including discharge, refusal to hire, suspension, demotion, or threat). Similarly, a contractor or subcontractor that has interfered with an OSHA inspection or investigation will be deemed to have committed a serious violation, as will a contractor or subcontractor that has breached the material terms of any OSHA settlement agreement, violated any court order under the OSH Act, or received a notice that it has failed to abate any cited OSHA violation.

2. 25% of the Workforce Affected

Consistent with the Order's directive to consider the number of employees affected, a violation is serious when the workers affected by the violation comprised 25% or more of the workforce at the worksite. The Department believes that: using a percentage of the workforce instead of an absolute number of workers is a more useful way of considering the effects of a violation, given that employers of various sizes will have disclosure obligations under the Order; 25% represents a significant percentage of workers at a particular site, and as such, that the underlying violation is a serious one; and 25% strikes an appropriate balance by effectively excluding individualized or localized violations from this category of ''serious'' while capturing more widespread violations.

For purposes of this 25% threshold, ''workforce'' means all individuals employed by the contractor or subcontractor. It does not include workers of another entity, unless the underlying violation of the Labor Laws includes a finding that the contractor or subcontractor is a joint employer of the workers that the other entity employs at the worksite.

For purposes of this 25% threshold, ''worksite'' means the physical location or group of locations where the workers affected by the violations work and where the contractor or subcontractor conducts its business. For example, if the contractor or subcontractor conducts its business at a single building, or a single office within an office building, that building or office will comprise the worksite. However, if the contractor or subcontractor conducts business activities in several offices in one building, or in several buildings in a campus or industrial park, the worksite consists of all of the offices or buildings in which the business is conducted. On the other hand, if a contractor or subcontractor has two office buildings in different parts of the same city, and a violation affects workers in one building, the worksite is the one building where the violation took place. For violations that affect workers with no fixed worksite, such as construction workers, transportation workers, and workers who perform services at various customers' locations, the worksite is the site to which they are assigned as their home base, from which their work is assigned, or to which they report.

For purposes of this 25% threshold, ''affected workers'' means the workers who were individually impacted by the violation. For example, affected workers include workers who were not paid wages due, were denied leave or benefits, were denied a job, a promotion, or other benefits due to discrimination, or were harmed by an unlawful policy.

The Department specifically seeks comments on this category of serious violations.

3. Fines, Penalties, Back Wages, and Injunctive Relief

Consistent with the Order's directive to take into account ''the amount of damages incurred or fines or penalties assessed,'' a violation is serious if it resulted in $5,000 or more in fines and penalties, or $10,000 or more in back wages. Such amounts, in the Department's view, reflect a violation of sufficient gravity to be deemed serious.

Administrative merits determinations finding violations of the laws enforced by the Department's Wage and Hour Division, for example, may be more likely to implicate these thresholds than those issued by other enforcement agencies. According to recent enforcement data from the Wage and Hour Division, these thresholds will capture only a minority of the violations of the Labor Laws enforced by Wage and Hour, and a smaller minority of the cases investigated by it under those laws. According to recent data, Wage and Hour assessed penalties in only a small minority of the cases in which it made a finding; in the small number of cases in which penalties were assessed, they amounted to $5,000 or more only approximately one-fourth of the time. Similarly, back wages were due in less than half of the cases in which Wage and Hour made a finding, and in cases in which back wages were due, they

would have passed the proposed threshold of $10,000 only about one-third of the time. The Department specifically seeks comments on whether the thresholds for fines and penalties and for back wages are set at the appropriate levels.

Examples of ''fines and penalties'' include civil monetary penalties assessed by the Department under MSPA or under the minimum wage, overtime, and child labor provisions of the FLSA. Fines and penalties do not include back wages, compensatory damages, liquidated damages under the FLSA, or statutory damages under MSPA. However, liquidated damages under the ADEA and punitive damages are included in fines and penalties for purposes of this threshold.[19] For purposes of determining whether the $10,000 back wages threshold is met, compensatory damages, liquidated damages under the FLSA, and statutory damages under MSPA should be included as back wages.

The threshold amounts for fines and penalties are measured by the amount ''assessed.'' If an administrative merits determination, for example, assesses $6,000 in civil monetary penalties against a contractor or subcontractor but later that amount is reduced to $4,000 in settlement negotiations or only $4,000 is collected, the underlying violation is serious based on the assessed amount. The Department believes that the amount assessed is a better indication of seriousness because civil monetary penalties may be reduced for reasons unrelated to the seriousness of the violation. If the amount assessed was later reduced, the contractor or subcontractor should provide that information as a possible mitigating factor.

When considering whether these thresholds are met, the total fines and penalties or the total back wages resulting from the Labor Laws violation should be considered. In cases where multiple provisions of a Labor Law have been violated, the fines and penalties assessed or the back wages due should not be parsed and separately attributed to each provision violated. For example, if the Department's FLSA investigation discloses violations of the FLSA's minimum wage and overtime provisions and back wages are due for both violations, the total back wages due determines whether the $10,000 threshold is met. Likewise, if an investigation discloses three violations of the same MSPA provision or violations of three different MSPA provisions and each violation results in assessed civil monetary penalties of $2,000, the MSPA violation is serious because the assessed penalties total $6,000.

A violation is also serious if injunctive relief was imposed by an enforcement agency, a court, or an arbitrator or arbitral panel. Injunctive relief is an order from an enforcement agency or court either to take a certain action or to refrain from taking a certain action. For example, an order to reinstate a wrongfully terminated worker, to modify discriminatory hiring practices, to make a location accessible to individuals with disabilities, to reinstate workers who are attempting to organize a union, or to refrain from intimidating workers during an enforcement agency's investigation would constitute injunctive relief.

4. MSPA or Child Labor Violations That Cause or Contribute to Death or Serious Injury

Violations of the health and safety provisions of MSPA and the child labor provisions of the FLSA may have serious health and safety implications. In the most serious cases, violations of these statutes may result in death or serious injury to one or more workers. Consistent with the Order's directive to consider ''the degree of risk posed or actual harm done by the violation to health, safety, or well-being of a worker,'' MSPA or child labor violations that cause or contribute to the death or serious injury of one or more workers are serious under the Order. For these purposes, serious injury has the same meaning as in the FLSA's child labor provisions as administered by the Department's Wage and Hour Division.

5. Employment of Minors Who Are Too Young To Be Legally Employed or in Violation of a Hazardous Occupations Order

Consistent with the Order's directive to consider ''the degree of risk posed or actual harm done by the violation to health, safety, or well-being of a worker,'' any violation of the FLSA's child labor provisions where the minor is too young to be legally employed or is employed in violation of any of the Secretary's Hazardous Occupations Orders is a serious violation. Such violations do not include situations where minors are permitted to perform the work at issue but who perform the work outside the hours permitted by law. Rather, it refers to minors who, by virtue of their age, are legally prohibited from being employed or are not permitted to be employed to perform the work at issue. Thus, for example, the employment of any minor under the age of 18 to perform a hazardous non-agricultural job, any minor under the age of 16 to perform a hazardous farm job, or any minor under the age of 14 to perform non-farm work where he or she does not meet a statutory exception otherwise permitting the work would be a serious violation. This reflects the particularly serious dangers that can result from the prohibited employment of underage minors. Conversely, the employment of, for example, a 14 or 15 year-old minor in excess of three hours outside school hours on a school day in a non-hazardous, non-agricultural job in which the child is otherwise permitted to work would not be a serious violation for purposes of the Order, even though the work violates the FLSA's child labor provisions.

6. Adverse Employment Actions or Unlawful Harassment for Exercising Rights Under Labor Laws

Consistent with the Order's directive to consider ''the degree of risk posed or actual harm done by the violation to health, safety, or well-being of a worker,'' a violation involving an adverse employment action or unlawful harassment against one or more workers for exercising any right protected by the Labor Laws is a serious violation. For these purposes, adverse employment actions include discharge, refusal to hire, suspension, demotion, or threats. Examples include disciplining workers for attempting to organize a union, demoting workers for testifying in an investigation, lawsuit, or proceeding involving one of the Labor Laws, firing or demoting workers who take leave under the FMLA, and threatening workers with adverse consequences—such as termination or referral to immigration or criminal authorities—for making a complaint about potential violations of Labor Laws. These are serious violations because they both reflect a disregard by an employer for its obligations under the Labor Laws and undermine the Labor Laws by making workers reluctant to exercise their rights for fear of retaliation.

7. Pattern or Practice of Discrimination or Systemic Discrimination

Consistent with the Order's directive to consider ''the degree of risk posed or actual harm done by the violation to health, safety, or well-being of a worker,'' a Labor Laws violation is serious if the findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor engaged

[19] Unlike liquidated damages under the FLSA, liquidated damages under the ADEA are punitive in nature, as they are expressly tied to willful violations. *See* 29 U.S.C. 626(b).

in a pattern or practice of discrimination or systemic discrimination. A pattern or practice of discrimination involves intentional discrimination against a protected group of employees, rather than discrimination that occurs in an isolated fashion. Systemic discrimination involves a pattern or practice, policy, or class case where the discrimination has a broad impact on an industry, profession, company or geographic area. Examples include policies and practices that effectuate discriminatory hiring barriers; restrictions on access to higher level jobs on the basis of race, gender, gender identity, sexual orientation, national origin, or other protected characteristics; unlawful pre-employment inquiries regarding disabilities; and discriminatory placement or assignments that are made to comply with customer preferences. Systemic discrimination also includes policies and practices that are seemingly neutral but may cause a disparate impact on protected groups. Examples include pre-employment tests used for selection purposes; height, weight or lifting requirements or restrictions; compensation practices and policies; and performance evaluation policies and practices.

8. Interference With Investigations

Violations of the Labor Laws in which the findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor engaged in interference with the enforcement agency's investigation also are serious under the Order. Interference can take a number of forms, such as denial of access by a contractor or subcontractor to an enforcement agency to conduct an on-site investigation, evaluation, or review; refusal to submit required documents to an enforcement agency or comply with its request for information; threats to workers who speak to enforcement agency investigators; falsification or destruction of records; lying or making misrepresentations to investigators; and threatening workers with termination or referral to immigration or criminal authorities if they do not return back wages received as part of an investigation. Like retaliation, interference with investigations is intentional conduct that frustrates the enforcement of the Labor Laws and therefore, in the Department's view, is a serious violation.

9. Material Breaches and Violations of Settlements, Agreements, or Orders

Violations of the Labor Laws involving a breach of the material terms of any agreement or settlement, or a violation of a court or administrative order or arbitral award, are serious under the Order. Such violations are serious because an employer that is a government contractor or subcontractor is expected to comply with orders by a court or administrative agency and to adhere to the terms of any agreements or settlements into which it enters. A contractor's or subcontractor's failure to do so may indicate that it will similarly disregard its contractual obligations to, or agreements with, a contracting agency (or a contractor in case of a subcontractor), which could result in delays, increased costs, and other adverse consequences. A contractor or subcontractor will not, however, be found to have committed a serious violation if the agreement, settlement, award, or administrative order in question has been stayed pending an appeal or other further proceeding.

10. Table of Examples

For a table containing selected examples of serious violations, see Appendix A.

B. Willful Violations

The Order provides that the standard for willful should ''incorporate existing statutory standards'' to the extent such standards exist. *See* § 4(b)(i)(A). The Order further provides that, where no statutory standards exist, the standard for willful should take into account ''whether the entity knew of, showed reckless disregard for, or acted with plain indifference to the matter of whether its conduct was prohibited by the requirements of the [Labor Laws].'' *See* § 4(b)(i)(B)(3). A violation is ''willful'' under the Order if:

- For purposes of a citation issued pursuant to the OSH Act or an OSHA-approved State Plan, the citation at issue was designated as willful or any equivalent State designation (*i.e.,* ''knowing''), and the designation was not subsequently vacated;
- For purposes of the FLSA (including the Equal Pay Act), the administrative merits determination sought or assessed back wages for greater than two years or sought or assessed civil monetary penalties for a willful violation, or there was a civil judgment or arbitral award or decision finding the contractor or subcontractor liable for back wages for greater than two years or affirming the assessment of civil monetary penalties for a willful violation;
- For purposes of the ADEA, the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded liquidated damages;
- For purposes of Title VII or the ADA, the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded punitive damages for a violation where the contractor or subcontractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual; or
- For purposes of any of the other Labor Laws, the findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor knew that its conduct was prohibited by any of the Labor Laws or showed reckless disregard for, or acted with plain indifference to, whether its conduct was prohibited by one or more requirements of the Labor Laws.

1. The OSH Act, the FLSA, and the ADEA

The term ''willful'' has well-established meanings under the OSH Act, the FLSA, and the ADEA. These meanings are consistent with the standard provided in the Order. Violations of the OSH Act, the FLSA, and the ADEA are willful under the Order if they fit these well-established meanings.

Under the OSH Act, a violation is willful where an employer has demonstrated either an intentional disregard for the requirements of the OSH Act or a plain indifference to its requirements. *See A.E. Staley Mfg. Co.* v. *Sec'y of Labor,* 295 F.3d 1341, 1351–52 (D.C. Cir. 2002). For example, if an employer knows that specific steps must be taken to address a hazard, but substitutes its own judgment for the requirements of the legal standard, the violation is willful. Under the OSH Act or an OSHA-approved State Plan, if a violation was designated as willful and that designation has not been subsequently vacated, the violation will be willful for purposes of the Order. Some States may use a different term (*i.e.,* ''knowing'') that means the same thing.

Similarly, under the FLSA, a violation is willful where the employer knew that its conduct was prohibited by the FLSA or showed reckless disregard for the FLSA's requirements. *See* 29 CFR 578.3(c)(1); *McLaughlin* v. *Richland Shoe Co.,* 486 U.S. 128, 133 (1988). For example, an employer that requires workers to ''clock out'' after 40 hours in a workweek and then continue working ''off the clock'' or pays workers for 40 hours by check and then pays them in cash at a straight-time rate for hours worked over 40 commits a willful violation of the FLSA's overtime requirements. These actions show knowledge of the FLSA's requirements to pay time-and-a-half for hours worked over 40 and an attempt to evade that requirement by concealing records of

the workers' actual hours worked. Under the FLSA, because willful violations are grounds for assessing back wages for greater than two years or civil monetary penalties, these measures are understood to reflect a finding of willfulness and therefore will be considered indicative of willfulness under the Order.[20]

Likewise, under the ADEA, a violation is willful when the employer knew or showed reckless disregard for the matter of whether its conduct was prohibited by the ADEA. *See Trans World Airlines* v. *Thurston,* 469 U.S. 111, 126 (1985). Willful violations are required for liquidated damages to be assessed or awarded under the ADEA. *See* 29 U.S.C. 626(b). Accordingly, any violation of the ADEA in which the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded liquidated damages is understood to reflect a finding of willfulness and therefore will be considered indicative of a willful violation under the Order.

2. Title VII and the ADA

Violations of Title VII or the ADA are ''willful'' under the Order if the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded punitive damages for a violation where the contractor or subcontractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual. Punitive damages are appropriate in cases under Title VII or the ADA where the contractor or subcontractor engaged in intentional discrimination with ''malice or reckless indifference to the federally protected rights of an aggrieved individual.'' 42 U.S.C. 1981a. This means that a managerial agent of the contractor or subcontractor, acting within the scope of employment, made a decision that was in the face of a perceived risk of violating federal law, and the contractor or subcontractor cannot prove that the manager's action was contrary to its good faith efforts to comply with federal law. *See Kolstad* v. *American Dental Ass'n,* 527 U.S. 526, 536, 545 (1999). For example, if a manager received a complaint of sexual harassment but failed to report it or investigate it, and the employer's anti-harassment policy was ineffective in protecting the employees' rights, or the employer did not engage in good faith efforts to educate its managerial staff about sexual harassment, then the violation would warrant punitive damages and qualify as ''willful'' under the Order, *See, e.g., EEOC* v. *Mgmt. Hospitality of Racine, Inc.,* 666 F.3d 422, 438–39 (7th Cir. 2012).

3. Other Labor Laws

For violations of Labor Laws other than the OSH Act, the FLSA, the ADEA, Title VII, and the ADA, a violation is willful for purposes of the Order if the findings of the relevant enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor knew that its conduct was prohibited by the Labor Laws or showed reckless disregard for, or acted with plain indifference to, whether its conduct was prohibited by Labor Laws.[21] A contractor or subcontractor need not act maliciously or with a bad purpose to commit a willful violation; rather, the focus is on whether the enforcement agency, court, arbitrator, or arbitral panel's findings support a conclusion that, based on all of the facts and circumstances discussed in the findings, the contractor or subcontractor acted with knowledge or reckless disregard of its legal requirements. The administrative merits determination, civil judgment, or arbitral award or decision need not include the specific words ''knowledge'' or ''reckless disregard''; however, the factual findings or legal conclusions contained in the determination, judgment, award or decision must support a conclusion that the violation meets one of these conditions, as described further below.

Generally, willfulness will be found in one of two circumstances. One is where the findings of the enforcement agency, court, arbitrator, or arbitral panel support a conclusion that the contractor or subcontractor knew that its conduct was prohibited by law, yet engaged in the conduct anyway. Knowledge can be inferred from the factual findings or legal conclusions contained in the administrative merits determination, civil judgment, or arbitral award or decision. For example, willfulness will typically be found where the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor was previously advised by responsible government officials that its conduct was not lawful, but engaged in the conduct anyway. Repeated violations may also be willful to the extent that the original proceeding demonstrates that the contractor or subcontractor was put on notice of its legal obligations, only to later commit the same or a substantially similar violation. If the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor has a written policy or manual that describes a legal requirement, and then knowingly violates that requirement, the violation is also likely to be willful.

For example, if the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor was warned by an official from the Department that the housing it was providing to migrant and seasonal agricultural workers did not comply with required safety and health standards, and that the contractor or subcontractor then failed to make the required repairs or corrections, such findings demonstrate that the contractor or subcontractor engaged in a willful violation of MSPA. Likewise, if the administrative merits determination, civil judgment, or arbitral award or decision indicates that a contractor's or subcontractor's employee handbook states that it provides unpaid leave to employees with serious health conditions as required by the FMLA, but the contractor or subcontractor refuses to grant FMLA leave or erects unnecessary hurdles to employees requesting such leave, that violation would also likely be willful. Certain acts, by their nature, are willful, such as conduct that demonstrates an attempt to evade statutory responsibilities, including the falsification of records, fraud or intentional misrepresentation in the application for a required certificate, payment of wages ''off the books,'' or ''kickbacks'' of wages from workers back to the contractor or subcontractor.

The second type of willful violation is where the findings of the enforcement agency, court, arbitrator, or arbitral panel supports a conclusion that a contractor or subcontractor acted with reckless disregard or plain indifference toward the Labor Laws' requirements. These terms refer to circumstances in which the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor failed to make sufficient efforts to learn or understand whether it was complying with the law. Although merely inadvertent or negligent conduct would not meet this standard, blissful ignorance of the law is not a defense to a willful violation. The adequacy of a contractor's or subcontractor's inquiry is

[20] Civil monetary penalties may be assessed under the FLSA for violations that are either willful or repeated. Only civil monetary penalties involving willful violations will constitute willful violations under the Order.

[21] Nothing in this guidance is intended to affect the terminology or operation of FAR Part 22.4.

judged in light of all of the facts and circumstances, including the nature of the violation, the complexity of the legal issue, and the sophistication of the contractor or subcontractor. Reckless disregard or plain indifference may also be shown where the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor was aware of plainly obvious violations and failed to take an appropriate action. For example, an employer who employs a 13-year-old child in an obviously dangerous occupation, such as operating a forklift, is acting in reckless disregard of the law even if it cannot be shown that the employer actually knew that doing so was in violation of one of the Secretary's Hazardous Occupation Orders. Reckless disregard or plain indifference will also be found if the administrative merits determination, civil judgment, or arbitral award or decision supports a conclusion that a contractor or subcontractor acted with purposeful lack of attention to its legal requirements, such as if management-level officials are made aware of a health or safety requirement but make little or no effort to communicate that requirement to lower-level supervisors and employees.

4. Table of Examples

For a table containing selected examples of willful violations, see Appendix B.

C. Repeated Violations

The Order provides that the standard for repeated should ''incorporate existing statutory standards'' to the extent such standards exist. *See* § 4(b)(i)(A). The Order further provides that, where no statutory standards exist, the standards for repeated should take into account ''whether the entity has had one or more additional violations of the same or a substantially similar requirement in the past 3 years.'' *See* § 4(b)(i)(B)(2). Accordingly, a violation is ''repeated'' under the Order if it is the same as or substantially similar to one or more other violations of the Labor Laws by the contractor or subcontractor.

For a violation to be repeated, the same or substantially similar other violation(s) must be reflected in one or more civil judgments, arbitral awards or decisions, or adjudicated or uncontested administrative merits determinations issued within the last three years. Substantially similar does not mean ''exactly the same.'' *United States* v. *Washam,* 312 F.3d 926, 930 (8th Cir. 2002). Rather, two things may be substantially similar where they share ''essential elements in common.'' *Alameda Mall, L.P.* v. *Shoe Show, Inc.,* 649 F.3d 389, 392 (5th Cir. 2011) (citing dictionary definition of the term). Whether a violation is ''substantially similar'' to a past violation turns on the nature of the violation and underlying obligation itself.

1. Timeframe

The civil judgment, arbitral award or decision, or adjudicated or uncontested administrative merits determination for the prior, or predicate, violation(s) must have occurred within the three-year reporting period. This is the case even if a violation may be designated as ''repeated'' within the meaning of one of the Labor Laws if the prior violation took place more than three years earlier. For example, under current OSHA policy, repeated violations under the OSH Act take into account a five-year period. However, an OSH Act or OSHA-approved State Plan violation designated as a repeated violation in the citation would be repeated for purposes of the Order only if the predicate violation was issued or affirmed within the three-year reporting period.

2. Separate Investigations or Proceedings

The prior violation(s) must be the subject of one or more separate investigations or proceedings. Thus, for example, if a single investigation discloses that a contractor or subcontractor violated the FLSA and the OSH Act, or committed multiple violations of any one of the Labor Laws, such violations would not be deemed ''repeated.''

3. Type of Violation

The prior violation(s) must be reflected in one or more civil judgments, arbitral awards or decisions, or adjudicated or uncontested administrative merits determinations. To the extent that a prior civil judgment, arbitral award or decision, or administrative merits determination has been reversed or vacated in its entirety and is thus exempt from the reporting requirements, it cannot render a subsequent violation repeated.

As the definition indicates, for an administrative merits determination to serve as a predicate violation that will render a subsequent violation repeated, it must have been adjudicated or be uncontested. An adjudicated administrative merits determination for purposes of the Order is an administrative merits determination that follows a proceeding in which the contractor or subcontractor had an opportunity to present evidence or arguments on its behalf, such as at a hearing or through written submissions, before the appropriate decision-making authority. An uncontested administrative merits determination is any non-reversed, non-vacated administrative merits determination except one in which a timely appeal of the determination has been filed or is pending before a court or other tribunal with jurisdiction to hear the appeal.

Only the predicate administrative merits determination need be adjudicated or uncontested when determining whether a violation is repeated. Thus, for example, if a contractor or subcontractor receives an OSH Act citation but timely contests it before the OSHRC, and during the pendency of that proceeding is cited for a substantially similar OSH Act violation, the second citation would not, during the pendency of the OSHRC proceeding, be a repeated violation because the first citation is neither adjudicated nor uncontested. However, if OSHRC affirms the first citation, then the second citation could be a repeated violation because the first violation is now the product of an adjudication, even though the second violation is neither adjudicated nor uncontested. This framework is intended to ensure that repeated violations will only be assessed when the contractor or subcontractor has had the opportunity to present facts or arguments in its defense concerning the predicate violation.

4. Company-Wide Consideration

Repeated violations may be considered on a company-wide basis. Thus, a prior violation by any establishment of a multi-establishment company can render subsequent violations repeated, provided the other relevant criteria are satisfied. As discussed below, the relative size of the contractor or subcontractor as compared to the number of violations may be a mitigating factor.

5. Substantially Similar Violations

The prior violation(s) must be the same as or substantially similar to the violation designated as repeated. Whether violations fall under the same Labor Law is not determinative of whether the requirements underlying those violations are substantially similar. Rather, this inquiry turns on the nature of the violation and underlying obligation itself.

For example, the FLSA contains provisions requiring that employers pay their covered employees the minimum wage and overtime for any hours worked over 40 in a workweek. Two or

more violations of these requirements would be deemed substantially similar because they all would involve failure to pay workers their proper wages.[22] However, the FLSA also includes prohibitions against forms of child labor. Although two or more violations of child labor provisions would be substantially similar to each other,[23] a child labor violation would not be substantially similar to a violation of the FLSA's wage provisions. The same would be true of a violation of the FLSA's provision requiring break time for nursing mothers—a violation of that provision would not be substantially similar to a violation of the wage or child labor provisions.

Similarly, for NLRA violations, any two violations of section 8(a)(3), which prohibits employers from discriminating against employees for engaging in or refusing to engage in union activities, would be substantially similar, but would not be substantially similar to violations of section 8(a)(2), which prohibits an employer from dominating or assisting a labor union through financial support or otherwise.

For violations of the OSH Act, violations are repeated if they involve the same or a substantially similar hazard. A repeated violation may be found based on a prior violation of the same standard, a different standard, or the general duty clause, but the hazards themselves must be the same or substantially similar. Thus, for example, if an employer is cited in one instance for failing to provide fall protection on a residential construction site, and a second time for failing to provide fall protection at a commercial construction site, those violations would be repeated because they involve the same or substantially similar hazards, even though the cited standards are different.

Under the FMLA, any two violations would generally be considered substantially similar to each other, with the exception of violations of the notice requirements. Thus, denial of leave, retaliation, discrimination, failure to reinstate an employee to the same or an equivalent position, and failure to maintain group health insurance would all be considered substantially similar, given that each violation involves either denying FMLA leave or penalizing an employee who takes leave. Any two instances of failure to provide notice—such as failure to provide general notice via a poster as well as failure to notify individual employees regarding their eligibility status, rights, and responsibilities—would be substantially similar to each other, but not to other violations of the FMLA.

Under MSPA, multiple violations of the statute's requirements pertaining to wages, supplies, and working arrangements (including, for example, failure to pay wages when due, prohibitions against requiring workers to purchase goods or services solely from particular contractors, employers, or associations, and violating the terms of any working arrangements) would all be substantially similar for purposes of the Order. Likewise, violations of any of MSPA's requirements related to health and safety, including both housing and transportation health and safety, would all be substantially similar to each other. Violations of the statute's disclosure and recordkeeping requirements would also be substantially similar to each other. Finally, multiple violations related to MSPA's registration requirements would be substantially similar.

For purposes of Title VII, Section 503 of the Rehabilitation Act of 1973, the ADA, the ADEA, Section 6(d) of the FLSA (known as the Equal Pay Act, 29 U.S.C. 206(d)), Executive Order 11246 of September 24, 1965, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, violations are substantially similar if they involve the same or an overlapping protected status—*e.g.,* race/color, national origin, sex, gender identity, sexual orientation, religion, disability, age, protected veterans' status—even if they do not involve the same employment practice—*e.g.,* hiring, firing, harassment, compensation. This is true regardless of whether the violations arise under the same statute or different statutes, *e.g.,* an ADA violation and a Section 503 violation. For example, two violations of requirements not to discriminate on the basis of sex would be substantially similar even if they involved two different employment practices—*e.g.,* hiring and promotions. Additionally, if, for example, the first violation involves discrimination on the basis of national origin and the second violation involves discrimination on the basis of national origin and race, the violations are substantially similar because they involve an overlapping protected status, namely, discrimination on the basis of national origin.

Other violations arising under two or more different statutes may also be substantially similar. For example, several of the Labor Laws have provisions prohibiting retaliation against individuals who exercise protected rights. An employer who commits two or more violations involving retaliation will be found to have engaged in repeated violations. Similarly, failure to pay wages mandated by the FLSA, SCA, DBA, MSPA, or Executive Order 13658 would be substantially similar violations since all of these violations concern the failure to pay wages mandated by law. Likewise, violations of the OSH Act and violations of the health and safety provisions of MSPA could be substantially similar if they involve substantially similar hazards. Two or more failures to post notices required under the Labor Laws would also be deemed substantially similar, as would be two or more failures to keep records.

The Department specifically seeks comments by interested parties regarding its proposed definition of ''substantially similar'' for determining if a violation is repeated under the Order.

6. Table of Examples

For a table containing selected examples of repeated violations, see Appendix C.

D. Pervasive Violations

The Order provides that, where no statutory standards exist, the standard for pervasive should take into account ''the number of violations of a requirement or the aggregate number of violations of requirements in relation to the size of the entity.'' *See* § 4(b)(i)(B)(4). No statutory standards for ''pervasive'' exist under the Labor Laws.

Violations are ''pervasive'' if they reflect a basic disregard by the contractor or subcontractor for the Labor Laws as demonstrated by a pattern of serious or willful violations, continuing violations, or numerous violations. Violations must be multiple to be pervasive, although the number of violations necessarily depends on the size of the contractor or subcontractor, because larger employers, by virtue of their size, are more likely to have multiple violations. To be pervasive, the violations need not be of the same or similar requirements of the Labor Laws. Pervasive violations may exist where the contractor or subcontractor commits multiple violations of the same Labor Law, regardless of their similarity, or violations of more than one of the Labor Laws. This category is intended to identify those contractors and subcontractors whose numerous violations of Labor Laws indicate that they may view sanctions for their violations as merely part of the ''cost of doing business,'' an attitude that is

[22] This is consistent with the treatment of such violations as ''repeated'' in the FLSA's regulations. *See* 29 CFR 578.3(b).

[23] 29 CFR 579.2 treats any two child labor violations as repeated.

inconsistent with the level of responsibility required by the FAR. LCAs and contractors are strongly encouraged to consult with the Department when determining whether violations are pervasive.

Pervasive violations differ from repeated violations in a number of ways. First, unlike repeated violations, pervasive violations need not be substantially similar, or even similar at all, as long as each violation involves one of the Labor Laws. Additionally, pervasive violations, unlike repeated violations, may arise in the same proceeding or investigation. For example, a small tools manufacturer with a single location may be cited multiple times for serious violations under the OSH Act—once for improper storage of hazardous materials, once for failure to provide employees with protective equipment, once for inadequate safeguards on heavy machinery, once for lack of fall protection, once for insufficient ventilation, once for unsafe noise exposure, and once for inadequate emergency exits. While these violations are sufficiently different that they would not constitute repeated violations, such a high number of workplace safety violations relative to the size of a small company with only a single location would likely demonstrate a basic disregard by the company for workers' safety and health, particularly if the company lacked a process for identifying and eliminating serious health hazards. As such, these violations would likely be considered pervasive.

In addition, violations across multiple Labor Laws—especially when they are serious, willful, or repeated—are an indication of pervasive violations that warrant careful examination by the contracting officer, in consultation with the LCA. For example, a medium-sized company that provides janitorial services at federal facilities may be found to have violated the SCA for failure to pay workers their required wages, Title VII for discrimination in hiring on the basis of national origin, the National Labor Relations Act for demoting workers who are seeking to organize a union, and the Family and Medical Leave Act for denying workers unpaid leave for serious health conditions. While these violations are substantively different from each other, a medium-sized employer that violates so many Labor Laws is demonstrating a basic disregard for its legal obligations to its workers and is likely committing pervasive violations.

Whereas a repeate d violation may be found anytime a contractor or subcontractor commits two or more substantially similar violations, there is no specific numeric threshold for pervasive violations. Rather, the number of violations necessary will depend on the size of the contractor or subcontractor, as well as the nature of the violations themselves.

A series of repeated violations may, however, become pervasive, particularly if it demonstrates that a contractor or subcontractor, despite knowledge of its violations, fails to make efforts to change its practices and continues to violate the law. For example, if the Department's Wage and Hour Division issued several administrative merits determinations over the course of three years finding that a contractor or subcontractor illegally employed underage workers, and the contractor or subcontractor, despite receiving these notices, failed to make efforts to change its child labor practices and continued to violate the FLSA's child labor provisions, the series of violations would likely be considered pervasive.

For smaller companies, a smaller number of violations may be sufficient for a finding of pervasiveness, while for large companies, pervasive violations will typically require either a greater number of violations or violations affecting a significant number or percentage of a company's workforce. For example, if the Department's Office of Federal Contract Compliance Programs finds that a large contractor that provides food services at federal agencies nationwide used pre-employment screening tests for most jobs at the company's facilities that resulted in Hispanic workers being hired at a significantly lower rate than non-Hispanic workers over a 5-year period, and in addition, the Wage and Hour Division finds that the company failed to comply with the SCA's requirements to pay its workers prevailing wages at many of its locations, such violations would likely be pervasive, notwithstanding the large size of the contractor, because the contractor's numerous serious violations spanned most of its locations and affected many of its workers. Conversely, had the company only engaged in these prohibited practices at, for example, only a few of its locations, such violations might not necessarily be considered pervasive.

Similarly, if a large company that provides laundry services to military bases in several states is cited 50 times for serious OSHA violations affecting most of its locations over the span of one year, and a number of the citations are for failure to abate dangerous conditions that OSHA had cited previously, and as a result the company is placed on OSHA's Severe Violator Enforcement Program, such violations would likely be pervasive because the sheer number of violations over such a short period of time is evidence that the company is ignoring persistent threats to workers' safety, fails to treat safety as a serious problem, and is acting in disregard of its legal obligations. Conversely, if the violations affected only a few of the company's facilities, or if the company had acted quickly to abate any violations, the violations might not necessarily be considered pervasive.

The Department specifically seeks comments by interested parties regarding how best to assess the number of a contractor's or subcontractor's violations in light of its size.

An additional relevant factor in determining whether violations are pervasive is the involvement of higher-level management officials. When Labor Laws are violated with either the explicit or implicit approval of higher-level management, such approval signals that future violations will be tolerated or condoned, and may dissuade workers from reporting violations or raising complaints. Thus, to the extent that higher-level management officials were involved in violations themselves (such as discrimination in hiring by an executive, or a decision by an executive to cut back on required safety procedures that led to violations of the OSH Act) or knew of violations and failed to take appropriate actions (such as ignoring reports or complaints by workers), the violations are more likely to be deemed pervasive. For example, if the vice president of a construction company directs a foreman not to hire Native American workers, and as a result the company is later found to have committed numerous Title VII violations against job applicants, such violations are likely to be pervasive. Likewise, if the chief safety officer at a chemical plant fields complaints from workers about several unsafe working conditions but then fails to take action to remedy the unsafe conditions, such violations are also likely to be pervasive because the dangerous working conditions were willfully sanctioned by a high-level company official and were evident throughout the chemical plant. Such behavior indicates that the company views penalties for such violations as ''the cost of doing business,'' rather than indicative of significant threats to its workers' health and safety that must be addressed. By the same token, managers are expected to play an active role in ensuring Labor

Law compliance in their workforce rather than abdicating their responsibility to do so. If managers actively avoid learning about labor law violations (such as by failing to exercise appropriate oversight or ''passing the buck'' to others), this may also indicate that the violations are pervasive.

For a table containing selected examples of pervasive violations, see Appendix D.

E. Assessing Violations and Considering Mitigating Factors

When assessing violations of the Labor Laws by a contractor or subcontractor, all the facts and circumstances of the violations, as well as any mitigating factors, should be considered.

The following types of violations raise particular concerns regarding the contractor's or subcontractor's compliance with the Labor Laws:

- Pervasive violations. Pervasive violations, by definition, demonstrate a basic disregard for the Labor Laws. Such disregard of legal obligations creates a heightened danger that the contractor or subcontractor may, in turn, disregard its contractual obligations as well. Additionally, such contractors and subcontractors are more likely to violate the Labor Laws in the future, and those violations—and any enforcement proceedings or litigation that may ensue—may imperil their ability to meet their obligations under a contract. Finally, that a contractor or subcontractor shows such disregard for the Labor Laws is highly probative of whether the contractor or subcontractor lacks integrity and business ethics.
- Violations that meet two or more of the categories discussed above (serious, repeated, and willful). A violation that falls into two or more of the categories is also, as a general matter, more likely to be probative of the contractor's or subcontractor's lack of integrity and business ethics than a violation that falls into only one of those categories.
- Violations that are reflected in final orders. To the extent that the judgment, determination, or order finding a Labor Law violation is final (because appeals and opportunities for further review have been exhausted or were not pursued), the violation should be given greater weight. Likewise, where a violation has not resulted in a final judgment, determination, or order, it should be given lesser weight.
- Violations of particular gravity. In the Department's view, certain Labor Laws violations that are serious under the Order should be given greater weight, including violations related to the death of an employee; violations involving a termination of employment for exercising a right protected under the Labor Laws; violations that detrimentally impact the working conditions of all or nearly all of the workforce at a worksite; and violations where the amount of back wages, penalties, and other damages awarded is greater than $100,000.

Various factors may mitigate the existence of a Labor Law violation. The Department respects the fact that most employers endeavor to comply with the Labor Laws. The Department values highly contractors' good-faith efforts to comply, and it encourages them to report these efforts, including workplace policies that foster compliance.

In most cases, the most important mitigating factors will be the extent to which the contractor or subcontractor has remediated the violation and taken steps to prevent its recurrence. Other mitigating factors include where the contractor or subcontractor has only had a single violation; where the number of violations is low relative to the size of the contractor or subcontractor; where the contractor or subcontractor has implemented a safety and health management program, a collectively-bargained grievance procedure, or other compliance program; where there was a recent legal or regulatory change; where the findings of the enforcement agency, court, arbitrator, or arbitral panel support a conclusion that contractor or subcontractor acted in good faith and had reasonable grounds for believing that it was not violating the law; and where the contractor or subcontractor has maintained a long period of compliance following any violations. Contractors and subcontractors should provide any information that may mitigate a Labor Law violation.

1. Remediation of Violation, Including Labor Compliance Agreements

As noted above, the extent to which a contractor or subcontractor has remediated a Labor Law violation will typically be the most important factor that can mitigate the existence of a violation. Remediation is an indication that a contractor or subcontractor has assumed responsibility for a violation and has taken steps to bring itself into compliance with the law going forward. Conversely, failure to remediate a violation may demonstrate disregard for legal obligations and workers, which in turn would have bearing on whether the contractor or subcontractor lacks integrity or business ethics. In most cases, for remediation to be considered mitigating, it should involve two components. First, the remediation should correct the violation itself, including by making any affected workers whole. For example, this could involve abating a dangerous hazard, paying workers their back wages owed, or reinstating a wrongfully discharged employee. Second, the remediation should demonstrate efforts by the contractor or subcontractor to prevent similar violations in the future. For example, if a contractor or subcontractor improperly misclassified workers as exempt from the FLSA and pays any back wages due to the workers without reviewing its classifications of the workers going forward, it will likely commit similar violations in the future. Particular consideration will be given where the contractor or subcontractor has implemented remediation on an enterprise-wide level or has entered into an enhanced settlement agreement with the relevant enforcement agency or agencies that goes beyond what is minimally required under the law to address appropriate remedial or compliance measures.

Similarly, when a contractor or subcontractor enters into a labor compliance agreement (defined above) with the enforcement agency, that agreement is an important mitigating factor. Entering into a labor compliance agreement indicates that the contractor or subcontractor recognizes the importance that the Federal Government places on compliance with the Labor Laws.

2. Only One Violation

The Order provides that, in most cases, a single violation of a Labor Law may not necessarily give rise to a determination of lack of responsibility, depending on the nature of the violation. *See* § 4(a)(i). However, a contracting agency is not precluded from making a determination of non-responsibility based on a single violation in the rare circumstances where merited.

3. Low Number of Violations Relative to Size

Larger employers, by virtue of their size, are more likely to have multiple violations than smaller ones. When assessing contractors or subcontractors with multiple violations, the size of the contractor or subcontractor will be considered.

4. Safety and Health Programs or Grievance Procedures

Implementation of a safety and health management program such as OSHA's 1989 Safety and Health Program Management guidelines or any updates

to those guidelines,[24] grievance procedures (including collectively-bargained ones), monitoring arrangements negotiated as part of an enhanced settlement agreement, or other compliance programs foster a corporate culture in which workers are encouraged to raise legitimate concerns about Labor Laws violations without the fear of repercussions. Such programs and procedures may prompt workers to report violations that would, under other circumstances, go unreported. Therefore, the implementation of such programs or procedures will be considered a mitigating factor, particularly as to violations that might otherwise be deemed repeated or pervasive.

5. Recent Legal or Regulatory Change

To the extent that the Labor Laws violations can be traced to a recent legal or regulatory change, that may be a mitigating factor. The change must be recent, and the violations must not have been violations but for the change.

6. Good Faith and Reasonable Grounds

It may be a mitigating factor if the contractor or subcontractor shows that it made efforts to ascertain its legal obligations and to follow the law, and that its actions under the circumstances were objectively reasonable. For example, if a contractor or subcontractor acts in reasonable reliance on advice from a responsible official from the relevant enforcement agency, or an administrative or authoritative judicial ruling, such reliance will typically demonstrate good faith and reasonable grounds. This factor may also apply where the contractor's or subcontractor's legal obligations are unclear, such as when a new statute, rule, or standard is first implemented.

7. Significant Period of Compliance Following Violations

If, following one or more violations within the three-year reporting period, the contractor or subcontractor maintains a steady period of compliance with the Labor Laws, such compliance may mitigate the existence of prior violations (*e.g.,* violations were reported from 2½ years ago and there have been none since).

IV. Paycheck Transparency Provisions

Transparency in the relationships between employers and their workers is critical to workers' understanding of their legal rights and to the resolution of workplace disputes. When workers lack information about how their pay is calculated and their status as employees or independent contractors, workers are less aware of their rights and employers are less likely to comply with labor laws. Providing workers with information about how their pay is calculated each pay period will enable workers to raise any concerns about pay more quickly, and will encourage proactive efforts by employers to resolve such concerns. Similarly, providing workers who are classified as independent contractors with notice of their status will enable them to better understand their legal rights, evaluate their status as independent contractors, and raise any concerns during the course of the working relationship as opposed to after it ends (which will increase the likelihood that the employer and the worker will be able to resolve any concerns more quickly and effectively). Thus, the Order's paycheck transparency provisions will increase transparency in compensation information and improve working relationships.

A. Wage Statement

The Order requires contracting agencies to ensure that, for covered procurement contracts, provisions in solicitations and clauses in contracts require contractors to provide all workers under the contract for whom they must maintain wage records under the FLSA, the DBA, the SCA, or equivalent State laws[25] with a ''document'' each pay period with ''information concerning that individual's hours worked, overtime hours, pay, and any additions made to or deductions made from pay.'' *See* § 5(a). Contracting agencies shall also ensure that contractors ''incorporate this same requirement'' into covered subcontracts. *Id.*

The Order requires that the wage statement be provided to ''all individuals performing work'' for whom the contractor or subcontractor is required to maintain wage records under the FLSA, the DBA, the SCA, or equivalent State laws. This means that a wage statement must be provided to every worker subject to the FLSA, the DBA, the SCA, or equivalent State laws regardless of the contractor's or subcontractor's classification of the worker as an employee or independent contractor.

The Order states that the wage statement provided to workers each pay period must be a ''document.'' If the contractor or subcontractor regularly provides documents to its workers by electronic means, the wage statement may be provided electronically if the worker can access it through a computer, device, system, or network provided or made available by the contractor or subcontractor.

The Order further provides that the wage statement must be issued every pay period and contain the total number of hours worked in the pay period and the number of those hours that were overtime hours. The FAR Council's proposed regulations would require, if the wage statement is not provided weekly and is instead provided bi-weekly or semi-monthly (because the pay period is bi-weekly or semi-monthly), that the hours worked and overtime hours contained in the wage statement be broken down to correspond to the period (which will almost always be weekly) for which overtime is calculated and paid. If the hours worked and overtime hours are aggregated in the wage statement for the entire pay period as opposed to being broken down by week, the worker may not be able to understand and evaluate how the overtime hours were calculated. For example, if the pay period is bi-weekly and the worker is entitled to overtime pay for hours worked over 40 in a week, then the wage statement must provide the hours worked and any overtime hours for the first week and the hours worked and any overtime hours for the second week.

The Order states that the wage statement must also contain the worker's pay—a reference to the gross pay due the worker for the pay period—as well as all additions to and deductions from the gross pay. Additions to pay may include bonuses, awards, and shift differentials. Deductions from pay include deductions required by law (such as withholding for taxes), voluntary

[24] In addition, there are two industry consensus standards that, if implemented, should be considered as mitigating factors for violations involving workplace safety and health. The American National Standards Institute (ANSI) and American Industrial Hygiene Association (AIHA) have published a voluntary consensus standard, ANSI/AIHA Z10—2005 Occupational Safety and Health Management Systems (ANSI/AIHA, 2005), and the Occupational Health and Safety Assessment Series (OHSAS) Project Group has produced a similar document, OHSAS 18001—2007 Occupational Health and Safety Management Systems (OHSAS Project Group, 2007). These consensus-based standards have been widely accepted in the world of commerce and adopted by many businesses on a voluntary basis. They all have a similar set of elements (management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement) that focus on finding all hazards and developing a workplace plan for prevention and control of those hazards.

[25] In a second proposed guidance to be published later in the **Federal Register**, the Department will identify those State laws that are equivalent to the FLSA, the DBA, and the SCA.

deductions by the worker (such as contributions to health insurance premiums or retirement accounts), and all other deductions or reductions made from gross pay regardless of the reason. Providing a worker with gross pay and all additions to and deductions from gross pay will necessarily allow the worker to understand the net pay received and how it was calculated.

According to the Order, the wage statement provided to workers who have no entitlement to overtime compensation under the FLSA ''need not include a record of hours worked if the contractor informs the individuals of their exempt status.'' *See* § 5(a). Because such workers are exempt from the FLSA's overtime compensation requirements, there will be no overtime hours to include on the wage statement.[26] To sufficiently inform a worker of exempt status so that the wage statement need not include hours worked, the contractor or subcontractor must provide written notice to the worker stating that the worker is exempt from the FLSA's overtime compensation requirements (oral notice is not sufficient).[27] If the contractor or subcontractor regularly provides documents to its workers by electronic means, the document may be provided electronically if the worker can access it through a computer, device, system, or network provided or made available by the contractor or subcontractor.

The wage statement requirements ''shall be deemed to be fulfilled'' where a contractor or subcontractor ''is complying with State or local requirements that the Secretary of Labor has determined are substantially similar to those required'' by the Order. *See* § 5(a). This proposed guidance, when final, will therefore include a list of the State and local jurisdictions that the Secretary determines to have wage statement requirements that are ''substantially similar'' to the Order's wage statement requirement (''Substantially Similar Wage Payment States''). Providing a worker in one of these States with a wage statement that complies with the requirements of that State would satisfy the Order's wage statement requirement.

As described above, substantially similar does not mean ''exactly the same.'' *Washam,* 312 F.3d at 930. Rather, two things may be substantially similar where they share ''essential elements in common.'' *Alameda Mall,* 649 F.3d at 392. The Secretary is considering two options for determining whether State or local requirements are substantially similar.

One option is to find a State or local requirement to be substantially similar where it requires wage statements to include the essential elements of overtime hours or overtime earnings, total hours, gross pay, and any additions or deductions. When overtime hours or earnings are disclosed in a wage statement, workers can identify from the face of the document whether they have been paid for overtime hours. The benefit of this option is that workers would be more likely to become aware of a problem with their paycheck at an earlier date, increasing the likelihood that the problem will be resolved efficiently. Applying this method, the current list of Substantially Similar Wage Payment States would be Alaska, California, Connecticut, the District of Columbia, Hawaii, New York, and Oregon.[28]

A second option would allow wage statements to omit overtime hours or earnings, so long as they instead include an element not listed in the Order—the ''rate of pay''—in addition to the essential elements of total hours, gross pay, and any additions or deductions. The benefit of this option is that it would allow more flexibility while still requiring wage statements to provide enough information for a worker to calculate whether he or she has been paid in full. By working backwards from the information provided—dividing the gross earnings by the number of hours worked and comparing the result to the rate of pay—the worker should be able to determine whether the paycheck includes payment for overtime hours. The drawback of this option is that a failure to pay overtime would not be immediately identifiable from the face of the document as it would be in the first option. Instead, workers would need to complete a calculation in order to catch an error. Thus, if the Department were to choose this second option, workers in some of the Substantially Similar Wage Payment States would be at greater risk of missing a problem with a paycheck than if the Department were to choose the first option. Applying this second method, the current list of Substantially Similar Wage Payment States would be Alaska, California, Connecticut, the District of Columbia, Hawaii, Massachusetts, Minnesota, New York, Oregon, Pennsylvania, Texas, Vermont, Washington, and Wisconsin.[29] The Department specifically seeks comments regarding the two options above. It is also open to considering other combinations of essential elements or other ways to determine whether State or local requirements are substantially similar.

After this proposed guidance is finalized, the Department will maintain on its Web site a list of the Substantially Similar Wage Payment States. The Secretary recognizes that States may change their wage statement laws, such that some States whose wage statement laws are initially designated as substantially similar may later weaken them, and other States whose laws are not initially designated as substantially similar may later strengthen them. When the Secretary determines that a State must be added to or removed from the list of Substantially Similar Wage Payment States, notice of such changes will be published on the Web site.[30] The Department may also issue All Agency Memoranda or similar direction to contracting agencies and the public to communicate updates to the list of the Substantially Similar Wage Payment States.

B. Independent Contractor Notice

The Order requires contractors and subcontractors, for workers under covered contracts for whom they are required to maintain wage records under the FLSA, the DBA, the SCA, or equivalent State laws, to provide those workers whom they treat as independent contractors with ''a document informing the individual of this [independent contractor] status.'' *See* § 5(a). For covered contracts, provisions in solicitations and clauses in contracts should be included requiring such notice to workers treated as independent contractors.

[26] Workers may be entitled to overtime under the FLSA, but under terms other than time-and-a-half for hours worked over 40 in a week. *See, e.g.,* 29 U.S.C. 207(j), (k). Such workers are not exempt from the FLSA's overtime requirements, and wage statements provided to them under the Order must contain a record of their hours worked.

[27] As specified in the FAR Council's proposed regulations, if a significant portion of the contractor's or subcontractor's workforce is not fluent in English, the document provided notifying the worker of exempt status must also be in the language(s) other than English in which the significant portion of the workforce is fluent.

[28] Oregon does not expressly require disclosure of overtime hours. However, Or. Admin. Rule 839–020–0012 requires that ''[i]f multiple rates of pay are paid, the total number of hours worked at each rate of pay'' must be included on the wage statement, and overtime pay is described as a ''rate of pay'' by Or. Admin. R. 839–020–0030.

[29] Neither of these two options would satisfy the Order's requirement that an employer inform workers of their status as exempt from overtime in order to provide a wage statement to exempt employees that does not include a record of hours worked.

[30] The same is true for local wage statement ordinances. The Department will list on the Web site any newly enacted local ordinances that are substantially similar.

The notice informing the worker of status as an independent contractor must be provided to each individual worker treated as an independent contractor before the worker performs any work under the contract. The notice must be a ''document'' (oral notice of independent contractor status is not sufficient).[31] The document must be separate from any contract entered into between the contractor or subcontractor and the independent contractor. If the contractor or subcontractor regularly provides documents to its workers by electronic means, the document may be provided electronically if the worker can access it through a computer, device, system, or network provided or made available by the contractor or subcontractor.

As of the effective date of the Order's independent contractor notice requirement, contractors and subcontractors must provide the required notice to each independent contractor then engaged to perform work under a covered contract. Thereafter, contractors and subcontractors must provide the notice to an independent contractor each time that he or she is engaged to perform work under a covered contract (and certainly before he or she performs any work under the contract). The notice provided is specific to a particular covered contract regardless of whether the worker performs the same type of work on another covered contract. If a worker who has performed work under a contract and who received notice that his or her status was as an independent contractor is engaged to perform work as an independent contractor under a different covered contract, then the contractor or subcontractor shall provide the worker with a new notice informing the worker of his or her status as an independent contractor for work performed under the different contract.

The provision of the notice to a worker informing the worker that he or she is an independent contractor does not mean that the worker is correctly classified as an independent contractor under applicable laws. The Department will not consider the notice when determining whether a worker is an independent contractor or employee. The determination of whether a worker is an independent contractor under a particular law remains governed by that law's definition of ''employee'' and its standards for determining for its purposes which workers are independent contractors and not employees.

V. Invitation To Comment

As discussed above, the Department, in its discretion, solicits comments on this proposed initial guidance document in the manner and before the date specified herein. After the comment period has ended, the Department will publish final guidance in the **Federal Register**.

This solicitation of public feedback is intended to improve the internal management of the Executive Branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its agencies or other entities, its officers or employees, or any other person.

VI. Next Steps

This proposed guidance is the first step in the phased implementation of the Order.

The Order requires the FAR Council to propose to amend the Federal Acquisition Regulation to incorporate the Order's requirements into the process by which contracting officers make pre-award responsibility determinations, among other necessary and appropriate proposed changes. *See* § 4(a). This proposed guidance, when finalized, will assist the FAR Council in promulgating regulations that will be binding for covered contracts. The Order further requires the GSA Administrator, in consultation with other relevant agencies, to develop a single Web site for Federal contractors to use for all Federal contract reporting requirements related to the Order to the extent practicable. *See* § 4(d). The final FAR rule will include the reporting Web site address for Federal contractors.

As indicated in this proposed guidance, the Department will publish in the **Federal Register** at a later date a second proposed guidance under this Order.

Signed this 19th day of May 2015.

Mary Beth Maxwell,

Principal Deputy Assistant Secretary, Office of the Assistant Secretary for Policy, U.S. Department of Labor.

Appendix A: Examples of Serious Violations

All violations of federal labor laws are serious, but in the context of Executive Order 13673, Fair Pay and Safe Workplaces, the Department of Labor has identified certain violations as ''serious,'' ''willful,'' ''repeated,'' and ''pervasive.'' This subset of all labor violations represents the violations that are most concerning and bear on the assessment of a contractor or subcontractor's integrity and business ethics. The Department has purposely excluded from consideration violations that could be characterized as inadvertent or minimally impactful. Ultimately, each contractor's disclosed violations of Labor Laws will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility.

The chart below includes a non-exhaustive list of examples of Labor Laws violations that may be found to be ''serious'' under the Department's proposed guidance for Executive Order 13673. *These are examples only: They are not minimum requirements, nor are they exclusive of other violations under each Labor Law that may be serious.* The chart does not include violations of ''equivalent state laws,'' which are also covered by the Order, but (with the exception of OSHA State Plans, which are addressed in the current proposed guidance) will be addressed in future guidance. Where the chart indicates that a violation is serious for more than one reason, this means that *either* of the reasons listed is an *independent* ground for finding that the violation is serious, as defined in the guidance.

Summary of Definition of ''Serious Violation''

The full definition of a ''serious violation'' is set forth in section III.A of the Department of Labor's proposed guidance. When evaluating violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, should refer to the full definition in the guidance.

In summary, the guidance provides that a violation of one of the Labor Laws is serious if it involves *at least one* of the following:

- An OSH Act or OSHA-approved State Plan citation was designated as serious, there was a notice of failure to abate an OSH Act violation, or an imminent danger notice was issued under the OSH Act or an OSHA-approved State Plan;
- The affected workers comprised 25% or more of the workforce at the worksite;

[31] As specified in the FAR Council's proposed regulations, if a significant portion of the contractor's or subcontractor's workforce is not fluent in English, the document notifying the worker of independent contractor status must also be in the language(s) other than English in which the significant portion of the workforce is fluent.

- Fines and penalties of at least $5,000 were assessed or back wages of at least $10,000 were due or injunctive relief was imposed by an enforcement agency or a court;
- The contractor's or subcontractor's conduct violated MSPA or the child labor provisions of the FLSA and caused or contributed to the death or serious injury of one or more workers;
- Employment of a minor who was too young to be legally employed or in violation of a Hazardous Occupations Order;
- The contractor or subcontractor engaged in an adverse employment action (including discharge, refusal to hire, suspension, demotion, or threat) or is responsible for unlawful harassment against one or more workers for exercising any right protected by any of the Labor Laws;
- The findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor engaged in a pattern or practice of discrimination or systemic discrimination;
- The findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor interfered with the enforcement agency's investigation; or
- The contractor or subcontractor breached the material terms of any agreement or settlement entered into with an enforcement agency, or violated any court order, any administrative order by an enforcement agency, or any arbitral award.

When evaluating Labor Laws violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, will review all of the above criteria to determine whether a violation is serious. The examples below are intended to illustrate how these criteria may arise in different contexts, but a violation will be serious if it meets *any* of the above criteria.

Labor law	Example of serious violation
Fair Labor Standards Act (FLSA)	The Wage and Hour Division of DOL (WHD) found that a contractor violated the minimum wage and overtime provisions of the FLSA. It issued the contractor a Form WH–56 ''Summary of Unpaid Wages,'' and also assessed civil monetary penalties. The back wages due totaled $75,000, and the civil monetary penalties assessed totaled $6,000. *This is a serious violation for two reasons. First, a violation of **any** of the Labor Laws is serious if fines and penalties of at least $5,000 were assessed. Second, a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Conversely, if the back wages due totaled less than $10,000 **and** the civil monetary penalties assessed had totaled less than $5,000, the violation would not be a serious violation, assuming that none of the other criteria for seriousness listed above are met.*
	WHD finds that a meat processor employed 10 workers under the age of 18 to operate power-driven meat processing machines, such as slicers, saws, and choppers. One of these workers died in an accident involving one of the machines. *This is a serious violation for two reasons. First, a violation of FLSA's child labor provisions is serious if it involves the employment of a minor too young to be legally employed or in violation of a Hazardous Occupations Order. The employment of minors in the above-described occupation is prohibited under Hazardous Occupation Order No. 10. Second, a violation of FLSA's child labor provisions is serious if it causes or contributes to the death or serious injury of one or more workers. Conversely, the employment of, for example, a 14- or 15-year-old minor in excess of three hours outside school hours on a school day in a non-hazardous, non-agricultural job in which the child is otherwise permitted to work would not be a serious violation, assuming that none of the other criteria for seriousness listed above are met.*
Occupational Safety and Health (OSH) Act.	OSHA issued a citation for failing to protect against fall hazards on a construction worksite. The citation was designated as ''serious.'' *This is a serious violation because all citations designated as serious by OSHA (or an OSHA State Plan) are serious under the Order. Conversely, if OSHA (or the equivalent state agency under an OSHA State Plan) had designated the violation as ''other-than-serious,'' the violation would not be a serious violation under the Order.*
Migrant and Seasonal Agricultural Worker Protection Act (MSPA).	WHD issued a letter indicating that an investigation had disclosed a violation of MSPA that contributed to the serious injury of a worker. *This is a serious violation because a violation of MSPA is serious if it caused or contributed to the death or serious injury of one or more workers. Conversely, if WHD issued a letter indicated that the investigation had disclosed that 3 of the 50 MSPA workers at a job site did not receive their wages when due, and those wages totaled $1,000 and the civil monetary penalties totaled $500, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
National Labor Relations Act (NLRA)	The General Counsel of the National Labor Relations Board (NLRB) issued a complaint alleging that the contractor fired the employee who was the lead union adherent during the union's organizational campaign. *This is a serious violation because a violation of **any** of the Labor Laws is serious where the contractor or subcontractor engaged in an adverse employment action (including discharge, refusal to hire, suspension, demotion, or threat) or is responsible for unlawful harassment against one or more workers for exercising any right protected by any of the Labor Laws. Conversely, if the NLRB's complaint had instead alleged that the contractor had, for example, denied a single employee a collectively-bargained benefit (for example, a vacation to which the employee was entitled based on her seniority), the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Davis-Bacon Act (DBA)	WHD issued a letter indicating that a contractor violated the DBA, and that back wages were due in the amount of $12,000. The contractor had previously been investigated by WHD and, to resolve that investigation, had entered into a written agreement to pay the affected workers prevailing wages as required by the DBA.

Labor law	Example of serious violation
	*This is a serious violation for two reasons. First, a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Second, a violation of **any** of the Labor Laws is serious if the contractor or subcontractor breached the material terms of any agreement or settlement entered into with an enforcement agency. Conversely, if WHD issued a letter indicating that a contractor owed several workers a total of $8,000, and the contractor's conduct did not constitute a breach of a prior agreement or meet any of the other criteria for seriousness listed above, the violation would not be serious.*
Service Contract Act (SCA)	An ALJ issued an order finding a food service company violated the SCA by failing to provide the required amount of health and welfare benefits to 35 of its 100 workers at a particular location. The order included a finding that the contractor interfered with WHD's investigation by threatening to fire workers who spoke to WHD investigators.
	*This is a serious violation for two reasons. First, a violation of **any** any of the Labor Laws is serious if the affected workers comprise 25% or more of the workforce at the worksite. Second, a violation of **any** of the Labor Laws is serious where the findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor interfered with the enforcement agency's investigation. Conversely, if the ALJ's order had indicated that the contractor owed back wages to only 10 of the 100 SCA-covered workers at the location, and did not contain a finding of interference, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Executive Order 11246 (Equal Employment Opportunity).	OFCCP issued a show cause notice indicating that an investigation had disclosed that a contractor had discriminated against African-American and Hispanic job seekers in violation of EO 11246. OFCCP had determined that back wages were due to job applicants in an amount upwards of $50,000. The contractor subsequently settled the case with OFCCP for a total of $30,000 in back wages.
	*This is a serious violation for two reasons. First, a violation of **any** of the Labor Laws is serious if findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor engaged in a pattern or practice of discrimination or systemic discrimination. Second, a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Conversely, if OFCCP issued a show cause notice indicating that the investigation disclosed that the contractor had discriminated against only a few such job seekers, and the amount of back wages due was only $9,000, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Section 503 of the Rehabilitation Act	The ARB affirmed an ALJ order directing the contractor to change a practice of medical screenings that discriminated against job applicants with disabilities—and that were not job-related or consistent with business necessity—in violation of Section 503.
	*This is a serious violation for two reasons. First, a violation of **any** of the Labor Laws is serious if injunctive relief is imposed by an enforcement agency or court. Second, a violation of **any** of the Labor Laws is serious if the findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor engaged in a pattern or practice of discrimination or systemic discrimination. Conversely, if the ARB had found that the contractor's practice of medical screenings was generally not discriminatory, but that the contractor had discriminated against two specific disabled job applicants in another fashion, and the ARB did not order the contractor to take any specific actions, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).	OFCCP issued a show cause notice indicating that an investigation had disclosed that a contractor had discriminated against a veteran job applicant, and that back wages were due to the job applicant in an amount upwards of $10,000.
	*This is a serious violation because a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Conversely, if OFCCP had determined that the job applicant was due only $5,000 in back wages, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Family and Medical Leave Act (FMLA)	The Secretary of Labor filed a complaint in federal court after an investigation found that a contractor fired a worker in retaliation for taking FMLA leave.
	*This is a serious violation because a violation of **any** of the Labor Laws is serious where the contractor or subcontractor engaged in an adverse employment action (including discharge, refusal to hire, suspension, demotion, or threat) or is responsible for unlawful harassment against one or more workers for exercising any right protected by any of the Labor Laws. Conversely, had the Secretary filed a complaint in federal court alleging that a contractor improperly denied an employee two weeks of FMLA leave but did not take any adverse employment action against the employee, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Title VII of the Civil Rights Act of 1964	The EEOC filed a complaint in federal court after an investigation found that the contractor engaged in a pattern or practice of discrimination under Title VII.
	*This is a serious violation because a violation of **any** of the Labor Laws is serious if the findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor engaged in a pattern or practice of discrimination or systemic discrimination. Conversely, had the EEOC's complaint alleged that the contractor discriminated against only a single individual, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Americans with Disabilities Act of 1990 (ADA).	In a private action under the ADA brought in federal district court, the court issued injunctive relief to the plaintiff, ordering the contractor to cease violating the ADA, to rehire the plaintiff, and to provide the plaintiff a reasonable accommodation for her disability.

Labor law	Example of serious violation
	*This is a serious violation because a violation of **any** of the Labor Laws is serious if injunctive relief is imposed by an enforcement agency or court. Conversely, had the court's relief been limited to an award of damages, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Age Discrimination in Employment Act of 1967 (ADEA).	In a private action brought in federal district court, the factfinder found that the contractor unlawfully discriminated against the plaintiff on the basis of age when it discharged the plaintiff. The court awarded back wages of $50,000 to the plaintiff.
	*This is a serious violation because a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Conversely, had the court awarded only $8,000 in back wages, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*
Executive Order 13658 (Minimum Wage for Contractors).	WHD issued an investigative findings letter indicating that an investigation disclosed a violation of Executive Order 13658 and finding that a total of $15,000 in back wages are due.
	*This is a serious violation because a violation of **any** of the Labor Laws is serious if back wages of at least $10,000 were due. Conversely, had WHD's investigative findings letter indicated that only $1,500 in back wages were due, the violation would not be serious, assuming that none of the other criteria for seriousness listed above are met.*

Appendix B: Examples of Willful Violations

All violations of federal labor laws are serious, but in the context of Executive Order 13673, Fair Pay and Safe Workplaces, the Department of Labor has identified certain violations as ''serious,'' ''willful,'' ''repeated,'' and ''pervasive.'' This subset of all labor violations represents the violations that are most concerning and bear on the assessment of a contractor or subcontractor's integrity and business ethics. The Department has purposely excluded from consideration violations that could be characterized as inadvertent or minimally impactful. Ultimately, each contractor's disclosed violations of Labor Laws will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility.

The chart below includes a non-exhaustive list of examples of Labor Laws violations that may be found to be ''willful'' under the Department's proposed guidance for Executive Order 13673. *These are examples only: They are not minimum requirements, nor are they exclusive of other violations under each Labor Law that may be willful.* The chart does not include violations of ''equivalent state laws,'' which are also covered by the Order, but (with the exception of OSHA State Plans, which are addressed in the current proposed guidance) will be addressed in future guidance.

Summary of Definition of ''Willful Violation''

The full definition of a ''willful violation'' is set forth in section III.B of the Department of Labor's proposed guidance. When evaluating violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, should refer to the full definition in the guidance.

In summary, the guidance provides that a violation of one of the Labor Laws is willful if:

- For purposes of a citation issued pursuant to the Occupational Safety and Health (OSH) Act or an OSHA-approved State Plan, the citation at issue was designated as willful or any equivalent State designation (*i.e.*, ''knowing''), and the designation was not subsequently vacated;
- For purposes of the Fair Labor Standards (including the Equal Pay Act), the administrative merits determination sought or assessed back wages for greater than two years or sought or assessed civil monetary penalties for a willful violation, or there was a civil judgment or arbitral award or decision finding the contractor or subcontractor liable for back wages for greater than two years or affirming the assessment of civil monetary penalties for a willful violation;
- For purposes of the Age Discrimination in Employment Act (ADEA), the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded liquidated damages;
- For purposes of Title VII or the Americans with Disabilities Act, the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded punitive damages for a violation where the contractor or subcontractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual; or
- For purposes of any of the other Labor Laws, the findings of the relevant enforcement agency, court, arbitrator or arbitral panel support a conclusion that the contractor or subcontractor knew that its conduct was prohibited by any of the Labor Laws or showed reckless disregard for, or acted with plain indifference to, whether its conduct was prohibited by one or more requirements of the Labor Laws.

When evaluating Labor Laws violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, will review all of the above criteria to determine whether a violation is willful. The examples below are intended to illustrate how these criteria may arise in different contexts, but a violation will be willful if it meets *any* of the above criteria.

Labor law	Example of willful violation
Fair Labor Standards Act (FLSA)	In a private lawsuit under the FLSA, a federal district court issued an order requiring payment of three years of back wages after finding that a contractor willfully violated the FLSA overtime regulations by paying workers for 40 hours by check and then paying them in cash at a straight-time rate for hours worked over 40.
	This is a willful violation because FLSA violations are willful under the Order if back wages for greater than two years are assessed. Conversely, if the court had ordered the payment of back wages for only two years, the violation would not be willful under the Order.
	WHD finds that a contractor employed a 13-year-old child to operate a forklift. In recognition of the contractor's reckless disregard of its obligations under child labor laws, WHD assesses the contractor civil monetary penalties for the violation.

Labor law	Example of willful violation
	This is a willful violation because civil monetary penalties were assessed on the grounds that the violation was willful under the FLSA. Conversely, if, for example, WHD had found that a contractor had inadvertently allowed a 15-year-old, who was about to turn 16 years old, to work as a file clerk during school hours, and WHD did not assess any civil monetary penalties, the violation would not be willful under the Order.
Occupational Safety and Health (OSH) Act.	The Indiana Commissioner of Labor issued a Safety Order finding that a refinery committed a ''knowing'' violation of the Indiana Occupational Safety and Health Act (an OSHA State Plan) by failing to properly train truck drivers in a propane loading system, which resulted in an explosion. *This is a willful violation because all citations designated as willful by OSHA—or equivalent state documents designated similarly (e.g., as ''knowing'') by an OSHA State Plan—are willful under the Order. Conversely, had the Safety Order not designated the violation as willful or some other equivalent state designation, the violation would not be willful under the Order.*
Migrant and Seasonal Agricultural Worker Protection Act (MSPA).	An ALJ issued an order finding that the contractor was warned by an official from WHD that the housing the contractor was providing to migrant and seasonal agricultural workers did not comply with required safety and health standards and that the contractor then failed to make the required repairs or corrections. *This is a willful violation because the findings of the ALJ support a conclusion that the contractor knew, based on the warning of the WHD official, that its conduct was prohibited by law, yet continued to engage in the prohibited conduct. Conversely, if, for example, the ALJ's findings indicated that the contractor did not receive any warning from WHD and, after making a reasonable inquiry into its legal obligations, believed in good faith that its housing was fully in compliance with the relevant standards, the violation would not be willful under the Order.*
National Labor Relations Act (NLRA)	The NLRB issued a decision finding that a unionized roofing contractor set up a non-union alter ego corporation to avoid paying its employees the wages and benefits provided in its contract with the union. *This is a willful violation because the NLRB's finding that the contractor formed the alter ego corporation supports a conclusion that the employer was aware of its requirements under the NLRA, yet engaged in the prohibited conduct anyway. Conversely, had the contractor, for example, inadvertently failed to pay its workers the benefits specified in its contract because a human resources specialist had incorrectly calculated the workers' seniority, the violation would not be willful.*
Davis-Bacon Act (DBA)	An ALJ order affirming a violation of the DBA included a finding that the contractor manipulated payroll documents to make it appear as if it had paid workers the required prevailing wages. *This is a willful violation because the findings of the ALJ support a conclusion that the contractor knew that its conduct was prohibited by the DBA. The ALJ's finding that documents were falsified indicates that the contractor knew that it was required to pay the workers prevailing wages, yet paid them less anyway. Conversely, had the contractor, for example, failed to pay certain workers prevailing wages because of a good-faith misunderstanding about the workers' proper classification for the purpose of DBA wage determinations, the violation would not be willful.*
Service Contract Act (SCA)	The DOL's Administrative Review Board (ARB) affirmed WHD's determination that a contractor violated the SCA. The order included a finding that the contractor documented the wages as paid, but required the workers to kick back a portion of their wages to the contractor. *This is a willful violation because the findings of the ARB support a conclusion that the contractor knew that its conduct was prohibited by the SCA. The finding that the contractor required the workers to kick back wages paid indicates that the contractor knew that it was required to pay the workers prevailing wages, yet paid them less anyway. Conversely, had the ARB found, for example, that employees were not paid their required SCA wages because the contractor's payroll system, due to a systems error, failed to include the most up-to-date SCA wage determinations, the violation would not be willful.*
Executive Order 11246 (Equal Employment Opportunity).	An ALJ decision found that a contractor's vice president knew that federal law prohibits discrimination on the basis of gender, but had a policy of not promoting women to managerial positions. *This is a willful violation because the findings of the ALJ support a conclusion that the contractor knew that its discrimination was prohibited by law, but engaged in the conduct anyway. Conversely, had the contractor used a neutral procedure for selecting employees for promotion and validated this procedure in accordance with OFCCP regulations, but the procedure was ultimately determined by the ALJ to be discriminatory on the basis of gender because the contractor did not fully comply with validation requirements, the violation would not be willful.*
Section 503 of the Rehabilitation Act	An ARB decision found that a contractor refused to hire any individuals with physical disabilities, and that in doing so, the contractor made no attempt whatsoever to determine whether any of these individuals' disabilities would affect their abilities to do the jobs for which they applied. *This is a willful violation because the findings of the ARB support a conclusion that the contractor acted in reckless disregard of its obligations under Section 503 of the Rehabilitation Act. Conversely, had the ARB found that the contractor made good-faith efforts to determine whether the applicants' disabilities affected their abilities to do the jobs for which they applied, but submitted insufficient evidence to support its claim that accommodations would impose an undue burden, the violation would not be willful.*
Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).	An ALJ decision finding hiring discrimination in violation of VEVRAA made a factual finding that each time a veteran covered by VEVRAA's protections applied for a job with a contractor, the reasons cited by the contractor as a basis not to hire that individual were pretextual.

Labor law	Example of willful violation
	This is a willful violation because the findings of the ALJ support a conclusion that the contractor knew that its conduct was prohibited by VEVRAA, yet sought to hide its discriminatory practices by creating pretextual reasons for its refusal to hire covered veterans. Conversely, had the contractor used a neutral procedure for selecting employees that the contractor claimed was job-related and consistent with business necessity, but the procedure was ultimately determined by the ALJ to be discriminatory against veterans, the violation would not be willful.
Family and Medical Leave Act (FMLA)	After suit in federal district court by a private litigant, the court issued a decision that included findings that the contractor's employee handbook provided for unpaid leave to employees with serious health conditions as required by the FMLA, but that the contractor in practice erected unnecessary hurdles to employees requesting such leave.
	This is a willful violation because the court's findings support a conclusion that the contractor knew of its requirements under the FMLA, yet violated these requirements. Conversely, had the court's decision instead found that the contractor's actions were based on a good-faith misunderstanding of the FMLA's provisions concerning medical certification, the violation would not be willful.
Title VII of the Civil Rights Act of 1964	After a federal district court trial finding the contractor liable for sexual harassment, the factfinder assessed punitive damages after finding that the contractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual because the employer's anti-harassment policy was ineffective and a manager, after receiving a complaint of sexual harassment, failed to report it or investigate it.
	This is a willful violation because Title VII violations are willful under the Order if the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded punitive damages for a violation where the contractor or subcontractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual. Conversely, had the district court not awarded any punitive damages, the violation would not be willful.
Americans with Disabilities Act of 1990 (ADA).	After a trial in federal court, the factfinder assessed punitive damages after finding that the contractor engaged in an ADA-prohibited discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual, and the contractor could not demonstrate good faith.
	This is a willful violation because ADA violations are willful under the Order if the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded punitive damages for a violation where the contractor or subcontractor engaged in a discriminatory practice with malice or reckless indifference to the federally protected rights of an aggrieved individual. Conversely, had the factfinder not assessed punitive damages, the violation would not be willful.
Age Discrimination in Employment Act of 1967 (ADEA).	An arbitral award included liquidated damages for a willful violation of the ADEA.
	This is a willful violation because ADEA violations are willful under the Order if the enforcement agency, court, arbitrator, or arbitral panel assessed or awarded liquidated damages. Conversely, had the arbitrator not awarded any liquidated damages, the violation would not be willful.
Executive Order 13658 (Minimum Wage for Contractors).	An ALJ order affirming a violation of Executive Order 13658 included a finding that the employer, an experienced and sophisticated government contractor, made no effort whatsoever to determine what its minimum wage obligations were or whether its workers were employees or independent contractors, but instead chose to pay them a flat fee that fell well short of the requirements of Executive Order 13658.
	This is a willful violation because the ALJ order shows that the contractor made no effort whatsoever to learn or understand whether it was complying with the law, which supports a conclusion that the contractor was acting in reckless disregard or plain indifference of its requirements under Executive Order 13658. Conversely, if the employer in question was a small business and a new federal government contractor and the employer, after reading the regulations implementing Executive Order 13658, mistakenly concluded in good faith that it was not covered by these minimum wage requirements, the violation would not be willful.

Appendix C: Examples of Repeated Violations

All violations of federal labor laws are serious, but in the context of Executive Order 13673, Fair Pay and Safe Workplaces, the Department of Labor has identified certain violations as ''serious,'' ''willful,'' ''repeated,'' and ''pervasive.'' This subset of all labor violations represents the violations that are most concerning and bear on the assessment of a contractor or subcontractor's integrity and business ethics. The Department has purposely excluded from consideration violations that could be characterized as inadvertent or minimally impactful. Ultimately, each contractor's disclosed violations of Labor Laws will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility.

The chart below includes a non-exhaustive list of examples of Labor Laws violations that may be found to be ''repeated'' under the Department's proposed guidance for Executive Order 13673. *These are examples only: They are not minimum requirements, nor are they exclusive of other violations under each Labor Law that may be repeated.* The chart does not include violations of ''equivalent state laws,'' which are also covered by the Order, but (with the exception of OSHA State Plans, which are addressed in the current proposed guidance) will be addressed in future guidance.

Summary of Definition of ''Repeated Violation''

The full definition of a ''repeated violation'' is set forth in section III.C of the Department of Labor's proposed guidance. When evaluating violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, should refer to the full definition in the proposed guidance.

In summary, the guidance provides that a violation of one of the Labor Laws is repeated if it is the same as or substantially similar to one or more other violations of the Labor Laws by the contractor or subcontractor. ''Substantially similar'' does not mean exactly the same; rather, two things may be substantially similar where they share essential elements in common. Whether violations fall under the same Labor Law is not determinative of whether the requirements underlying those violations are substantially similar; rather, this inquiry turns on the nature of the violation and underlying obligation itself.

The same or substantially similar other violation(s) must be reflected in one or more civil judgments, arbitral awards or decisions, or adjudicated or uncontested administrative merits determinations issued within the last three years, and must be the subject of one or more separate investigations or proceedings. Repeated violations may be considered on an enterprise-wide basis; thus, a prior violation by any establishment of a multi-establishment enterprise can render subsequent violations repeated, provided the other relevant criteria are satisfied.

The guidance provides further detail on the meaning of an ''adjudicated or uncontested'' administrative merits determination, what constitutes a ''substantially similar'' violation, and other aspects of the definition.

When evaluating Labor Laws violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, will review the full definition to determine whether a violation is repeated. The examples below are intended to illustrate how the definition may be applied in different contexts, but a violation can be deemed repeated as long as it meets the criteria set forth in the guidance.

Labor law	Example of repeated violation
Fair Labor Standards Act (FLSA)	The Wage and Hour Division (WHD) found that a software company violated overtime provisions of the FLSA after misclassifying employees at one facility as independent contractors. The company did not dispute the violation and agreed to pay back wages by signing a Form WH–56. A year later, the Secretary filed a complaint in federal court stating that an investigation of a different facility of the same company disclosed violations of the FLSA minimum wage provision. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an uncontested administrative merits determination. The first violation is ''uncontested'' because the company did not dispute the violation. The violations are substantially similar because even though the first violation involved overtime and the second involved minimum wage, both violations involved failure by the same company to pay workers their proper wages. Conversely, had one of the two violations instead involved, for example, the company's failure to follow the FLSA's requirements to provide break time for nursing mothers, the violations would not be substantially similar and the second violation therefore would not be repeated.*
Occupational Safety and Health (OSH) Act.	OSHA issued a citation to a contractor for failing to provide fall protection on a residential construction site. The citation was later affirmed by an administrative law judge (ALJ) at the Occupational Safety and Health Review Commission (OSHRC). OSHA later issued a second citation against the same contractor for failing to provide fall protection at a commercial construction site. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an adjudicated administrative merits determination. The first citation is an ''adjudicated'' administrative merits determination once it is affirmed by the ALJ, because the contractor had an opportunity to contest the citation and present its case before the ALJ. Had the ALJ reversed the first citation, the second violation would not be a repeated violation. (Had the employer not contested the first violation at all, it would be an ''uncontested'' administrative merits determination and the second violation would be ''repeated'' for that reason.) The second violation is substantially similar to the first because even though residential and commercial construction sites have different regulatory standards for fall protection, the hazards involved are substantially similar. Conversely, had one of the two violations instead involved, for example, the contractor's failure to properly store hazardous materials, the violations would not be substantially similar and the second violation therefore would not be repeated.*
Migrant and Seasonal Agricultural Worker Protection Act (MSPA).	A district court issued an order enjoining a farm labor contractor's practice of requiring workers to purchase goods or services solely from a particular company, in violation of MSPA. Later, the Wage and Hour Division assessed civil monetary penalties after finding that the farm labor contractor failed to pay MSPA-covered workers their wages when due. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in a civil judgment. Even though the violations are not identical, under MSPA, multiple violations of the statute's requirements pertaining to wages, supplies, and working arrangements are substantially similar. (Likewise, under MSPA, any two violations of any of MSPA's requirements related to health and safety are substantially similar to each other. The same is true for any two violations of the statute's disclosure and recordkeeping requirements, or any two violations related to its registration requirements.) Conversely, had the contractor, for example, committed one MSPA violation for requiring workers to purchase goods or services solely from a particular company, and a second MSPA violation for failure to comply with MSPA's transportation safety standards, the violations would not be substantially similar and the second violation therefore would not be repeated.*
National Labor Relations Act (NLRA)	An National Labor Relations Board (NLRB) Administrative Law Judge (ALJ) issued a decision finding that a contractor violated section 8(a)(3), which prohibits employers from discriminating against employees for engaging in or refusing to engage in union activities, by discharging employees who led a union organizational campaign. Two years later, a Regional Director issued a complaint under section 8(a)(3) against the same contractor at a different location for discharging two union representatives at a plant after they organized a one-day strike to protest low wages.

Labor law	Example of repeated violation
	The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an adjudicated administrative merits determination. The first violation is an "adjudicated" administrative merits determination because the contractor had an opportunity to contest the violation and present its case before the ALJ. The violations are substantially similar because both involved discharges under section 8(a)(3) of the NLRA. Conversely, had one of the two violations been a violation of section 8(a)(2), which prohibits an employer from dominating or interfering with the formation nor administration of a labor union through financial support or otherwise—for example, had the contractor offered assistance to one union but not to another during an organizational campaign—the two violations would not be substantially similar and the second violation would therefore not be repeated.
Davis-Bacon Act (DBA)	A federal district court granted a preliminary injunction enjoining a contractor from further violations of the overtime provisions of the FLSA. Subsequently, WHD sent the contractor a letter finding that the contractor violated the DBA by failing to pay workers at a different worksite their prevailing wages. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in a civil judgment. Even though the contractor violated two different statutes, the violations are substantially similar because both involve the practice of failing to pay wages required by law. Conversely, had the first violation instead involved, for example, the contractor's failure to provide a reasonable accommodation to an employee with a disability under the ADA, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Service Contract Act (SCA)	The Department's Administrative Review Board (ARB) issued an order finding that a contractor failed to pay workers covered by Executive Order 13658 the minimum wage of $10.10 per hour. Subsequently, WHD issued a letter indicating that an investigation disclosed a violation of the SCA because the contractor failed to pay service workers their required amount of fringe benefits. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an adjudicated administrative merits determination. The first violation is an "adjudicated" administrative merits determination because the contractor had an opportunity to contest the violation and present its case before the ARB. Even though the contractor violated two different Labor Laws, the violations are substantially similar because both involve the practice of failing to pay wages required by law. Conversely, if the first violation was the subject of a determination by the Department's Wage and Hour Division that the contractor challenged before an ALJ, and the ALJ proceeding was still pending at the time of the second violation, the second violation would not be a repeated violation because the first violation would not be an adjudicated or uncontested administrative merits determination.*
Executive Order 11246 (Equal Employment Opportunity).	An arbitrator found that a contractor created a hostile work environment for African-American workers in violation of Title VII. Subsequently, OFCCP issued a show cause notice finding that the same contractor failed to comply with the nondiscrimination requirements of Executive Order 11246 by failing to hire qualified Asian workers. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an arbitral award. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same or an overlapping protected status. In this case, both violations involved discrimination on the basis of race. Conversely, if the first violation had instead involved discrimination by the contractor on the basis of gender, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Section 503 of the Rehabilitation Act	A federal district court granted a private plaintiff summary judgment in a claim against a contractor under the ADA alleging constructive discharge and the failure to provide a reasonable accommodation for the plaintiff's disability. Subsequently, the ARB affirmed an ALJ order directing the same contractor to change a practice of medical screenings that discriminated against job applicants with disabilities in violation of Section 503 of the Rehabilitation Act. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in a civil judgment. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same or an overlapping protected status. In this case, both violations involved discrimination on the basis of a disability. Conversely, if the first violation had instead involved the contractor's failure to provide a reasonable accommodation of an employee's religious beliefs under Title VII, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA).	An ALJ issued an order finding that the contractor violated VEVRAA by discriminating against protected veterans during the hiring process. Subsequently, in a separate compliance evaluation, OFCCP issued a show cause notice indicating that the same contractor failed to promote employees who were protected veterans to higher-level positions. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an adjudicated administrative merits determination. The first violation is an "adjudicated" administrative merits determination because the contractor had an opportunity to contest the violation and present its case before the ALJ. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same or an overlapping protected status. In this case, both violations involved discrimination on the basis of protected veterans' status. Conversely, if the first violation had instead involved discrimination on the basis of race under Executive Order 11246, the two violations would not be substantially similar and the second violation would therefore not be repeated.*

Labor law	Example of repeated violation
Family and Medical Leave Act (FMLA)	A court found that a contractor had failed to reinstate an employee to the same or an equivalent position after the employee took FMLA leave. Subsequently, the Wage and Hour Division, after an investigation, filed suit against the employer challenging the employer's denial of another employee's request for FMLA leave. *The second violation is repeated because it is substantially similar to a prior violation that was reflected in a civil judgment. Although the violations are not identical, under the FMLA, any two violations would generally be considered substantially similar to each other, with the exception of violations of the notice requirements. Conversely, had the first violation involved the contractor's failure to provide notice to employees of their FMLA rights and the second involved either denial of leave or failure to reinstate an employee, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Title VII of the Civil Rights Act of 1964	OFCCP issued a show cause notice finding that the contractor violated Executive Order 11246 by systemically paying women at one of its locations less than similarly situated men. The contractor did not contest the show cause notice and eventually settles the matter. Subsequently, the EEOC issued a letter of determination that reasonable cause existed to believe that the same contractor had engaged in unlawful harassment against women at another one of its locations. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an uncontested administrative merits determination. The first violation is ''uncontested'' because the company did not dispute the violation. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same protected status. In this case, both violations involved discrimination on the basis of gender. Conversely, if the contractor had challenged the first notice before an ALJ and if the proceeding was still pending at the time of the second violation, the second violation would not be a repeated violation because the first violation would not be an adjudicated or uncontested administrative merits determination.*
Americans with Disabilities Act of 1990 (ADA).	The ARB affirmed an ALJ order under Section 503 of the Rehabilitation Act directing the contractor to grant reasonable accommodations to employees with visual impairments. Subsequently, a federal district court granted a private plaintiff summary judgment in her ADA claim of constructive discharge. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an adjudicated administrative merits determination. The first violation is an ''adjudicated'' administrative merits determination because the contractor had an opportunity to contest the violation and present its case before the ALJ. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same protected status. In this case, both violations involved discrimination on the basis of a disability. Conversely, had one of the two violations involved, for example, failure to grant FMLA leave to an employee for birth of a child, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Age Discrimination in Employment Act of 1967 (ADEA).	An arbitrator found that a contractor violated the ADEA by constructively discharging several employees over the age of 60. Subsequently, in an ADEA private action brought in federal district court, the court found that the contractor unlawfully discriminated against the plaintiff on the basis of age when it failed to hire him. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in an arbitral award. These violations are substantially similar because violations of Title VII, Section 503, the ADA, the ADEA, the Equal Pay Act, Executive Order 11246, and VEVRAA are substantially similar when they involve the same protected status. In this case, both violations involved discrimination on the basis of age. Conversely, had one of the two violations involved, for example, discrimination on the basis of the employee's status as a protected veteran, the two violations would not be substantially similar and the second violation would therefore not be repeated.*
Executive Order 13658 (Minimum Wage for Contractors).	In a private action, a federal court of appeals affirmed a finding that the contractor was liable for failing to pay wages due under the FLSA. Subsequently, WHD issued an Investigative Findings Letter stating that an investigation disclosed a violation of Executive Order 13658. *The second violation is a repeated violation because it is substantially similar to a prior violation reflected in a civil judgment. Even though the contractor violated two different Labor Laws, the violations are substantially similar because both involve the practice of failing to pay wages required by law. Conversely, had one of the two violations involved, for example, the contractor's violation of the OSH Act for failure to properly abate workplace hazards, the two violations would not be substantially similar and the second violation would therefore not be repeated.*

Appendix D: Examples of Pervasive Violations

All violations of federal labor laws are serious, but in the context of Executive Order 13673, Fair Pay and Safe Workplaces, the Department of Labor has identified certain violations as ''serious,'' ''willful,'' ''repeated,'' and ''pervasive.'' This subset of all labor violations represents the violations that are most concerning and bear on the assessment of a contractor or subcontractor's integrity and business ethics. The Department has purposely excluded from consideration violations that could be characterized as inadvertent or minimally impactful. Ultimately, each contractor's disclosed violations of Labor Laws will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility.

The chart below includes a non-exhaustive list of examples of Labor Laws violations that may be found to be ''pervasive'' under the Department's proposed guidance for Executive Order 13673. *These are examples only: they are not minimum requirements, nor are they exclusive of other violations under each Labor Law that may be pervasive.* The chart does not include violations of ''equivalent state laws,'' which are also covered by the Order, but (with the exception of OSHA State Plans, which are addressed in the current proposed guidance) will be addressed in future guidance.

Summary of Definition of ''Pervasive Violation''

The full definition of a ''pervasive violation'' is set forth in section III.D of the Department of Labor's proposed guidance. When evaluating violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, should refer to the full definition in the proposed guidance.

In summary, the guidance provides that violations of the Labor Laws are ''pervasive'' if they reflect a basic disregard by the contractor or subcontractor for the Labor Laws as demonstrated by a pattern of serious or willful violations, continuing violations, or numerous violations. Violations must be multiple to be pervasive, although the number of violations necessarily depends on the size of the contractor or subcontractor, because larger employers, by virtue of their size, are more likely to have multiple violations. To be pervasive, the violations need not be of the same or similar requirements of the Labor Laws. Pervasive violations may exist where the contractor or subcontractor commits multiple violations of the same Labor Law, regardless of their similarity, or violations of more than one of the Labor Laws. This category is intended to identify those contractors and subcontractors whose numerous violations of Labor Laws indicate that they may view sanctions for their violations as merely part of the ''cost of doing business,'' an attitude that is inconsistent with the level of responsibility required by the FAR.

When evaluating Labor Laws violations, Labor Compliance Advisors and contracting officers, and contractors when evaluating subcontractors, will review the full definition to determine whether a violation is pervasive. Additionally, Labor Compliance Advisors, and contractors evaluating subcontractors, are strongly encouraged to consult with the Department of Labor when determining whether violations are pervasive. The examples below are intended to illustrate how the definition may be applied in different contexts, but a violation can be deemed pervasive as long as it meets the criteria set forth in the guidance.

Examples of Pervasive Violations (not specific to any particular statute)

A medium-sized company that provides janitorial services at federal facilities was found to have violated the SCA for failure to pay workers their required wages, Title VII for discrimination in hiring on the basis of national origin, the NLRA for demoting workers who are seeking to organize a union, and the FMLA for denying workers unpaid leave for serious health conditions.

These violations are pervasive because while the violations are substantively different from each other, a medium-sized employer that violates so many Labor Laws is demonstrating a basic disregard for its legal obligations to its workers and is committing pervasive violations.

A 100-employee IT consulting company was found to have violated EO 11246 for systematically failing to promote women to managerial positions, the FLSA for failing to pay workers overtime after misclassifying them as independent contractors, and the ADEA for constructively discharging employees who were age 60 or over.

These violations are pervasive because while substantively different from each other, a small employer that violates Labor Laws to this degree is demonstrating a basic disregard for its legal obligations to its workers and is committing pervasive violations.

The Wage and Hour Division issued several Form WH–103 ''Employment of Minors Contrary to The Fair Labor Standards Act'' notices finding that a clothing manufacturer that provides custom-made uniforms for federal employees employed numerous underage workers in violation of the child labor provisions of the FLSA. Despite receiving these notices, the contractor failed to make efforts to change its practices and continued to violate the FLSA's child labor provisions repeatedly.

These violations are pervasive because they are a series of repeated violations in which the contractor, despite knowledge of its violations and several repeated notices from WHD, failed to make efforts to change its practices and continued to violate the law repeatedly.

OSHA cited a small tools manufacturer with a single location multiple times for a variety of serious violations in the same investigation—once for improper storage of hazardous materials, once for failure to provide employees with protective equipment, once for inadequate safeguards on heavy machinery, once for lack of fall protection, once for insufficient ventilation, once for unsafe noise exposure, and once for inadequate emergency exits. The manufacturer does not have a process for identifying and eliminating serious health hazards.

These violations are pervasive because such a high number of serious workplace safety and health violations relative to the size of a small company with only a single location and the lack of an effective process to identify and eliminate serious violations (hazards) in its workplace constitute basic disregard by the contractor for worker safety and health. Even though these violations would not be ''repeated'' because they arose during the same investigation and because they do not involve substantially similar hazards, they would be considered pervasive.

An ALJ at OSHRC found that although the chief safety officer at a chemical plant fielded complaints from workers about several unsafe working conditions, he failed to take action to remedy the unsafe conditions, resulting in numerous willful OSH Act violations.

These violations are pervasive because the dangerous working conditions were willfully sanctioned by a high-level company official and were evident throughout the chemical plant. When Labor Laws are violated with either the explicit or implicit approval of higher-level management, such approval signals that future violations will be tolerated or condoned, and may dissuade workers from reporting violations or raising complaints. Such violations also indicate that the company does not voluntarily eliminate hazards, but instead views penalties for such violations as ''the cost of doing business,'' rather than as indicative of significant threats to its workers' health and safety that must be addressed. Thus, to the extent that higher-level management officials were involved in violations themselves, or knew of violations and failed to have an effective process to identify and correct serious violations in their workplace, the violations are more likely to be deemed pervasive.

A large company that provides laundry services to military bases in several states is cited 50 times for serious OSHA violations over the span of one year. The violations affect most of its locations, and a number of the citations are for high gravity serious failures to abate dangerous conditions that OSHA had cited previously. As a result, the company is placed on OSHA's Severe Violator Enforcement Program.

These violations are pervasive, notwithstanding the large size of the contractor, because the sheer number of high gravity serious violations over such a short period of time is evidence that the company is ignoring persistent threats to workers' safety, fails to treat safety as a serious problem, and is acting in disregard of its legal obligations. Conversely, if the violations affected only a few of the company's facilities, or if the company had acted quickly to abate any violations, the violations might not necessarily be considered pervasive.

A federal district court decision in a class-action lawsuit included a finding that the vice president of a construction company directed a foreman not to hire Native American workers, and as a result, the company is found to have committed numerous Title VII violations against job applicants.

These violations are pervasive because a high-level company official actively participated in the discriminatory conduct, resulting in numerous violations. Even though these violations would not be ''repeated'' because they arose during the same proceeding, they would be considered pervasive. While violations must be multiple to be pervasive, a single liability determination in a class proceeding may be considered ''multiple'' violations for a determination of pervasiveness.

While a union was conducting an organizational campaign at a large manufacturer, the contractor held several captive-audience speeches for all of its workers at each of its factories for an extended period of time, threatening the workers with disciplinary measures if they voted to join the union in violation of the National Labor Relations Act (NLRA). In addition, the Wage and Hour Division finds that the company failed to pay overtime to its workers at the vast majority of its locations in violation of the Fair Labor Standards Act.

These violations are pervasive, notwithstanding the large size of the contractor, because the contractor committed multiple serious violations affecting significant numbers of its workers. Conversely, if the contractor made its threatening remarks to only a few of its workers, or if the overtime violations only existed at a few of the contractor's locations, the violations might not necessarily be considered pervasive.

The Department of Labor's Office of Federal Contract Compliance Programs finds, through enterprise-wide enforcement, that a large contractor that provides food services at federal agencies nationwide used pre-employment screening tests for most jobs at the company's facilities that resulted in Hispanic workers being hired at a significantly lower rate than non-Hispanic workers over a 5-year period. In addition, the Wage and Hour Division finds that the company failed to comply with the Service Contract Act's requirements to pay its workers prevailing wages at many of its locations.

These violations are likely pervasive, notwithstanding the large size of the contractor, because the contractor's numerous serious violations spanned most of its locations and affected many of its workers. Conversely, had the company engaged in these prohibited practices at only a few of its locations, such violations might not necessarily be considered pervasive.

Appendix E: Assessing Violations of the Labor Laws

Appendices A through D provide summary definitions and examples of Labor Laws violations that are ''serious,'' ''willful,'' ''repeated,'' and ''pervasive'' under Executive Order 13673, Fair Pay and Safe Workplaces. A Labor Compliance Advisor and contracting officer, or contractor when evaluating subcontractors, will determine whether violations reported under the Order fit into these categories, which represent the violations that are most concerning and bear on an assessment of a contractor or subcontractor's integrity and business ethics. The contracting officer with the assistance of the Labor Compliance Advisor, or the contractor when evaluating subcontractors, will then assess a contractor or subcontractor's serious, willful, repeated, and pervasive violations in determining whether the contractor or subcontractor is a responsible source with a satisfactory record of integrity and business ethics.

Each contractor or subcontractor's disclosed violations will be assessed on a case-by-case basis in light of the totality of the circumstances, including the severity of the violation or violations, the size of the contractor, and any mitigating factors. The extent to which a contractor or subcontractor has remediated violations of Labor Laws, including agreements entered into by contractors or subcontractors with enforcement agencies, will be given particular weight in this regard.

In most cases, even for violations subject to disclosure and consideration under the Order, a single violation of one of the Labor Laws will not give rise to a determination of lack of responsibility. In contrast, pervasive violations and violations of particular gravity, for example, will in most cases result in the need for a Labor Compliance Agreement.

Violations of Particular Concern

The following types of violations raise particular concerns regarding the contractor's or subcontractor's compliance with the Labor Laws:

- Pervasive violations. Pervasive violations, by definition, demonstrate a basic disregard for the Labor Laws. Such disregard of legal obligations creates a heightened danger that the contractor or subcontractor may, in turn, disregard its contractual obligations as well. Additionally, such contractors and subcontractors are more likely to violate the Labor Laws in the future, and those violations—and any enforcement proceedings or litigation that may ensue—may imperil their ability to meet their obligations under a contract. The fact that a contractor or subcontractor shows such disregard for the Labor Laws is highly probative of whether the contractor or subcontractor lacks integrity and business ethics.
- Violations that are serious AND repeated, serious AND willful, or willful AND repeated. A violation that falls into two or more these categories, as a general matter, is more likely to be probative of the contractor's or subcontractor's lack of integrity and business ethics than a violation that falls into only one of those categories.
- Violations that are reflected in final orders. To the extent that the judgment, determination, or order finding a Labor Law violation is final (because appeals and opportunities for further review have been exhausted or were not pursued), the violation should be given greater weight. Likewise, where a violation has not resulted in a final judgment, determination, or order, it should be given lesser weight.
- Violations of particular gravity. Certain Labor Laws violations that are serious under the Order should be given greater weight, including:
  - Violations related to the death of an employee;
  - Violations involving a termination of employment for exercising a right protected under the Labor Laws;
  - Violations that detrimentally impact the working conditions of all or nearly all of the workforce at a worksite; and
  - Violations where the amount of back wages, penalties, and other damages awarded is greater than $100,000.

Mitigating Factors

Various factors may mitigate the existence of a contractor or subcontractor's Labor Laws violations. The Department respects the fact that most employers endeavor to comply with the Labor Laws. The Department values highly contractors' and subcontractors' good-faith efforts to comply, and it encourages them to report these efforts, including workplace policies that foster compliance. The following are the most common factors that will mitigate the existence of one or more violations in the context of a responsibility determination. This list is not exclusive, and contractors and subcontractors are encouraged to report any factors they believe may mitigate the existence of a violation:

- Remediation of the violation(s), including Labor Compliance Agreements: Typically the most important factor that can mitigate the existence of a violation, remediation is an indication that a contractor or subcontractor has assumed responsibility for a violation and has taken steps to bring itself into compliance with the law going forward. In most cases, for remediation to be considered mitigating, it should involve two components:
  - Correction of the violation: The remediation should correct the violation itself, including by making any affected workers whole. For example, this could involve abating a dangerous hazard, paying workers their back wages owed, or reinstating a wrongfully discharged employee.
  - Efforts to prevent similar violations in the future: For example, if a contractor or subcontractor improperly misclassified workers as exempt from the FLSA and pays any back wages due to the workers without reviewing its classifications of the workers going forward, it will likely commit similar violations in the future. Particular consideration will be given where the contractor or subcontractor has implemented remediation on an enterprise-wide level or has entered into an enhanced settlement agreement with the relevant enforcement agency or agencies that goes beyond what is minimally required under the law to address appropriate remedial or compliance measures.

One specific type of remediation is a Labor Compliance Agreement, which is an agreement entered into between an enforcement agency and a contractor or subcontractor to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with labor laws, or other related matters. A Labor Compliance Agreement is an important mitigating factor because it indicates that the contractor or subcontractor recognizes the importance that the Federal Government places on compliance with the Labor Laws.

- Only one violation: In most cases, a single violation of a Labor Law may not necessarily give rise to a determination of lack of responsibility, depending on the nature of the violation. However, a contracting agency (or contractor evaluating subcontractors) is not precluded from making a determination of non-responsibility based on a single violation in the rare circumstances where it may be merited based on the totality of the circumstances.
- Low number of violations relative to size: Larger employers, by virtue of their size, are more likely to have multiple violations than smaller ones. When assessing contractors or subcontractors with multiple violations, a contracting officer and Labor Compliance Advisor (or contractor evaluating subcontractors) should consider the size of the contractor or subcontractor.
- Safety and health programs or grievance procedures: Implementation of a safety and health management program, such as OSHA's 1989 Safety and Health Program Management guidelines or any updates to those guidelines, grievance procedures (including collectively-bargained ones), monitoring arrangements negotiated as part of an enhanced settlement agreement, or other compliance programs foster a corporate culture in which workers are encouraged to raise legitimate concerns about Labor Laws violations without the fear of repercussions. Such programs and procedures may prompt workers to report violations that would, under other circumstances, go unreported. Therefore, the implementation of such programs or procedures will be considered a mitigating factor, particularly as to violations that might otherwise be deemed repeated or pervasive.
- Recent legal or regulatory change: To the extent that the Labor Laws violations can be traced to a recent legal or regulatory change, that may be a mitigating factor. The change must be recent, and the violations must not have been violations but for the change.
- Good faith and reasonable grounds: It may be a mitigating factor if the contractor or subcontractor shows that it made efforts to ascertain its legal obligations and to follow the law, and that its actions under the circumstances were objectively reasonable. For example, if a contractor or subcontractor acts in reasonable reliance on advice from a responsible official from the relevant enforcement agency, or an administrative or authoritative judicial ruling, such reliance will typically demonstrate good faith and reasonable grounds. This factor may also apply where the contractor's or subcontractor's legal obligations are unclear, such as when a new statute, rule, or standard is first implemented.
- Significant period of compliance following violations: If, following one or more violations within the three-year reporting period, the contractor or subcontractor maintains a steady period of compliance with the Labor Laws, such compliance may mitigate the existence of prior violations (e.g., violations were reported from 2½ years ago and there have been none since).

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